

**TRIBAL COUNCIL ACT 4.1**

**AN ACT RELATING TO TAXATION**

**BE IT ENACTED BY THE SNOQUALMIE TRIBAL COUNCIL**

**CHAPTER 1. TAX ADMINISTRATION**

**SECTION 1.0 TITLE AND CODIFICATION**

This Chapter shall be known as the Snoqualmie Tax Administration Act and shall be codified as Title 4, Chapter 1 of the Snoqualmie Tribal Code.

**SECTION 2.0 STATUTORY AUTHORITY**

The aboriginal and inherent sovereign power to govern the Snoqualmie Indian Tribe is vested in the Snoqualmie Tribal Council. The Snoqualmie Tribal Council has the authority to safeguard and promote the peace, safety, moral, and general welfare of the members of the Tribe by regulating the behavior of all persons within the jurisdiction of the Tribe, and by providing for the enactment and enforcement of the laws of the Tribe. This authority includes the authority to negotiate with and enter into agreements with the State on behalf of the Tribe, to manage the economic affairs and enterprises of the Tribe, to levy taxes, fees or special assessments upon persons or property within the jurisdiction of the Snoqualmie Indian Tribe, to set aside and spend Tribal funds for Tribal purposes, to adopt laws regulating the procedures implemented by Tribal agencies and Tribal officials, and to regulate and license the conduct of business activities within the jurisdiction of the Snoqualmie Indian Tribe. Snoq. Tr. Const. Art. VIII, Sec. 1(a), (e), (h), (j), (o), (p), and (t).

**SECTION 3.0 PURPOSE AND SCOPE**

- (a) The Tribal Council finds that the Tribe has a duty and obligation to all its members and to the Tribe itself to protect and preserve the political integrity, economic security, health and welfare of the Tribe. The purpose of this Title is to provide for the taxation of businesses operated on Snoqualmie Tribal Lands, and certain goods and products sold on Snoqualmie Tribal Lands in order to provide civic and economic benefits to Tribal members, to the residents of and visitors to Snoqualmie Tribal Lands, and to the general public, and to promote the Tribe's economic development and to preserve Tribal existence.

The Tribal Council further finds the following:

- (1) The Tribe must generate revenue for the operation, maintenance, and improvement of essential tribal governmental services and programs including, including but not limited to, law enforcement, healthcare services, education, fire protection, general welfare, and social and cultural programs.
- (2) The imposition of taxes is an appropriate method of generating revenue for the Tribe and paying for a portion of the costs of governmental services and programs incident

to the preservation of tribal existence and the continued economic development of the Tribe.

- (b) This Chapter is applicable to all taxes levied and imposed under this Title.
- (c) This Chapter is applicable to the Tribal Marijuana Tax imposed by Section 14.0 of the Snoqualmie Tribe Commercial Marijuana Activity Act, codified as Title 8, Chapter 9 of the Snoqualmie Tribal Code.
- (d) This Chapter is applicable to the taxation of fuel based upon the Agreement Concerning Taxation of Motor Vehicle Fuel and Special Fuel Between the Snoqualmie Indian Tribe and the State of Washington imposed by Section 5.0 of the Snoqualmie Tribal Fuel Taxation and Regulation Act, codified as Title 4, Act 3 of the Snoqualmie Tribal Code.

#### **SECTION 4.0 DEFINITIONS**

Unless the context specifically requires otherwise, as used in this Title:

**“Confidential information”** shall mean any information developed by, discovered by or related to the Finance Department concerning a taxpayer’s identity, the nature, source or amount of the taxpayer’s income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments or tax payments, whether the taxpayer’s tax return was, is being or will be examined or subject to investigation, collection, or processing or any other data received by, recorded by, prepared by, furnished to or collected by the Finance Department.

**“Snoqualmie Tribal Lands”** shall mean all lands over which the Tribe exercises jurisdiction, including but not limited to, its Reservation, other lands held in trust for the Tribe by the United States, and all of the Tribe’s “Indian Country” as defined by 18 U.S.C. § 1151, including but not limited to lands owned in fee by the Tribe wherever located.

**“State”** shall mean the State of Washington.

**“Tribal Council”** shall mean the duly authorized governing body of the Tribe.

**“Tribe”** or **“Tribal”** shall mean the Snoqualmie Indian Tribe.

**“Tribal Records”** shall mean all documents, papers, letters, correspondence, books, maps, photographs, sound or video records, microfilm, electronic media or other information regardless of physical form or characteristics, created or received by the Tribe, Tribal enterprise, the Tribal Council, and Finance Department or any of their officers or employees pursuant to law or in the transaction of Tribal business.

**“Tribal Treasurer”** shall mean the Treasurer of the Snoqualmie Tribal Council.

**“Finance Department”** shall mean the Finance Department of the Snoqualmie Indian Tribe.

**“Tribal Member”** shall mean and enrolled member of the Snoqualmie Indian Tribe.

#### **SECTION 4.0 SOVEREIGN IMMUNITY**

The Tribe specifically and unequivocally declares its sovereign immunity and does not waive its sovereign immunity, expressly or impliedly, under any provision of this Chapter, and nothing in this Chapter shall be construed as waiving the sovereign immunity of the Tribe or any of its agencies, departments, officials, agents or employees.

#### **SECTION 5.0 CONSTRUCTION**

This Title shall be liberally construed in favor of the Tribe so as to effectuate the purposes hereof, and shall not be deemed a limitation or repeal of any other Tribal power or authority.

