

CHAPTER 20 - UTILITY POSSESSORY INTEREST TAX

Sec. 20.1 Ad Valorem Tax on Possessory Interests

There is hereby imposed and levied an *ad valorem* tax upon each Possessory Interest owned by any public utility, pipeline or other common carrier, and provider of telecommunications services, situated on Pueblo Lands. Such tax shall be referred to as “the Utility Possessory Interest Tax.”

Enacted by Res. No. 03-15, June 3, 2003; approved by Sec’y, July 1, 2003.

Sec. 20.2 Incidence of Tax

The incidence of the Utility Possessory Interest Tax shall be on the owner of the Possessory Interest being taxed.

Enacted by Res. No. 03-15, June 3, 2003; approved by Sec’y, July 1, 2003.

Sec. 20.3 Reporting Requirement

Each owner of a Possessory Interest subject to the Utility Possessory Interest Tax shall file an annual report with the Tax Administrator on or before February 1 of each year. On written request, and for good cause, the Tax Administrator may extend the due date of the report by up to thirty (30) days. The Tax Administrator will provide forms for the use of the Taxpayer in complying with the reporting requirement. This report shall contain the following:

A. A description of the Possessors’ Interest owned by the Taxpayer, including all property and improvements situated thereon, and the location thereof:

B. A description of *any* improvements and additions thereto installed or made during the past calendar year;

C. A description of any related equipment kept on Pueblo Lands during the past calendar year; and

D. An itemized statement of the total values of the Possessor)’ Interest and all related equipment as set forth in clauses A, B, and C above, as of January 1 of the year in which the report is submitted.

A Taxpayer who is required to file an annual report under the provisions of this section and who fails to file such report by ten (10) days after the due date shall, in addition to any other liability such Taxpayer may have, be assessed a penalty of one percent (1%) of the amount of Utility Possessory Interest Tax owed by that Taxpayer for that year, for each month or partial month from the due date of the report until the date the report is received, up to a maximum of five hundred dollars (\$500).

Enacted by Res. No. 03-15, June 3, 2003; approved by Sec’y, July 1, 2003.

Sec. 20.4 Valuation of Possessory Interests

The value of a Possessory Interest for purposes of this Code shall be determined in the same manner as such values are determined under the provisions of the New Mexico Property Tax Code, unless the Commission by regulation shall specify some different manner.

Enacted by Res. No. 03-15, June 3, 2003; approved by Sec'y, July 1, 2003.

Sec. 20.5 Rate of Tax

The tax rate shall be five percent (5%) of the total value of the Possessory Interests owned by the Taxpayer.

Enacted by Res. No. 03-15, June 3, 2003; approved by Sec'y, July 1, 2003.

Sec. 20.6 Assessment and Payment

A. Upon receipt of the Taxpayer's annual report of its Possessory Interests on Pueblo Lands and the value thereof, the Tax Administrator shall send a tax bill to the Taxpayer, assessing Utility Possessory interest Tax based on the values shown in the annual report, together with any applicable penalties or interest. The amount of the tax shall be due in full by no later than April 1, or thirty (30) days after the tax bill is mailed, whichever is later.

B. In the event a Taxpayer fails to file its annual report, the Tax Administrator shall issue a tax bill to the Taxpayer based on the Tax Administrator's determination as to the value of Possessor)' Interests owned by the Taxpayer that are subject to the Utility Possessor)' Interest Tax, together with any applicable penalties and interest.

C. The Administrator shall have authority to redetermine incorrect or erroneous assessments, payments, or valuations.

Enacted by Res. No. 03-15, June 3, 2003; approved by Sec'y, July 1, 2003.

Sec. 20.7 Exemptions

No Possessory Interest that consists of a utility delivery or distribution facility or line that serves exclusively Pueblo facilities or tribal members shall be subject to the Utility Possessory Interest Tax.

Enacted by Res. No. 03-15, June 3, 2003; approved by Sec'y, July 1, 2003.

CHAPTER 21 - GROSS RECEIPTS TAX

Sec. 21.1 Imposition and Rate of Tax

A. For the privilege of engaging in business, a tax is hereby imposed on the Gross Receipts of any person engaging in business on Pueblo Lands. Such tax shall be referred to as "the Gross Receipts Tax".

