

# Ponca Tribe of Nebraska Tax Commission

P.O. Box 288 • Niobrara, NE 68760

## TRIBAL TAXES CHARGEABLE TO THE TRIBE

GENERAL MATTERS			
#	QUESTION	ANSWER	CODE SECTION(S)
1	<b>What taxes might vendors/contractors need to charge the Tribe?</b>	Generally, sales tax and services tax are the Tribal taxes a vendor/contractor may need to charge the Tribe, collect, and pay to the Commission. Other taxes could apply depending on what is sold, but should not generally be an issue (e.g., tobacco, liquor, fuel).	§ 12-4-3 § 12-5-3
2	<b>Who pays services and sales taxes?</b>	Vendors/contractors add services tax and/or sales tax to the amount charged the Tribe, stated separately, and then turn it over to the Commission unless the vendor/contractor bills the Tribe as “tax included.” If not charged, the vendor/contractor must still pay the tax.	§§ 12-4-3(3), 12-4-7 §§ 12-5-3(3), 12-5-7
3	<b>When are taxes due?</b>	Vendors/contractors must pay taxes due by the 20th of each month for sales made during the previous month (e.g., pay by June 20 for sales in May).	§§ 12-4-10, 12-4-9(1) §§ 12-5-10, 12-5-9(1)
4	<b>Who files tax returns?</b>	Vendors/contractors must file any required tax returns with the Tax Commission every month for all sales during the previous month. Once the sale or services are complete and all returns covering the sale made or services performed and payments received have been filed, with taxes paid, the vendor/contractor no longer needs to file returns.	§ 12-4-9(1) § 12-5-9(1)
5	<b>When are tax returns due?</b>	Vendors/contractors must file any tax returns required by the 20th of each month for all sales made during the previous month (e.g., file by June 20 for sales in May).	§ 12-4-9(1) § 12-5-9(1)
6	<b>Is a license required?</b>	Most vendors/contractors are not required to obtain a tax license. Tax licenses are generally only required for those located on Tribal lands. However, a vendor/contract may obtain a sales tax and/or services tax license, if desired. A license can help ease administration during long projects or ongoing services/sales by providing the vendor/contract with a taxpayer identification number which allows the Tax Commission to more easily monitor the contractor’s/vendor’s tax returns and payments, avoiding inspections, audits, and assessments.	§ 12-4-8 § 12-5-8
SALES TAX			
#	QUESTION	ANSWER	CODE SECTION(S)
7	<b>When do vendors/contractors have to bill the Tribe sales tax?</b>	Vendors/contractors must charge sales tax on all sales or leases of goods to the Tribe where the gross receipts from the sale of goods in the transaction is over the small purchase threshold (currently \$10,000.00). Goods generally exempt from sales tax are not taxed even if sold to the Tribe.	§ 12-4-3 § 12-4-4(1)(a)
8	<b>What are “goods”?</b>	“Goods” is any tangible personal property that can be seen, weighed, measured, felt, touched, or otherwise perceived with the senses.	§ 12-4-2(4)
9	<b>What goods are exempt from sales tax?</b>	<ul style="list-style-type: none"> <li>• Food that is <u>not</u>: (1) soft drinks; or (2) prepared foods (soft drinks and prepared foods <u>are</u> taxable)</li> <li>• Feminine hygiene products</li> <li>• Residential heating fuels and other utilities</li> <li>• Automobiles, trucks, truck-tractors, semi-trailers, trailers, boats, travel trailers, motorcycles and all-terrain cycles</li> <li>• Medical supplies, medicines, and pharmaceutical products</li> <li>• Gambling devices regulated by the gaming laws of the Tribe (see Tribe’s Gaming Ordinance for definition of “gambling device”)</li> <li>• Cigarettes and tobacco products where Tribal tobacco taxes are paid on the cigarettes or tobacco</li> <li>• Liquor where Tribal liquor tax is paid on the liquor</li> </ul>	§ 12-4-4(1)
10	<b>Does the \$10,000.00 threshold apply only to non-exempt goods sold to the Tribe?</b>	No. If the entire gross price of the goods is over \$10,000.00, sales tax must be charged to the Tribe. However, if the goods are itemized, sales tax only needs to be charged on the non-exempt goods in the transaction.	
11	<b>What if a vendor/contractor provides both goods and services?</b>	The Tax Code only imposes tax on the sale of goods, but it is on the gross receipts from the sale of goods. If a vendor/contractor itemizes the charges for the goods separately from the charges for the services, the vendor/contractor will only charge sales tax on the charges for the goods. But, if a vendor/contractor charges a single price for goods and services without any itemizing, sales tax must be charged on the full price charged. However, for construction related services, see below regarding services tax.	§ 12-4-3
12	<b>How much is sales tax?</b>	The amount of tax is 7% of the total charged for the goods.	§ 12-4-3(1)