#### **SECTION 6.0 CONFLICT WITH LAWS AND PREEMPTION**

- (a) In the event of a conflict between the provisions of this Title or any other provision of law that, by its terms, is applicable to taxation, this Title shall supersede any other provision or law, whether tribal, state or federal, and is controlling.
- (b) In the event of a conflict between provisions of this Title or any other provision of law that, by its terms, is applicable to taxation, this Title shall preempt and nullify any other provision or law, whether tribal, state or federal, and is controlling.

#### **SECTION 7.0 SEVERABILITY**

If any section, provision, phrase, addition, word, sentence or amendment of this Title or its application to any person is held invalid by a final judgment of a court of competent jurisdiction, such invalidity shall not affect the other provisions or application of this Title that can be given effect without the invalid provision or application, and to this end the provisions of this Title are declared severable.

#### **SECTION 8.0 EFFECTIVE DATE**

This Title shall take effect immediately upon adoption by the Tribal Council, and shall supersede and replace any and all prior ordinances of the Tribe relating to the subject matter of this Title.

#### **SECTION 9.0 TRIBAL TREASURER**

- (a) In addition to the powers and duties prescribed by law or assigned by Tribal Council for such purposes, the Tribal Treasurer shall act as a liaison between the Finance Department and the Tribal Council.
- (b) The Finance Department shall keep the Tribal Treasurer apprised of all actions taken by the Finance Department related to the taxation authorized by this Title through the submission of quarterly reports. The Tribal Treasurer shall make this report available to

the Tribal Council. The Finance Department and Tribal Treasurer shall be responsible for furnishing a final annual report in the time and manner provided to the Tribal Council regarding the taxation authorized by this Title.

#### **SECTION 10.0 TRIBAL FINANCE DEPARTMENT**

The administration and enforcement of this Title is vested in and shall be exercised by the Finance Department. The Finance Department shall have all the powers and duties prescribed by law or assigned to it by the Tribal Council for such purposes, including but not limited to, the adoption and rules and regulations as may be necessary for the proper and efficient administration of this Title. The Finance Department shall have all the powers and duties assigned to it by this Title and the implementing rules and regulations, and by the Tribal Council, including but not limited to, the following:

- (a) The development and administration of an integrated, coordinated and uniform system of tax administration and revenue collection for the Tribe.
- (b) The assessment and collection of all taxes levied or imposed by this Title.
- (c) The provision of advice and recommendations to the Tribal Council on Tribal tax matters, including but not limited to, the adoption of taxes, the setting of tax rates, including adjustments thereto, and additions to or amendments of this Title.
- (d) The submission of written reports and other information to the Tribal Council and to the Tribal Treasurer regarding Tribal tax revenues and affairs.
- (e) The submission of quarterly, or more frequently as required by the Tribal Council, reports summarizing recent and projected Tribal tax collections.
- (f) The provision of information and advice within the scope of its duties subject to the laws on confidentiality of information, and rules and regulations adopted pursuant to this Title.
- (g) The administration of examinations and audits.
- (h) The promulgation of administrative rules and regulations as are reasonably necessary to carry out the orderly performance of its powers, responsibilities, and duties consistent with this Title and other laws of the Tribe, subject to the approval of the Tribal Council.

#### **SECTION 11.0 TAX RATES**

All taxes, tax rates, and tax rate adjustments shall be set and approved by the Tribal Council by Resolution, unless provided for in this Title. Taxes imposed under this Title shall be in addition to any and all other licenses and fees imposed by the Tribe, and any other government which may have jurisdiction.

#### **SECTION 12.0 RECORDS OF THE FINANCE DEPARTMENT**

Tribal records created by, received, or maintained by the Finance Department related to this Title shall be managed and retained in accordance with the Tribal Central Records Management Act.

The Finance Department shall maintain and preserve complete, accurate, and detailed records of all monies received and distributed by it in connection with this Title for so long as the Tribal Council shall determine. The Finance Department shall maintain and preserve complete, accurate, and detailed records of each and every official transaction, communication, or act in connection with this Title.

### **SECTION 13.0 DISCLOSURE OF CONFIDENTIAL INFORMATION**

- (a) No agent, officer, employee, or staff member of the Finance Department, including any former agent, officer, employee, or staff member, who has received confidential information from the Finance Department, or any other person or entity in receipt of confidential information from the Finance Department, shall disclose such confidential information to any person to entity except as provided below.
- (b) The Finance Department, in accordance with the rules and regulations promulgated under this Title, or the Tribal Council may authorize the disclosure of confidential information.

### **SECTION 14.0 TIME FOR PAYMENT**

All tax obligations levied or imposed under this Title are to be paid, without assessment or notice and demand, on the date fixed by this Title, or if not fixed by this Title, by the Finance Department.

### **SECTION 15.0 ENFORCEMENT**

Reserved.

### **SECTION 16.0 TRIBAL TAXATION PROTESTS**

Reserved.

### **SECTION 17.0 VIOLATIONS**

Reserved.

## **CHAPTER 2. CIGARETTE SALES AND TAXATION**

### **SECTION 1.0 TITLE AND CODIFICATION**

This Article shall be known as the Snoqualmie Tribal Cigarette Sales and Taxation Act, and shall be codified as Title 4, Chapter 3 of the Snoqualmie Tribal Code.