B. So long as the Pueblo is party to a Tax-Sharing Agreement that is in effect, the Gross Receipts Tax shall be a percentage of the Taxpayer's total Gross Receipts, which shall be equal to the Gross Receipts tax rate applicable to such Taxpayer under New Mexico law, or that would be applicable if the Taxpayer were subject to New Mexico Gross Receipts tax, including any local option portion. The Commission shall adjust the Gross Receipts Tax rate from time to time so as to maintain parity of the tribal tax rate with the applicable rate imposed by New Mexico and its political subdivisions as to each Taxpayer subject to the Gross Receipts Tax. As of the date on which the Pueblo ceases to be party to a valid Tax-Sharing Agreement, the Gross Receipts Tax rate(s) shall be at the rate(s) set by the Tax Commission.

Enacted by Res. No. 03-15, June 3, 2003; approved by Sec'y, July 1, 2003; amended by Res. No. 21-19, March 26, 2021; approved by Sec'y, May 17, 2021.

Sec. 21.2 Payment Due Date; Report

A. Gross Receipts Tax is to be paid on or before the twenty-fifth day of the month following the end of the calendar month in which the Gross Receipts are received. Each monthly payment must be accompanied by a report, on a form provided by the Tax Administrator, showing the Taxpayer's total Gross Receipts for the month, and any amounts claimed to be exempt from taxation. All non-exempt entities must file such report timely, without regard to liability for a tax.

B. So long as the Pueblo is party to a Tax-Sharing Agreement that is in effect, a Taxpayer who is also subject to New Mexico Gross Receipts tax and who timely pays New Mexico Gross Receipts tax due with respect to Gross Receipts received on Pueblo Lands, in accordance with the provisions of the Tax-Sharing Agreement, shall be deemed to have complied with the requirements of this Code with respect to payment of Gross Receipts Tax.

Enacted by Res. No. 03-15, June 3, 2003; approved by Sec'y, July 1, 2003.

Sec. 21.3 Exemptions

The following receipts are exempted from the Gross Receipts Tax:

- A. Gross Receipts of the Pueblo;
- B. Gross Receipts of the United States of America;
- C. Gross Receipts of the State of New Mexico and its political subdivisions;
- D. Gross Receipts from sales of gasoline, special fuel, and ethanol blended fuel;
- E. Gross Receipts from the isolated or occasional sale or leasing of property or services by a person not regularly engaged in selling or leasing such on Pueblo Lands, provided that this provision shall not be construed as exempting from Gross Receipts Tax the receipts of a contractor, subcontractor or other type of construction firm for construction projects on Pueblo Lands;

F. Gross Receipts of a minister or of a charitable or religious organization, which organization has been granted an exemption from federal income tax; and

G. Gross Receipts from the sales of arts or crafts made by a Tribal Member and sold by the Tribal Member or by a family member or employee of the Tribal Member.

H. Gross Receipts of gaming activity received by an entity licensed by the Pueblo to conduct gaming on Pueblo Lands.

I. Gross Receipts of any entity wholly owned by the Pueblo, if the Tribal Council specifies in the organizing documents for such entity that its receipts, or any portion thereof, are intended to be exempt from the Gross Receipts Tax imposed by this Chapter;

J. Gross Receipts of sales of motor vehicles on Pueblo lands that are in trust or restricted fee status.

Enacted by Res. No. 03-15, June 3, 2003; approved by Sec'y, July 1, 2003; amended by Res. No. 08-04, Feb. 19, 2008; amended by Res. No. 21-19, March 26, 2021; approved by Sec'y, May 17, 2021; amended by Res. No. 2023-049, May 12, 2023; approved by Sec'y, July 21, 2023.

Sec. 21.4 Tax Credits

So long as the Commission or the Pueblo is party to a Tax-Sharing Agreement, every Taxpayer who is subject to the New Mexico Gross Receipts tax laws shall be entitled to a credit against the Gross Receipts Tax imposed by this chapter, in the amount set forth in the Tax-Sharing Agreement, which credit shall be administered as provided in the Tax Sharing Agreement, but any such tax credit shall expire as of the date on which no Tax-Sharing Agreement is in effect.

