

Helpful Tips for Operating a Business on or near the Wind River Indian Reservation

TERO Business License

In Wyoming, business licenses are awarded at the local level. On the Wind River Indian Reservation, business licenses are awarded by Tribal Employment Rights Office (TERO). You will need to get a license if you will be doing any business on the reservation. The process involves filling out an application, paying an annual fee, and going through a public hearing.

If you will be doing business off the reservation, you should contact the local town hall in the community where you will be doing business to see if you will need a business license.

Contact:

Tribal Employment Rights Office
15 N Fork Rd
PO Box 217
Ft Washakie WY 82514
(307) 332-7618
<http://wrtero.com/>

TERO Regulations

If your business is located on the Reservation, or if you are doing work, contract work, or conducting business on the Reservation, you will need to make sure you are in compliance with Tribal Employment Rights Office (TERO) Regulations. TERO is a tribally established and operated Indian/Native preference enforcement and compliance program. The primary purpose of TERO is to insure that Indian/Native people gain access to their rightful share to employment, training, business, contracting and all other economic opportunities on and near reservations or native villages.

Most tribes impose a TERO fee on all employers doing business on reservations. Your business and/or contracts on the Reservation may be subject to a TERO fee. Please contact the TERO office to find the regulations that apply to your business.

Contact:

Tribal Employment Rights Office
15 N Fork Rd
PO Box 217
Ft Washakie WY 82514
(307) 332-7618
<http://wrtero.com/>

Business Site Lease

Tribal Land - If your business will be located on tribal land, the first thing you will need to do is fill out an application with the Bureau of Indian Affairs. Next, you will need to go to the Tribal Employment Rights Office (TERO) to fill out their application for Zoning Variance. You will also need to fill out an application for a business license with TERO at this time. The Bureau of Indian Affairs only handles the business lease. Plan on at least 2-3 months, and sometimes longer, to go through the entire application process with the Bureau of Indian Affairs. The application will need to be approved for environmental clearance and approved by the Land Resources division. Joint Business Council will give the final approval/disapproval of the application.

Allotted Land, Sole Owner - If your business is located on allotted land and you are the sole land owner, there may not be any paperwork that needs to be completed to start your business. Contact to Bureau of Indian Affairs to verify that no paperwork needs to be completed.

Allotted Land, Multi Owner - If your business is located on allotted land and there are several land owners, you will need to go through the same process listed above for tribal land businesses. In addition, you will need to get the consent of the other land owners to sign off on the application.

Tribal and Allotted Land – If your business is located on tribal and allotted land, you will need to go through the same process listed above for tribal land businesses. In addition, you will need to get the consent of the other land owners to sign off on the application.

Once you have begun the above application process, you will need to start doing applications with the BIA Right of Way Department. At that time, they will begin survey work.

Contact:

Bureau of Indian Affairs
Tenure and Management Department
1st & Washakie Street
PO Box 158
Ft Washakie WY 82514
(307) 332-7820

Federal Income Taxes for Sole Proprietors

Individual tribal members must pay federal income tax unless they are deriving income directly from their allotted land (growing hay or crops, grazing livestock, etc.). Tribal members do have to pay income tax if they lease another tribal member's land or tribal trust land. For example, if you graze cattle solely on your own allotted land and then sell the cattle, you don't have to pay federal income tax on that activity. But if you lease someone else's allotted land, or lease trust land from the tribe, and graze your cattle and sell them, you would have to pay income tax. If you graze cattle on both types of land, you may have to apportion your income for tax purposes. Tribal members must also pay federal income tax if they have a business on their land that does not derive its income directly from using the land (i.e., grocery store, video store, hair salon, etc.).

Contact:

Internal Revenue Service
(877) 829-5500

<http://www.irs.gov/govt/tribes/article/0,,id=179369,00.html>
tege.ask.itg@irs.gov

Federal Excise Taxes

IRS Publication 510 tells you about federal excise taxes, but some of the categories include: environmental taxes, communications and air transportation taxes, fuel taxes, heavy equipment taxes, manufacturer's taxes, gambling taxes, alcohol, tobacco, and firearms taxes. If your business has anything to do with these categories, you may need to pay excise taxes. There may be exemptions for some of these taxes for businesses operating on the Reservation.