## **SECTION 2.0 STATUTORY AUTHORITY**

The aboriginal and inherent sovereign power to govern the Snoqualmie Indian Tribe is vested in the Snoqualmie Tribal Council. The Snoqualmie Tribal Council has the authority to safeguard and promote the peace, safety, moral, and general welfare of the members of the Tribe by regulating the behavior of all persons within the jurisdiction of the Tribe, and by providing for the enactment and enforcement of the laws of the Tribe. This authority includes the authority to negotiate with and enter into agreements with the State on behalf of the Tribe, to manage the economic affairs and enterprises of the Tribe, and to levy taxes, fees or special assessments upon persons or property within the jurisdiction of the Snoqualmie Indian Tribe. Snoq. Tr. Const. Art. VIII, Sec. 1(a), (e), (h), and (j).

## **SECTION 3.0 PURPOSE AND SCOPE**

The purpose of this Chapter is to tax the sale of cigarettes on Snoqualmie Tribal Lands to protect the health and wellbeing of Tribal members as well as visitors to Snoqualmie Tribal Lands. The Tribal Council finds that imposing a tax on the sale of cigarettes on Snoqualmie Tribal Lands is necessary and essential to the Tribe's ability to provide goods and services to its members.

This Chapter shall apply to all cigarette sales and purchases that take place on Snoqualmie Tribal Lands. Any person who resides, conducts business, or otherwise engages in a business transaction on Snoqualmie Tribal Lands, or who receives benefits from Tribal governmental services of any kind whatsoever, shall be deemed to have consented to the jurisdiction of the Tribe.

## **SECTION 4.0 DEFINITIONS**

The following words and terms, when used in this Chapter, shall have the following meanings, unless the context clearly indicates otherwise:

**“Auditor”** shall mean an independent third-party auditor selection pursuant to Section 10.0 of this Chapter.

**“Carton or Carton of Cigarettes”** shall mean a carton of two hundred (200) cigarettes.

**“Cigarette”** shall mean any roll for smoking made whole or in part of tobacco, irrespective of size or shape and irrespective of the tobacco being flavored, adulterated, or mixed with any other ingredient, where such a roll has a wrapper or cover made of paper or any material, except where such wrapper is wholly or in the greater part made of natural leaf tobacco in its natural state.

**“Compact”** shall mean the contract entered into between the Snoqualmie Indian Tribe and the State of Washington concerning the sale of cigarettes on Snoqualmie Tribal Lands.

**“Department”** shall mean the Washington Department of Revenue.

**“Essential Governmental Services”** shall mean the services provided by the Tribal government such as police, fire, healthcare, social services, housing, education, jobs, utilities, environmental, land use, or economic development services of any kind whatsoever.

**“State and Local Retail Sales Tax”** shall mean the combined Washington State and local retail sales taxes applicable in the area.

**“Person”** shall mean and includes any natural individual, company, partnership, firm joint venture, association, corporation, estate, trust, political entity, or other identifiable entity.

**“Retail Selling Price”** shall mean the ordinary, customary, or usual price paid by the consumer for each package of cigarettes, which price includes the Tribal cigarette tax.

**“Self-Certified Tribal Wholesaler”** shall mean a wholesaler who is a federally recognized Indian tribe or a member of a federally recognized Indian tribe, who is not required to be licensed under any state law, and who has by letter certified to the Department that it will abide by the terms of the Compact and who has signed a contract with the Tribe requiring it to abide by the terms of the Compact.

**“Self-Certified Wholesaler”** shall mean an out-of-state wholesaler who is not a self-certified tribal wholesaler, and who has by letter certified to the Department that it will abide by the terms of the Compact and who has signed a contract with the Tribe requiring it to abide by the terms of the Compact.

**“Snoqualmie Indian Reservation”** shall mean the area of land recognized as the Snoqualmie Indian Reservation by the United States Department of the Interior.

**“State Cigarette Tax”** shall mean the State tax imposed on each cigarette, which is expressed in cents per cigarette.

**“Tobacco Products”** shall mean and includes cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco, snuff, snuff flour, Cavendish, plug and twist tobacco, fine-cut and other chewing tobacco, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking, except that tobacco products do not include cigarettes.

**“Tribal Cigarette Tax”** shall mean the tax or taxes enacted as a provision of Tribal law on the units of cigarettes sold and on the purchase of cigarettes by retail buyers, which will be set, and may thereafter be adjusted, by Tribal Council Resolution, subject to the requirements of Section 6.0 of this Chapter.

**“Tribal Retailer”** shall mean a cigarette retailer wholly owned by the Snoqualmie Indian Tribe and located on Snoqualmie Tribal Lands. A cigarette retailer wholly owned by a Snoqualmie Tribal member does not qualify as a Tribal retailer under this Chapter.

**“Tribal Tax Stamp”** shall mean the stamp or stamps that indicate the Snoqualmie Tribal cigarette tax imposed under the Compact has been paid or that identify those cigarettes with respect to which no tax or other Tribal tax is imposed.