Enacted by Res. No. 03-15, June 3, 2003; approved by Sec'y, July 1, 2003.

Sec. 21.5 Bonds

Prior to commencing construction, every Person that is a construction contractor engaged in Business on Pueblo Lands shall post a bond or other form of surety acceptable to the Tax Administrator for the benefit of Santa Clara Pueblo in an amount sufficient to cover the Gross Receipts Tax due under the contract.

Enacted by Res. No. 21-19, March 26, 2021; approved by Sec'y, May 17, 2021.

CHAPTER 22 - GASOLINE EXCISE TAX

Sec. 22.1 Title

This chapter shall be cited as the Santa Clara Gasoline Excise Tax Code.

Enacted by Res. No. 06-03, February, 22, 2006; approved by Sec'y March 13, 2006.

Sec. 22.2 Definitions

For purposes of this Gasoline Excise Tax Code, the following terms shall have the following meanings:

A "Gasoline" shall mean any flammable liquid hydrocarbon used primarily as fuel for propulsion of motor vehicles, motor boats or aircraft, except for diesel engine fuel, kerosene, liquified petroleum gas, compressed or liquified natural gas and products specially prepared and sold for use in aircraft propelled by turbo-prop or jet-type engines.

B. "Retail," when used in connection with the sale of gasoline, shall mean such sale generally in quantities of 50 gallons or less, involving delivery of gasoline into the fuel supply tank of a motor vehicle, and does not include any sale of such gasoline for resale.

Enacted by Res. No. 06-03, February 22, 2006; approved by Sec'y March 13, 2006.

Sec. 22.3 Imposition of Tax; Rate

An excise tax is hereby imposed on gasoline that is sold at retail within Pueblo Lands (except that unless expressly determined by Tribal Council resolution, this tax shall not apply to the retail sale of gasoline at any location that is not on land owned by or held in trust for the benefit of the Pueblo or one of its members), at the rate of 17 cents per gallon of gasoline sold at retail, which tax shall be paid by the retail seller.

Enacted by Res. No. 06-03, February 22, 2006; approved by Sec'y March 13, 2006.

Sec. 22.4 Payment of Tax; Report

The tax imposed by this chapter shall be paid monthly by each retail seller subject thereto, on or before the twenty-fifth day of the month following the month in which the gasoline was sold, in accordance with regulations and procedures established by the Tax Commission. In addition to any other requirements reasonably imposed by the Commission, each monthly payment shall be accompanied by a report, on a form prescribed by the Tax Administrator, showing the number of gallons of gasoline in the seller's inventory as of the beginning of the first day of the month, each of the seller's gasoline purchases during the month, showing the date, distributor from whom purchased, and quantity thereof, the number of gallons of gasoline sold by the seller during the month, and the number of gallons of gasoline in the seller's inventory at the end of the month.

Enacted by Res. No. 06-03, February 22, 2006; approved by Sec'y March 13, 2006.

Sec. 22.5 Administration of Tax

The Tax Administrator shall collect the Santa Clara gasoline excise tax, in accordance with the provisions of this Code and regulations issued by the Commission.

Enacted by Res. No. 06-03, February 22, 2006; approved by Sec'y March 13, 2006.

Sec. 22.6 Audits; Inspections

The Tax Administrator shall have the authority to make periodic investigations of the records and gasoline storage and dispensing equipment maintained by each retailer subject to the provisions of this chapter, so as to verify reports by the retailer, test the calibration of gasoline tanks and dispensing equipment, and otherwise collect information relevant to the amount of taxes due hereunder.

Enacted by Res. No. 06-03, February 22, 2006; approved by Sec'y March 13, 2006.

CHAPTER 22A - LODGER'S TAX

Sec. 22A.1 Title

This chapter shall be cited as the Santa Clara Pueblo Lodger's Tax Code.

Enacted by Res. No. 2010-03, Mar. 17, 2010; approved by Sec'y May 27, 2010.

Sec. 22A.2 Definitions

For purposes of this Lodger's Tax Code, the following terms shall have the following meanings:

A. "gross taxable rent" shall mean the total amount of rent paid for lodging, or in the case of comped lodging, the amount of rent that would have been paid if the comped item had been purchased by the vendee. Gross taxable rent shall not include the Gross Receipts Tax collected.