Contact:

Internal Revenue Service
(877) 829-5500

<http://www.irs.gov/publications/p510/index.html>
tege.ask.itg@irs.gov

State Excise Taxes

If you sell liquor, minerals, cigarettes, or are a contractor, you may have additional tax responsibilities. Again, if your customer is an enrolled tribal member and you make your sale on the Reservation, you may not be subject to these taxes. The State has been willing to enter into excise tax remittance agreements similar to those for sales taxes to reduce the administrative burden of collecting the tax from non-Indians or non-exempt entities.

Contact:

Wyoming Department of Revenue
Excise Tax Division
Herschler Building, 2nd Floor West
Cheyenne WY 82002
(307) 777-7961

Property Taxes

Generally, you are not subject to state property taxes. However, if your business owns fee land within the Reservation, it will be subject to state and county property tax.

Contact:

Wyoming Department of Revenue
Property Tax Division
Herschler Building, 2nd Floor West
Cheyenne WY 82002
(307) 777-7961

Fremont County Courthouse
Property Tax
450 N 2nd St
Lander WY 82520
(307) 332-1105

Sales Tax Requirements

You may or may not need to collect sales taxes and remit them to the Wyoming Department of Revenue. It depends upon whether or not your business is located on the reservation and whether or not your customers are enrolled tribal members. If you have to collect and remit sales taxes, you need to apply for a Sales/Use Tax License from the Wyoming Department of Revenue.

In many instances, the state will enter into a sales tax agreement for on-reservation sales which will allow you to remit sales tax to the state based on the percentage of business you conduct with non-Indians or non-exempt entities. For example, instead of tracking each non-Indian or non-exempt transaction, you and the state may agree that 10% of your sales on average are with non-Indians or non-exempt entities. You would make a simple once a month calculation of the sales tax to be remitted to the state.

Contact:

Wyoming Department of Revenue

Sales Tax Division

277 Main Street

Lander WY 82520

(307) 332-3370

<http://revenue.state.wy.us/PortalVBVS/uploads/ETS%20Form%20001.pdf>

Indian Employment Credit

The intent of the Indian Employment Credit is to provide businesses with an incentive to hire certain individuals who live on or near an Indian Reservation. The credit can be claimed by businesses that pay or incur "qualified wages" to a "qualified employee". An eligible "qualified employee" must meet all of the following requirements:

- The employee is an enrolled member of an Indian tribe or the spouse of an enrolled member of an Indian tribe,

- The employee performs substantially all of his or her services for the employer within an Indian reservation, and

- While performing those services, the employee has his or her main home on or near that reservation.

The total amount of qualified wages (including qualified employee health insurance costs) that can be used to figure the credit cannot be more than \$20,000 for each employee each tax year. Use IRS Form 8845 to claim the credit.

Contact the IRS to verify that the Indian Employment Credit is available for the current tax year.

Contact:

Internal Revenue Service

(877) 829-5500

<http://www.irs.gov/govt/tribes/article/0,,id=108421,00.html>

tege.ask.itg@irs.gov

Special Depreciation Rules

There are special rules that allow you to use shorter recovery periods to figure your depreciation deduction for qualified property placed in service on an Indian reservation after 1993 and before 2008. Property which is used predominately in the active conduct of a trade or business within an Indian Reservation and is 3, 5, 6, 10, 15, and 20 year property and non-residential real property is considered to be qualified property. Real property you rent to others that is located on an Indian reservation is also eligible for the shorter recovery periods. IRS Publication 946 will tell you more information about depreciation, including the special rules that apply to property used on Indian reservation.

Contact the IRS to verify that the special depreciation rules are available for the current tax year.