**“Wholesaler”** shall mean every person who purchases, sells, or distributes cigarettes for the purpose of resale only.

## **SECTION 5.0 CIGARETTE COMPACT WITH WASHINGTON STATE**

As authorized by the Snoqualmie Tribal Cigarette Sales and Taxation Act, previously codified as Title 4, Chapter 1, Section 5 of the Snoqualmie Tribal Code, and re-codified as Title 4, Chapter 3 of the Snoqualmie Tribal Code, the Tribe has entered into a Compact with the State of Washington in regards to the sale and taxation of cigarettes on Snoqualmie Tribal Lands and the provisions of the Compact govern all cigarette sales on Snoqualmie Tribal Lands. The Compact shall set forth the following terms and conditions:

- (a) The Tribe shall not engage in any mail order sales, such as those sales made via Internet, catalog, or telephone solicitation to Washington residents outside of Snoqualmie Tribal Lands, unless and until the Tribe and the State have entered into a memorandum of agreement in regard to the taxation of such mail order sales.
- (b) If the Tribe wishes to grant a new Tribal retailer the privilege of selling cigarettes on Snoqualmie Tribal Lands, the Tribe shall notify the Department thirty (30) days prior to the initiation of cigarette sales by the new Tribal retailer.
- (c) The Tribe will provide information regarding the status of land upon which any new Tribal retailer is located at least thirty (30) days prior to the initiation of cigarette sales by the new Tribal retailer.
- (d) Tribal retailers may purchase cigarettes for sale on Snoqualmie Tribal Lands only from the following entities:
  - (1) Wholesalers or manufacturers licensed to do business in the State of Washington;
  - (2) Self-certified wholesalers who meet the requirements of the Compact;
  - (3) Self-certified tribal wholesalers who meet the minimum requirements of the Compact; and,
  - (4) The Tribe or Tribal enterprise functioning as a Tribal manufacturer.
- (e) All cigarettes sold by the Tribal retailer shall bear a Tribal tax stamp, including cigarettes subject to the Tribal cigarette tax and cigarettes exempt from the Tribal cigarette tax. The stamps shall be purchased and affixed in accordance with the terms of the Compact.

- (f) The Tribe or its designee shall notify the Department seventy-two (72) hours in advance of all shipments of cigarettes purchased by the Tribal retailers. Such notice shall include: who is making the shipment (i.e., who is the wholesaler under subsection (d) of this Section), detail regarding both the quantity and brand, and the invoice order number.
- (g) No person shall sell, give, or permit to be sold or given, cigarettes to any person under the age of eighteen (18). If a violation of this requirement is reported to the Tribe:
  - (1) The Tribe shall investigate the allegation; and,
  - (2) If there is probable cause to believe that a violation has occurred, the Tribe will cite the person who is alleged to have made a sale or gift in violation of this subsection and apply the following penalties:
    - (A) For a first violation, assess a fine of \$250.00.
    - (B) For a second violation within any one-year period, assess a fine of \$500.00.
    - (C) For a third violation within any one-year period, assess a fine of \$750.00.
    - (D) For a fourth violation within any two-year period, assess a fine of \$1,000.00.
    - (E) For a fifth violation within any two-year period, assess a fine of \$1,000.00 and termination from employment. In addition, the person shall no longer be permitted to make cigarette sales on Snoqualmie Tribal Lands for a period of not less than one year.
  - (3) It shall not be a defense to a citation for a violation of this subsection that the purchaser acted, or was believed by the defendant to have acted, as an agent or representative of another.
  - (4) It shall be a defense to a citation for a violation of this subsection that the person making the sale reasonably relied upon officially issued identification that shows the purchaser's age and bears their signature and photograph.

## **SECTION 6.0 TRIBAL CIGARETTE TAX**

- (a) Beginning no later than the date provided for in the Compact, the Tribe shall impose taxes in accordance with the provisions of this Section, on all sales of cigarettes by Tribal retailers to all purchasers on Snoqualmie Tribal Lands.
- (b) The Tribal cigarette tax rate shall be no less than the sum of an amount equal to one hundred (100) percent of the State cigarette tax plus an amount equal to one hundred (100) percent of the State and local retail sales tax.

- (c) During the term of the Compact, upon any future increase in the State cigarette tax, State retail sales tax, or legal retail sales tax, the Tribal cigarette tax shall be increased to a minimum of no less than one hundred (100) percent of the then-current combined State cigarette tax and State and local retail sales tax.
- (d) During the term of the Compact, upon any future decrease in the State cigarette tax, State retail sales tax, or local retail sales tax, the Tribal cigarette tax may be decreased to a minimum of no less than one hundred (100) percent of the then-current combined State cigarette tax and the State and local retail sales tax.
- (e) The following cigarette sales shall not be subject to a general Tribal sales tax levy under other provisions of Tribal law:
  - (1) All cigarettes manufactured by the Snoqualmie Tribe or any Tribal enterprises on Snoqualmie Tribal Lands.
  - (2) All other cigarettes whenever a Tribal cigarette tax is imposed on those cigarettes during the term of a compact with the State of Washington.

#### **SECTION 7.0 CIGARETTE TAX EXEMPTIONS**

The following shall not be subject to the cigarette tax levy:

- (a) Sales of tobacco products;
- (b) Sales of cigarettes manufactured by the Snoqualmie Indian Tribe or Snoqualmie Tribal enterprises on Snoqualmie Tribal Lands.
- (c) Mail order type sales of cigarettes, such as those sold via the Internet, catalogs, or by telephone to purchasers outside of Snoqualmie Tribal Lands and outside of Washington State.