B. "lodging" shall mean the transaction of furnishing a room or other accommodation by a vendor to a vendee who for rent uses, possesses or has the right to use or possess the room or other unit of accommodations in or at a taxable premises.

C. "lodgings" shall mean the room or other accommodation in or at a taxable premises.

D. "rent" shall mean the consideration received by a vendor in money, credits, property or other consideration valued in money for lodgings subject to the Lodger's Tax imposed by this chapter.

E. "taxable premises" shall mean a hotel, apartment, apartment hotel, apartment house, lodge, lodging house, rooming house, motor hotel, guest house, guest ranch, ranch resort, guest resort, mobile home, motor court, auto court, auto camp, trailer court, trailer camp, trailer park, cabin or other premises used for lodging.

F. “vendee” shall mean a natural person to whom lodgings are furnished in the exercise of the taxable service of lodging.

G. “vendor” shall mean a person furnishing lodgings in the exercise of the taxable service of lodging.

Enacted by Res. No. 2010-03, Mar. 17, 2010; approved by Sec’y May 27, 2010; amended by Res. No. 21-19, March 26, 2021; approved by Sec’y, May 17, 2021.

Sec. 22A.3 Imposition of Tax; Rate

A. For the privilege of furnishing lodgings, a tax is hereby imposed on the gross taxable rent received by each vendor within Pueblo Lands (except that unless expressly determined by Tribal Council resolution, and as consistent with applicable law, this tax shall not apply to the furnishing of lodgings at any location that is not on land owned by or held in trust for the benefit of the Pueblo or one of its members). The tax shall be known as the Lodger’s Tax.

B. The rate of the Lodger’s Tax shall be five percent of the gross taxable rent.

Enacted by Res. No. 2010-03, Mar. 17, 2010; modified by Res. No. 2010-09, May 5, 2010; approved by Sec’y May 27, 2010.

Sec. 22A.4 Collection of Tax; Report

A. Every vendor providing lodgings shall collect the tax thereon on behalf of the Pueblo and shall act as a trustee therefor.

B. The tax shall be collected from vendees and shall be charged separately from the rent fixed by the vendor for the lodgings.

C. Each vendor shall be liable to the Pueblo for the tax provided herein on the rent paid for lodging at his or her respective place of business.

D. Failure of the vendor to collect the tax from vendees is not cause for the Pueblo to forgive the tax due and owed by the vendor.

E. Each vendor shall make a report by the twenty-fifth day of each month, on forms prescribed by the Tax Administrator, of the receipts for lodging in the preceding calendar month, and shall submit the proceeds of the lodgers’ tax to the Tax Administrator and include sufficient information to enable the Tax Administrator to audit the reports.

F. Lodgers’ tax payments are due by the twenty-fifth day of each month for receipts of lodging in the preceding calendar month.

Enacted by Res. No. 2010-03, Mar. 17, 2010; modified by Res. No. 2010-09, May 5, 2010; approved by Sec’y May 27, 2010.

Sec. 22A.5 Exemptions

The Lodger’s Tax shall not apply to any portion of the gross taxable rent:

A. If a vendee:

1. Has been a permanent resident of the taxable premises for a period of at least thirty (30) consecutive days as evidenced by a lease or other long-term lodging documentation; or

2. Enters into or has entered into a written agreement for lodgings at the taxable premises for a period of at least thirty (30) consecutive days;

B. For lodging accommodations at religious, charitable, educational or philanthropic institutions, as determined by the Tax Administrator, including without limitation such accommodations at summer camps operated by such institutions, or to lodging accommodations owned and operated by the Pueblo;

C. Received by clinics, hospitals or other medical facilities;

D. Received by privately-owned and operated convalescent homes, or homes for the aged, infirm, indigent or chronically ill.

Enacted by Res. No. 2010-03, Mar. 17, 2010; modified by Res. No. 2010-09, May 5, 2010; approved by Sec'y May 27, 2010.

Sec. 22A.6 Administration of Tax

The Tax Administrator shall collect the Lodger's Tax in accordance with the provisions of this Code and regulations issued by the Commission.

