

Effective 5/10/2016

59-12-104.2 Exemption for accommodations and services taxed by the Navajo Nation.

- (1) As used in this section "tribal taxing area" means the geographical area that:
 - (a) is subject to the taxing authority of the Navajo Nation; and
 - (b) consists of:
 - (i) notwithstanding the issuance of a patent, all land:
 - (A) within the limits of an Indian reservation under the jurisdiction of the federal government; and
 - (B) including any rights-of-way running through the reservation; and
 - (ii) all Indian allotments the Indian titles to which have not been extinguished, including any rights-of-way running through an Indian allotment.
- (2)
 - (a) Beginning July 1, 2001, amounts paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) are exempt from the tax imposed by Subsection 59-12-103(2)(a)(i)(A) or (2)(d)(i)(A)(I) to the extent permitted under Subsection (2)(b) if:
 - (i) the accommodations and services described in Subsection 59-12-103(1)(i) are provided within:
 - (A) the state; and
 - (B) a tribal taxing area;
 - (ii) the Navajo Nation imposes and collects a tax on the amounts paid by or charged to the purchaser for the accommodations and services described in Subsection 59-12-103(1)(i);
 - (iii) the Navajo Nation imposes the tax described in Subsection (2)(a)(ii) without regard to whether or not the purchaser that pays or is charged for the accommodations and services is an enrolled member of the Navajo Nation; and
 - (iv) the requirements of Subsection (4) are met.
 - (b) If but for Subsection (2)(a) the amounts paid by or charged to a purchaser for accommodations and services described in Subsection (2)(a) are subject to a tax imposed by Subsection 59-12-103(2)(a)(i)(A) or (2)(d)(i)(A)(I):
 - (i) the seller shall collect and pay to the state the difference described in Subsection (3) if that difference is greater than \$0; and
 - (ii) a person may not require the state to provide a refund, a credit, or similar tax relief if the difference described in Subsection (3) is equal to or less than \$0.
- (3) The difference described in Subsection (2)(b) is equal to the difference between:
 - (a) the amount of tax imposed by Subsection 59-12-103(2)(a)(i)(A) or (2)(d)(i)(A)(I) on the amounts paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i); less
 - (b) the tax imposed and collected by the Navajo Nation on the amounts paid by or charged to a purchaser for the accommodations and services described in Subsection 59-12-103(1)(i).
- (4)
 - (a) If, on or after July 1, 2001, the Navajo Nation changes the tax rate of a tax imposed on amounts paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i), any change in the amount of the exemption under Subsection (2) as a result of the change in the tax rate is not effective until the first day of the calendar quarter after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (4)(b) from the Navajo Nation.
 - (b) The notice described in Subsection (4)(a) shall state:

- (i) that the Navajo Nation has changed or will change the tax rate of a tax imposed on amounts paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i);
- (ii) the effective date of the rate change on the tax described in Subsection (4)(b)(i); and
- (iii) the new rate of the tax described in Subsection (4)(b)(i).

Amended by Chapter 135, 2016 General Session