#### **SECTION 8.0 CIGARETTE TAX PAYMENT AND COLLECTION; PENALTY FOR NONPAYMENT**

- (a) Every person engaged in retail sales of cigarettes on Snoqualmie Tribal Lands who is liable for collecting the Tribal cigarette levy shall maintain accurate written records of the purchase, stamping, and retail sales of cigarettes, and shall make such records available for inspection by the Tribal Finance Department and/or Auditor retained by the Tribe. Records shall be managed and retained in accordance with the Tribal Council Records and Public Access Act and shall be maintained for no less than three (3) years after the audit is accepted by the appropriate federal oversight agency.
- (b) All applicable taxes shall be paid prior to the sale, distribution, or transfer of possession of any cigarettes. During the term of the Compact, the terms of the Compact regarding the purchase, stamping, transportation, and sale of cigarettes shall apply.

- (c) Whenever cigarette taxes are paid by any person other than the consumer, user, or possessor, that payment shall be considered a pre-collection of such taxes due. When the tax is prepaid by another, this amount is part of the retail selling price of the cigarette to the retail purchaser.
- (d) A penalty of one percent of the amount of taxes incurred is hereby imposed and shall be collected for every thirty (30) days of non-compliance with the provisions of this Chapter.

#### **SECTION 9.0 USE OF TRIBAL TAX LEVY**

- (a) Except as stated in subsection (b) of this Section, Tribal cigarette tax revenue shall be used exclusively for essential governmental services and may not be used to subsidize Tribal cigarette and food retailers. For the purposes of this Section, “subsidize” means that proceeds from the Tribal cigarette tax cannot be expended on the enterprise activities of the Tribal retail cigarette business. In addition, where the cigarette business is collocated with a retail food business, the proceeds cannot be expended to support that business.
  - (1) “Enterprise activities” include paying wages, benefits, bonuses or expenses, related to the maintenance and operation of the retail facility or typically considered to be part of a business’ operating expenses and overhead.
  - (2) “Non-enterprise activities” include, but are not limited to governmental services to provide and maintain infrastructure such as sidewalks, roads, and utilities; services such as fire protection and law enforcement; the costs of administering deductions and exemptions similar to those available to retailers, wholesalers and others under State law; Tribal administration activities such as tax functions, contracting for health benefits, economic development, natural resources, and the provisions of job services; and distribution of monies related to trust funds, education and general assistance.
- (b) A portion of the Tribal cigarette tax revenues intended to approximate the Tribal cigarette tax revenues from sales to Tribal members is not required to be used for essential governmental services, but rather may be used at Tribal Council’s discretion. That portion will be calculated by the Tribal Finance Department based on the allocation allowance described in the Compact, which is calculated based on the number of Tribal members and the national consumption rate of cigarettes per person. For purposes of calculating the allocation allowance only, spouses of Tribal members who are enrolled members of other federally recognized Indian tribes may be included in the number of Tribal members. The Tribe’s General Manager, Attorney, and/or CFO are hereby authorized to annually provide the number of Tribal members to the Department for purposes of calculating the allocation allowance.

#### **SECTION 10.0 CIGARETTE TAX AUDIT**

The Tribe shall retain a third-party, independent auditor for the purposes of verifying compliance with the Compact. The Auditor shall perform all work required under the Compact.

## **SECTION 11.0 PERMISSION OF CIGARETTE SALES**

Tribal retailers are the only retail businesses authorized to sell cigarettes on Snoqualmie Tribal Lands.

## **SECTION 12.0 REPEALER**

All prior Tribal Council Resolutions and Acts concerning the levy of Tribal cigarette taxes are hereby superseded by this Chapter.

# **CHAPTER 3. TRIBAL FUEL TAXATION**

## **SECTION 1.0 TITLE AND CODIFICATION**

This Article shall be known as the Snoqualmie Tribal Fuel Tax, and shall be codified as Title 4, Chapter 3 of the Snoqualmie Tribal Code.

## **SECTION 2.0 STATUTORY AUTHORITY**

The aboriginal and inherent sovereign power to govern the Snoqualmie Indian Tribe is vested in the Snoqualmie Tribal Council. The Snoqualmie Tribal Council has the authority to safeguard and promote the peace, safety, moral, and general welfare of the members of the Tribe by regulating the behavior of all persons within the jurisdiction of the Tribe, and by providing for the enactment and enforcement of the laws of the Tribe. This authority includes the authority to negotiate with and enter into agreements with the State on behalf of the Tribe, to manage the economic affairs and enterprises of the Tribe, and to levy taxes, fees or special assessments upon persons or property within the jurisdiction of the Snoqualmie Indian Tribe. Snoq. Tr. Const. Art. VIII, Sec. 1(a), (e), (h), and (j).

## **SECTION 3.0 PURPOSE AND SCOPE**

The Tribal Council finds that tax revenues are essential to the Tribe's ability to provide governmental services, and to finance government operations and economic development for the safety, health and welfare of the Snoqualmie Indian Tribe, its members and those who work upon and visit Snoqualmie Tribal Lands. The Tribal Council also finds that there are substantial unmet needs in funding for road construction and maintenance, transportation services, public safety, transportation infrastructure, public utilities and governmental programs that serve Tribal members, employees, customers and other visitors to Snoqualmie Tribal Lands. It is therefore in the public interest of the Snoqualmie Tribe to help fund these essential governmental services through imposition, collection and administration of taxes on the motor vehicle fuel sold to Tribal fuel facilities.

This Chapter shall apply to the full extent of the sovereign jurisdiction of the Snoqualmie Indian Tribe in Indian country. This Chapter shall apply to all Fuel sales from all Fuel Facilities located on Snoqualmie Tribal Lands.