Enacted by Res. No. 2010-03, Mar. 17, 2010; approved by Sec'y May 27, 2010.

Sec. 22A.7 Audits; Inspections

The Tax Administrator shall have the authority to make periodic investigations of the records maintained by each vendor subject to the provisions of this Chapter, so as to verify reports by the vendor and otherwise collect information relevant to the amount of taxes due hereunder.

Enacted by Res. No. 2010-03, Mar. 17, 2010; approved by Sec'y May 27, 2010.

CHAPTER 23 - CIGARETTE EXCISE TAX, LICENSE

Sec. 23.1 Title

This chapter shall be cited as the Santa Clara Pueblo Cigarette Tax Code.

Enacted by Res. No. 2010-07, April 7, 2010; approved by Sec'y, May 27, 2010.

Sec. 23.2 Definitions

For purposes of this Cigarette Tax Code, the following terms shall have the following meanings:

A. "Cigarette" shall mean:

1. any roll of tobacco or any substitute therefor wrapped in paper or in any substance not containing tobacco; or

2. any roll of tobacco that is wrapped in any substance containing tobacco, other than one hundred percent natural leaf tobacco, which because of its appearance, the type of tobacco used in the filler, its packaging and labeling, or its marketing and advertising, is likely to be offered to, or purchased by, consumers as a cigarette.

B. “License” means a revocable, non-transferable authorization from the Tax Administrator to sell Cigarettes on Pueblo Lands.

C. “Licensee” means a Santa Clara Entity to whom a License is issued.

D. “Santa Clara Entity” means a Person that would be entitled to be exempted from the New Mexico cigarette tax pursuant to NMSA (1978) § 7-12-4(A)(2), as amended, if such Person were licensed hereunder.

Enacted by Res. No. 2010-07, April 7, 2010; approved by Sec’y, May 27, 2010.

Sec. 23.3 Imposition and Rate of Cigarette Tax

A. For the privilege of selling Cigarettes on Pueblo Lands, there is hereby imposed and levied an excise tax for each Cigarette sold on Pueblo Lands at retail by a Santa Clara Entity, including Cigarettes sold by the Pueblo. The tax imposed by this section shall be referred to as “the Cigarette Tax.”

B. The rate(s) of the Cigarette Tax shall be set by the Tax Commission.

Enacted by Res. No. 2010-07, April 7, 2010; modified by Res. No. 2010-11, May 14, 2010; approved by Sec’y, May 27, 2010; amended by Res. No. 21-19, March 26, 2021; approved by Sec’y, May 17, 2021.

Sec. 23.4 Incidence of the Tax

The incidence of the Cigarette Tax shall be upon any Santa Clara Entity that sells Cigarettes on Pueblo Lands.

Enacted by Res. No. 2010-07, April 7, 2010; approved by Sec’y, May 27, 2010.

Sec. 23.5 Conditions of License to Sell Cigarettes on Pueblo Lands; Penalty for Selling Cigarettes without a License

A. Every Santa Clara Entity selling Cigarettes on Pueblo Lands, including the Pueblo, must hold a License to sell Cigarettes issued pursuant to this Chapter, for each separate location on Pueblo lands at which the Licensee sells Cigarettes.

B. A License to sell Cigarettes may only be issued to a Santa Clara Entity.

C. The Licensee must be lawfully entitled to engage in business within Pueblo Lands, and

must have paid all required rentals, assessments, taxes, or other payments due the Pueblo.

D. A License may not be assigned, sold, or otherwise transferred.

E. A License confers a non-transferable privilege, revocable by the Pueblo in accordance with the provisions of this Chapter. No Licensee shall have any property interest in any License issued under the provisions of this Chapter.

F. Any Santa Clara Entity who knowingly sells Cigarettes on Pueblo Lands without a License is subject to a penalty in the amount of twice the applicable tax rate for all Cigarettes sold, in addition to any other penalties provided by this Chapter and this Title.

Enacted by Res. No. 2010-07, April 7, 2010; approved by Sec'y, May 27, 2010.

