

DEFAULT RULES OF CIVIL JURISDICTION & LAND USE IN INDIAN COUNTRY

Indian country (IC) includes all lands within the boundaries of an Indian reservation (regardless of fee status or non-Indian ownership) and tribal and tribal-citizen lands held in trust by the United States or restricted fee status. 18 U.S.C. § 1151.

Outside Indian country: Indian tribes and their citizens are subject to state and local jurisdiction, absent a treaty or statute providing otherwise.

Inside Indian country: Absent federal law providing otherwise...

GOVERNMENT EXERCISING JURISDICTION & SUBJECT OF REGULATION	DEFAULT FEDERAL COMMON LAW RULE	STATUS QUO IN MAINE UNDER MICSA/MIA	COMMENTS
State			
Tribal Citizens	State government <i>lacks</i> regulatory authority and other forms of civil jurisdiction over tribes, tribal citizens and tribal businesses in IC	State regulation and other forms of civil jurisdiction over tribes, tribal citizens, and tribal businesses in IC is generally <i>permitted with the exception of</i> internal tribal matters and matters under 30 M.R.S. §§ 6207, 6209-A, B, C	
Non-Citizens	On <i>non-citizen fee lands</i> in IC, state government <i>has</i> regulatory authority and other forms of civil jurisdiction over non-citizens On <i>tribal or tribal-citizen lands</i> held in trust or restricted fee status, state regulation or other forms of civil jurisdiction over non-citizens is <i>prohibited only if</i> it interferes or is incompatible with federal and tribal interests, unless the state interests at stake are sufficient to justify assertion of state authority (<i>Bracker</i> test)	State regulation and other forms of civil jurisdiction over non-citizens in IC is generally <i>permitted</i>	
Land Use	State government <i>lacks</i> land use authority over <i>tribal or tribal-citizen lands</i> held in trust or restricted fee status	State regulation of tribal and tribal-citizen lands is <i>permitted with the exception of</i>	Tribal and state and local governments

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	<p>State government <i>lacks</i> land use authority over fee lands <i>owned by a tribe or tribal citizens except in exceptional circumstances</i></p> <p>State government <i>has</i> regulatory authority over fee lands <i>owned by non-citizens</i> in IC</p>	<p>internal tribal matters and matters under 30 M.R.S. §§ 6207, 6209-A, B, C</p> <p>State government <i>has</i> regulatory authority over fee lands owned by non-citizens in IC</p>	<p>enter agreements to harmonize land use planning and regulation in IC</p>
Tribal			
Tribal Citizens	<p>Tribal government <i>has</i> regulatory authority and other forms of civil jurisdiction over tribal citizens and tribal-citizen businesses in IC</p>	<p>Same</p>	
Non-Citizens	<p>Tribal government generally <i>has</i> regulatory authority and other forms of civil jurisdiction over non-citizens on <i>tribal and tribal-citizen lands</i> held in trust or restricted fee status</p> <p>Tribal regulation and other forms of civil jurisdiction over non-citizens on <i>non-citizen fee land</i> is <i>presumptively invalid</i> and <i>permitted only if</i> non-citizen has consensual relationship with tribe or tribal citizens, or if regulation is necessary to protect health and welfare, economic security, or political integrity of the tribe (<i>Montana</i> test)</p>	<p>Subject to uncertainty</p>	
Land Use	<p>Tribal government <i>has</i> regulatory authority over <i>tribal and tribal-citizen lands</i> in IC, including lands held in trust, restricted fee, and fee simple status</p> <p>Tribal regulation of <i>non-citizen fee lands</i> is <i>presumptively invalid</i> and <i>permitted only if</i> non-citizen has consensual relationship with tribe or tribal citizens, or if regulation is necessary to protect health and welfare, economic security, or political integrity of the tribe (<i>Montana</i> test)</p>	<p>Same</p> <p>Subject to uncertainty</p>	<p>Tribal and state and local governments enter agreements to harmonize land use planning and regulation in IC</p>

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