#### **SECTION 4.0 DEFINITIONS**

**“Fuel”** shall mean Motor Vehicle Fuel or Special Fuel.

**“Fuel Facility”** shall mean a retail place of business operated for the purpose of selling and delivering Fuel to the general public into the fuel tanks of Motor Vehicles that is owned by the Tribe, a Tribal enterprise, a Tribal Member Business or a Non-Tribal Member Business.

**“Fuel Tax Agreement”** shall mean the Agreement Concerning Taxation of Motor Vehicle Fuel and Special Fuel Between the Snoqualmie Indian Tribe and the State of Washington.

**“Motor Vehicle”** shall mean a self-propelled vehicle or vessel utilizing Fuel as a means of propulsion.

**“Motor Vehicle Fuel”** shall mean gasoline and any other inflammable gas or liquid, by whatsoever name the gasoline, gas, or liquid may be known or sold the chief use of which is a fuel for the propulsion of motor vehicles.

**“Non-Tribal Member Business”** shall mean any business entity that is majority owned and operated by persons other than the Tribe or an enrolled member of the Tribe, and is licensed to sell Fuel pursuant to a law enacted by the Tribe for that purpose.

**“Special Fuel”** shall mean diesel fuel, propane, natural gas, kerosene, biodiesel, and any other combustible liquid or gas by what name the liquid or gas may be known or sold for the generation of power to propel a motor vehicle, except it does not include Motor Vehicle Fuel.

#### **SECTION 5.0 FUEL TAX AGREEMENT**

The Tribal Fuel Tax imposed by this Chapter shall not apply to any Fuel upon which State Fuel Taxes are collected and refunded to the Tribe pursuant to the Fuel Tax Agreement. The terms and conditions of the Fuel Tax Agreement and the provisions of the Snoqualmie Tribal Fuel Tax and Regulation Act, codified as Title 4, Chapter 4 of the Snoqualmie Tribal Code shall govern any taxation of such Fuel.

#### **SECTION 6.0 IMPOSITION OF TAX**

There is hereby levied and imposed a tax upon Fuel sold from Fuel Facilities.

#### **SECTION 7.0 RATES OF TAX**

The tax rate imposed under this Chapter shall be established by the Tribal Council. In the absence of a rate set by the Tribal Council, such rate shall default to a rate equal to the State tax imposed on Fuel by Revised Code of Washington 82.38.030. The taxes levied under this Chapter shall not affect State and Federal exemption reimbursements for Fuel used in the Nation’s government vehicles.

## **SECTION 8.0 PRICE DISCOUNTS**

Fuel Facilities may offer price discounts to Snoqualmie Tribal members and Tribal employees.

## **SECTION 9.0 TAX COLLECTION**

- (a) The legal incidence of this tax is on every Fuel Facility engaged in the sale of all Fuel sold from Fuel Facilities.
- (b) Each Fuel Facility shall have the duty to collect and pay the tax to the Tribe, and shall account for the tax imposed. The Fuel Facility is solely responsible for paying the tax to the Tribe, and shall be liable for the payment of the tax to the Tribe.
- (c) Fuel Facilities shall include the amount of the Tribal Fuel Tax in the price of Fuel sold at Fuel Facilities, and shall collect and remit such taxes to the Tribe.

## **SECTION 10.0 TAX PAYMENT**

Tax collected shall be remitted to the Tribe by each Fuel Facility monthly. The Fuel Facility shall provide to the Tribe a tax report showing tax receipts received during the month. The tax report and the payment of all taxes collected that month shall be filed with the Finance Department on the last day of the calendar month next succeeding the month for which the tax report is made.

## **SECTION 11.0 PENALTY FOR NONPAYMENT**

Tax collected but not remitted on or before the due date is delinquent. Any Fuel Facility that violates, destroys, omits, neglects or refuses to comply with, or resists or opposes the enforcement of any of the provisions of this Chapter, may be assessed by a penalty by the Tribal Council for each day said Fuel Facility continues any such violation or permits any such violation to exist after notification thereof in an amount not to exceed \$1,000.000 (One Thousand US Dollars) per day.

## **SECTION 12.0 USE OF TAX PROCEEDS**

In the absence of other authorized uses of the Tribal Fuel Tax revenues set by a duly enacted resolution of the Snoqualmie Tribal Council, an amount equal to one hundred percent (100%) of the Tribal Fuel Tax per gallon amount shall be used only for essential government services, including, but not limited to, transportation infrastructure, transportation planning, construction and transit services, maintenance of roads and transportation-related facilities, rights-of-way and utilities, and public safety and law enforcement.

## **SECTION 13.0 RECORDS AND AUDIT**

Each Fuel Facility shall maintain records of all sales, and shall make such records available for inspection by the Tribe. Records received shall be managed and retained in accordance with the

Tribal Central Records Management Act. The Tribe may retain a third-party, independent auditor for the purposes of verifying compliance with this Chapter.

## **CHAPTER 4. RETAIL, FOOD, AND BEVERAGE SALES TAXATION**

### **SECTION 1.0 TITLE AND CODIFICATION**

The Snoqualmie Retail, Food and Beverage Sales Tax Act, formerly codified as Title 4, Chapter 2 of the Snoqualmie Tribal Code, is hereby recodified as Title 4, Chapter 4 of the Snoqualmie Tribal Code.

