

FOREST COUNTY POTAWATOMI COMMUNITY TAX COMMISSION

Guidance on the Tax Treatment of Complimentary Items

Question Asked: “Are complimentary items given to patrons of the Forest County Potawatomi Community’s wholly owned gaming enterprises a taxable event?”

Application of the Tax Regulations to the Question Presented.

The Tax Commission shall interpret the above transaction as a purchase by the wholly owned gaming enterprise of items used for legitimate business purposes. As such the purchases are exempt from taxation under Regulation 8.1.1. Regulation 8.1.1 states:

8.1.1 Nothing in the Sales Tax Code shall be construed as imposing a Tax on the purchase of Property or Services by the government of the Tribe, its agencies or any wholly owned subdivision or economic enterprise of the Tribal Government.

Furthermore, the gaming activity engaged in by the patron which resulted in the receipt of a complimentary item from the wholly owned gaming enterprise is also an exempt activity under the Regulations. Regulation 8.1.12 states:

8.1.12 Nothing in the Sales Tax Code shall be construed as imposing a Tax on any Class III or Class II wagering activity conducted pursuant to the Indian Gaming Regulatory Act.

Based on the analysis above as applied to the question presented, the Tax Commission has determined that the activity is exempt from Tribal Sales and Use Tax.