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SERVICES TAX			
#	QUESTION	ANSWER	CODE SECTION(S)
13	<b>When do vendors/contractors have to bill the Tribe services tax?</b>	Vendors/contractors must charge services tax on all sales of construction related services to the Tribe where the gross contract price is over the small purchase threshold (currently \$10,000.00).	§ 12-5-3 § 12-5-4(1)(a)
14	<b>What is “construction related services”?</b>	<p>“Construction services” is very broad and includes:</p> <ul style="list-style-type: none"> <li>• Architect, engineering, and other design services</li> <li>• Geological services related to construction</li> <li>• Land survey surveying services related to construction</li> <li>• Pre-development services</li> <li>• Construction management services</li> <li>• Construction, grading, and excavating services</li> <li>• Any other service which involves construction, repair, demolition, replacement, alteration, modification, or improvement of real property or personal property attached to (or that becomes attached to) real property</li> </ul>	§ 12-5-2(3)
15	<b>Does the \$10,000.00 threshold apply to the cost of the whole project?</b>	No. The \$10,000.00 threshold applies to each contract or set of services. So, if an architect is paid less than \$10,000.00 for services, but the construction contractor who builds what the architect designed is paid over \$10,000.00, the architect would not charge services tax, but the construction contractor would.	§ 12-5-4(1)(a)
16	<b>What if the contract price is less than \$10,000.00, but is amended and goes over \$10,000.00?</b>	The \$10,000.00 threshold is determined after all change orders or modifications. Once the total amount paid to a vendor/contractor goes over \$10,000.00, services tax applies to the full amount paid to the vendor/contractor. If a vendor/contractor has already charged and been paid for taxable services, but did not charge services tax because the anticipated gross contract price was \$10,000.00 or less, the vendor/contractor must charge services tax to the Tribe for the previously charged and paid amounts and remit that tax to the Tax Commission.	§ 12-5-4(1)(a)
17	<b>What if a change order or modification reduces the contract price to \$10,000.00 or less?</b>	If a change order or modification reduces the gross contract price to \$10,000.00 or less, services tax should not be charged. If the vendor/contractor has charged and collected services tax on prior invoices or payments, the vendor/contractor should credit the Tribe for the services tax collected on future payments. If the vendor/contractor has already remitted the collected services tax to the Tax Commission, the vendor/contractor should file an amended return seeking a refund.	§ 12-5-4(1)(a)
18	<b>What about goods or materials included in a construction related contract?</b>	The Tax Code permits a seller to deduct from the gross contract price any goods included in the gross contract price which are both (1) separately invoice and (2) for which Tribal sales tax has been charged and paid. If goods or materials are included in a construction related contract, it is advisable that the vendor/contractor simply include the charges for the goods or materials in the gross contract price and charge services tax on the price of the goods or materials. Then, the vendor/contractor needs to only file services tax returns. If a vendor/contractor charges sales tax separately on the goods or materials in the gross contract price, the vendor/contractor will have to file both services tax returns and sales tax returns.	§ 12-5-4(1)(g)
19	<b>How much is services tax?</b>	The amount of tax is 7% of the total charged for the construction related services.	§ 12-5-3(1)

This document is provided only to assist taxpayers and others with understanding the tax summarized. It is not legal advice and does not constitute a ruling or binding document of the Tax Commission or the Tribe.