### **SECTION 2.0 STATUTORY AUTHORITY**

The aboriginal and inherent sovereign power to govern the Snoqualmie Indian Tribe is vested in the Snoqualmie Tribal Council. The Snoqualmie Tribal Council has the authority to safeguard and promote the peace, safety, moral, and general welfare of the members of the Tribe by regulating the behavior of all persons within the jurisdiction of the Tribe, and by providing for the enactment and enforcement of the laws of the Tribe. This authority includes the authority to negotiate with and enter into agreements with the State on behalf of the Tribe, to manage the economic affairs and enterprises of the Tribe, and to levy taxes, fees or special assessments upon persons or property within the jurisdiction of the Snoqualmie Indian Tribe. Snoq. Tr. Const. Art. VIII, Sec. 1(a), (e), (h), and (j).

### **SECTION 3.0 PURPOSE AND SCOPE**

The Tribe has a duty and obligation to all its members and to the Tribe itself, to protect and preserve the political integrity, economic security and health and welfare of the Tribe. The purpose of this Chapter is to regulate the sale of tangible personal property, and food and beverages on Snoqualmie Tribal Lands to protect the health and well-being of Tribal members as well as visitors to Snoqualmie Tribal Lands. The Tribal Council finds that imposing a tax on the sale of tangible personal property, and good and beverages by a Tribal Retailer on Snoqualmie Tribal Lands is necessary and essential to the Tribe's ability to provide goods and services to its members and provide a portion of the revenues necessary to fund essential governmental functions.

### **SECTION 4.0 DEFINITIONS**

Unless the context specifically requires otherwise, as used in this Chapter:

**“Alcoholic Beverages”** shall mean beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume, and includes all liquor, spirits, beer, and wine by the glass or bottle.

**“Beverages”** shall mean all alcoholic beverages and nonalcoholic drinks, including nonalcoholic beverages that contain natural or artificial sweeteners with 50% of less fruit/vegetable juice such as soda pop, sports drinks, and energy drinks, regardless of carbonation; bottled juice; vegetable or fruit juice; and coffee, espresso, or tea.

**“Business” and “Business Activity”** shall mean all activities or acts, personal, corporate or otherwise, engaged in with the object of profit, gain, benefit or advantage, either directly or indirectly, wholly or in part, within Snoqualmie Tribal Lands.

**“Consumer”** shall mean any person who receives or comes into possession of meals, prepared food, beverages or property from a Tribal Retailer by means of a sale.

**“Food” and “Food Ingredients”** means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. Items commonly used for medical or hygiene purposes, such as cough drops, breath sprays, and toothpaste are not ingested for taste or nutrition and are not considered a food or food ingredient.

**“Meal”** shall mean one or more items of prepared food or beverages other than alcoholic beverages.

**“Person”** means any natural person, trustee, court appointed representative, syndicate, association, partnership, firm, club, company, corporation, business trust, institution, agency, government corporation, municipal corporation, district or other political subdivision, contractor, supplier, vendor, vendee, operator, user or owner, or any officers, agents, employees or other representative, acting either for himself or herself or for any other person in any capacity, or any other entity recognized by law as the subject of rights and duties. The masculine, feminine, singular or plural is included in any circumstance.

**“Prepared Food”** shall mean heated foods, combined foods, or foods sold with utensils provided by the Tribal Retailer. Food sold with eating utensils provided by the Tribal Retailer, include plates, knives, forks, spoons, glasses, cups, napkins, or straws,. Combined foods are foods where two or more food ingredients are mixed or combined by the Tribal Retailer for sale as a single item. “Prepared food” does not include the following food or food ingredients: food that is only cut, repackaged, or pasteurized by the Tribal Retailer; raw eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by Federal law so as to prevent foodborne illness; food sold in an unheated state by weight or volume as a single item; or bakery items such as bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, or tortillas when not sold with eating utensils.

**“Property”** shall mean all tangible personal property of every kind and description, including fireworks, entry or admission fees charged for amusement, recreation services, or contests of chance. “Property” does not include a prize or promotional item.

**“Records”** shall mean any books, papers, documents, memoranda, supporting documents, schedules, attachments, lists, computer records, electronic data, business records, papers, vouchers, accounts and financial statements.

**“Restaurant”** shall mean and include any establishment having space and accommodation where food and beverages are regularly sold to the public for immediate, but not necessarily on-site,

consumption, but excluding grocery stores, mini-markets, and convenience stores. "Restaurant" includes, but is not limited to, lunch counters, diners, coffee shops, espresso shops or bars, concession stands or counters, delicatessens, cocktail bars, lounges and cafeterias, and all similar spaces and accommodations where food and beverages are sold to the public for immediate consumption.

**“Sale” or “Sales”** shall mean all sales, barter, trades, exchanges, or other transfer of ownership for value of property at retail from a Tribal Retailer to any Consumer no matter how characterized that takes place on Snoqualmie Tribal Lands. "Sale" or "sales" excludes tips or gratuities and the amount of tax.

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**“Tax”** shall mean the Tribal Sales Tax owed exclusive of penalties imposed.

**“Tobacco Products”** shall mean cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco, snuff, snuff flour, cavendish, plug and twist tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, including wrapping papers or tubes that contain any amount of tobacco (such as "blunts"), prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking, but shall not include cigarettes.

**“Tribal Retailer”** shall mean any entity owned in whole or in part by the Tribe, or licensed by the Tribe, conducting business within Snoqualmie Tribal Lands that sells meals, prepared food items, beverages, and/or property, including a Restaurant, so as to entitle such entity to all or a portion of the net receipts from the sale thereof, and specifically includes the Tribe's Snoqualmie Casino and the Crescent Market at Snoqualmie, but excludes the Salish Lodge & Spa and Falls Gift Shop.