Contact:

Internal Revenue Service

(877) 829-5500

<http://www.irs.gov/govt/tribes/article/0,,id=108421,00.html>

tege.ask.itg@irs.gov

Wyoming State Government Jurisdiction on Tribal Trust Land

Some state agencies have jurisdiction on tribal trust land. Please see the following chart. Any questions about off reservation licensing and permitting requirements may be directed to the contact listed below.

<u>Agency</u>	<u>Wyoming State Government Jurisdiction</u>
Environmental Quality	No
Ag Consumer Health	No
Revenue Department	Yes
Secretary of State	No
Game and Fish	No
Ag Technical Services	No*
Employment	
Workers' Compensation	Yes
State OSHA	No*
Unemployment Insurance	Yes
State Engineer	
Surface Water	No
Ground Water	Yes
Audit Consumer Credit Code	No
State Fire Marshal	No**
Oil & Gas Commission	No
Health Child Care Licensing	No

*Jurisdiction applies to owner or lessee of business, not an enrolled member.

**Jurisdiction applies to school construction.

Contact:

Wyoming Business Council

Business Permit Program Manager, Paul Howard

214 W 15th Street

Cheyenne WY 82002

(307) 777-2843

Business Legal Structure on the Reservation

Sole Proprietorship - There are not any papers that you need to file with the state or tribes to legally create your business when you are a sole proprietor. You may still need a business license to actually conduct business, but that doesn't have anything to do with whether or not you have actually formed a business.

General Partnerships – There are not any papers that you need to file with the state or tribes to legally create your general partnership. However, if you are thinking about going into business with someone else, it is a very good idea to work with a lawyer to put a partnership agreement in writing.

Limited Liability Company (LLC) – In Wyoming, LLC's can be owned by one or more people. There are filing fees if you choose to file with the state of Wyoming, and it can take some time for the paperwork to be processed. It is possible to file your articles of organization with the tribes instead of with the Wyoming Secretary of State's office. However, there may be some things you need to consider if you are thinking about doing this. Make sure to talk with the tribes and a lawyer who really understands what the results of this may be.

Corporations – There are filing fees if you choose to file with the state of Wyoming. If you choose to file your paperwork with the tribes, you may need to pay fees to file as a foreign corporation in Wyoming. Make sure to talk with the tribes and a lawyer who really understands what the results of this may be.

If you are forming an LLC or a corporation, you may choose to file your articles of organization under the tribes. The general process is that you form your articles of organization and then take them to the Shoshone Business Council, the Arapaho Business Council, or the Joint Business Council for approval. There are currently no fees for filing under the tribes. By filing under the tribes, you support tribal sovereignty. The Arapaho Tribe has adopted rules for filing as an LLC. But otherwise, the tribes have not adopted any specific filing process. If you will be doing business off the reservation, you may also need to file as a foreign corporation under the state of Wyoming. There is a fee for this. If you are a contractor, you may also be penalized when competing for state contracts if the state views your organization as "foreign". Before deciding where to file, you may want to talk with the tribes and a lawyer who really understands what the results of this may be.

Contact:

Wyoming Secretary of State
State Capitol Building
200 West 24th St
Cheyenne WY 82002
(307) 777-7378
<http://soswy.state.wy.us/>
secofstate@state.wy.us

Eastern Shoshone Business Council
14 N Fork Rd
PO Box 538
Ft Washakie WY 82514
(307) 332-3532

Northern Arapaho Business Council
90 Ethete Rd, Ethete WY 82520
PO Box 396, Ft Washakie WY 82514
(307) 332-6120

International Code Council

Although building codes are not officially adopted into the Law and Order Code of the tribes on the Wind River Indian Reservation, they are encouraging people to follow the 2006 ICC Code. The tribes have been concerned about projects being in compliance and up to code. For more information, please contact Bill Russell and visit www.iccsafe.org.

Contact:

Enco Enterprises

Bill Russell

Consultant to the Tribes and Certified by International Code Council

Licensed Engineer and General Contractor

PO Box 388

Ft Washakie WY 82514

(307) 856-3703