## **SECTION 5.0 IMPOSITION OF TAX**

There is hereby levied and imposed a tax upon the privilege of conducting a sale of meals, prepared food, beverages, tobacco products and property by a Tribal Retailer within Snoqualmie Tribal Lands.

## **SECTION 6.0 EXCLUSIVITY OF TAX**

This Tribal Sales Tax is exclusive of all other taxes that may be imposed by the Tribe or the State. For example, and without limitation, Tribal Retailers shall continue to impose the State spirits sales tax and the spirits liter tax on sales of spirits, and all taxes required on the sale of cigarettes under the Compact between the Tribe and the State.

## **SECTION 7.0 RATES OF TAX**

The tax rate imposed under this Chapter shall be established by Resolution of the Tribal Council. The tax rate shall be no more than the effective local and State tax rate then established for the City of Snoqualmie, King County, Washington.

## **SECTION 8.0 TAX EXEMPTIONS**

The following sales shall not be subject to the tax imposed under this Chapter:

- (a) Sales of “bottled water,” defined as water that is placed in a sealed container or package for human consumption.
- (b) Sales of “candy,” defined as a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces, including gum.
- (c) Sales of “fuel” as governed by the Agreement Concerning Taxation of Motor Vehicle Fuel and Special Fuel Between the Snoqualmie Indian Tribe and the State of Washington for which a Tribal or State tax is already imposed and collected.
- (d) Sales of spirits and cigarettes for which a Tribal or State tax is already imposed and collected.
- (e) Sales of “newspapers,” defined as a publication issued regularly at stated intervals at least twice a month and printed on newsprint in tabloid or broadsheet format folded loosely together without stapling, glue, or any other binding of any kind, including any supplement of a printed newspaper.
- (f) Sales made from coin-operated automatic food or beverage dispensing machines.
- (g) Sales made directly to the Tribe for a Tribal government purpose or event.

#### **SECTION 9.0 TAX COLLECTION**

- (a) The legal incidence of this tax is on every Tribal Retailer engaged in sales covered by this Chapter.
- (b) Each Tribal Retailer shall have the duty to collect and pay the tax imposed on sales of meals, prepared food and beverages, tobacco products and property, whether the consumer pays by cash, credit, or voucher, and shall account for the tax imposed. The Tribal Retailer is solely responsible for paying the tax to the Tribe and shall be liable for the payment of the tax to the Tribe, regardless of whether an additional fee or charge is actually collected from consumers.
- (c) Tribal Retailers may advertise and/or sell meals, prepared food, beverages, tobacco products or property at prices including tax. The election to include tax in the selling price in one area of a location does not preclude the Tribal Retailer from selling beverages or prepared food at a price exclusive of tax in another. If the sales price is exclusive of tax, and sales slips, sales invoices, or dinner checks are given to the customer, the tax must be separately stated on all such sales slips, sales invoices, or dinner checks as “Sales tax” or “Tax.”

#### **SECTION 10.0 TAX PAYMENT**

Taxes shall be remitted to the Tribe by each Tribal Retailer monthly. The Tribal Retailer shall provide to the Tribe a tax report showing tax receipts received during the month. The tax report and the payment of all taxes collected that month shall be filed with the Finance Department on the last day of the calendar month next succeeding the month for which the tax report is made. A copy of the tax report shall be concurrently submitted by the Tribal Retailer to the Treasurer of the Tribal Council.

**SECTION 11.0 PENALTY FOR NONPAYMENT**

Taxes not remitted on or before the due date are delinquent. Any Tribal Retailer who violates, disobeys, omits, neglects or refuses to comply with, or resists or opposes the enforcement of any of the provisions of this Chapter, may be assessed a penalty by the Tribal Council for each day said Tribal Retailer continues any such violation or permits any such violation to exist after notification thereof in an amount not to exceed \$100.00 (One Hundred US Dollars) per day.

**SECTION 12.0 USE OF SALES TAX PROCEEDS**

Tax proceeds received by the Tribe under this Act shall be segregated as "Sales Tax Proceeds." Sales Tax Proceeds shall be spent and allocated by the Tribal Council for essential government services and to benefit the general welfare of the Tribe and its members.

**SECTION 13.0 RECORDS AND AUDIT**

Each Tribal Retailer shall maintain accurate records of all sales to consumers, whether the consumer pays by cash, credit, or voucher, and shall make such records available for inspection by the Tribe. Records shall be managed and retained in accordance with the Tribal Central Records Management Act. The Tribe may retain a third-party, independent auditor for the purposes of verifying compliance with this Chapter.

**CHAPTER 5. RESERVED**

**CHAPTER 6. RESERVED**

This Act will take effect immediately upon approval by the Tribal Council and will supersede and replace any and all prior ordinances of the Tribe relating to the subject matter of this Act.

**ENACTED BY THE SNOQUALMIE TRIBAL COUNCIL ON THE 28TH DAY OF JULY, 2022  
IN SESSION DULY MET, WITH 6 FOR, 0 AGAINST, AND 1 ABSTAINING, VIA  
RESOLUTION NO. #144-2022.**

**CODIFIED AS AMENDED BY THE SNOQUALMIE TRIBAL SECRETARY ON THE 28TH DAY OF  
JULY, 2022.**

  
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ACTING TRIBAL SECRETARY, CHRISTOPHER CASTLEBERRY