Sec. 23.6 Application

An applicant for a License shall apply in writing on a form provided by the Tax Administrator setting forth the following information:

A. The full name, address, and telephone number of the applicant, and, if applicable, each of its owners (including residential address and post office box number of each); if the applicant is a corporation, partnership or other separate entity, the application shall also identify the jurisdiction within which the entity is organized; and the application shall state whether the applicant, or the applicant's owners, is a Tribal Member, the Pueblo, or an entity wholly owned by the Pueblo;

B. Each location where Cigarettes are to be sold by the applicant and satisfactory evidence as to the applicant's right to use the land on which Cigarette sales are to be conducted for such purpose; and

C. The federal tax identification number or social security number applicable to the applicant.

Enacted by Res. No. 2010-07, April 7, 2010; approved by Sec'y, May 27, 2010.

Sec. 23.7 Application and Renewal Fees

A. All Santa Clara Entities subject to licensing under this Chapter shall pay a fee for a License or the renewal thereof, in the amount of \$25.00 per year. A renewal application submitted after the expiration of the License shall be accompanied by a late fee in the amount of \$25.00.

B. Any smoke shop owned and operated by the Pueblo is exempt from the application fees, renewal fees, and late fees provided for in this section.

Enacted by Res. No. 2010-07, April 7, 2010; approved by Sec'y, May 27, 2010.

Sec. 23.8 Term; Renewal

A. The term of each License is one year from the date of issuance.

B. Application for renewal of a License may be made at any time prior to the expiration of the License, on a form to be supplied by the Tax Administrator and shall be accompanied by all required fees.

Enacted by Res. No. 2010-07, April 7, 2010; approved by Sec'y, May 27, 2010.

Sec. 23.9 Suspension; Revocation

A. The Tax Administrator may revoke or suspend a License issued pursuant to this Chapter, or shall refuse to issue a new or renewed License, for good cause as follows:

1. for any material misstatement of fact in an application for a License or a renewal of a License;
2. for any material misstatement of fact in a record, report, or other document required to be kept and/or filed with the Tax Administrator by this Chapter, Title, or other provision of the Santa Clara Pueblo Tribal Code.
3. for any violation of a License condition;
4. for any violation of this Chapter or any regulation promulgated hereunder, or any valid order of the Tax Administrator; or
5. for failure to pay any applicable tax in the amount and at the time due.

B. The Tax Administrator shall provide written notice of intent to revoke or suspend a License by certified mail, return receipt requested, to the last known address of the Licensee on the Tax Administrator's records. If the Licensee cannot be so served with notice, the Licensee may be served by publication in a newspaper of general circulation on Pueblo Lands once each week for two (2) consecutive weeks. The Licensee shall have ten (10) days from the day the notice was delivered, or from the date of last publication, to show cause in writing why the License should not be revoked or suspended.

C. In the event of an emergency, the Tax Administrator may temporarily revoke or suspend a License without prior notice for a period not exceeding thirty (30) days.

D. A Licensee may appeal a License revocation or suspension, or a refusal by the Tax Administrator to issue a License, by filing a civil action for review of the decision of the Tax Administrator in Santa Clara Tribal Court. Such action shall be filed in the same manner as any civil action in the Tribal Court and shall name the Tax Administrator as the defendant. The sovereign immunity of the Pueblo shall not be a defense to any such action. The Tribal Court shall decide the case based on the written record before the Tax Administrator. The Court shall uphold the challenged action of the Tax Administrator unless it finds that the Tax Administrator

acted arbitrarily or capriciously, or abused his discretion, or acted contrary to Pueblo law. The Court may not in any event award any damages against the Pueblo or the Tax Administrator.

Enacted by Res. No. 2010-07, April 7, 2010; approved by Sec'y, May 27, 2010.

Sec. 23.10 Payment of Tax; Report; Exemptions

A. The Cigarette Tax is to be paid on or before the twenty-fifth day of the month following the calendar month in which the Cigarettes are sold. Each monthly payment shall be accompanied by a report, on a form provided by the Tax Administrator, showing the Licensee's total Cigarette sales for the month. All reports must timely filed without regard to liability for a tax.

B. The report shall contain the following:

1. The total number Cigarettes, by brand and package quantity, on hand on the first day of the reporting period;
2. The total number of Cigarettes, by brand and package quantity, received during the reporting period, and the name and address of the Person from whom the Cigarettes were received;
3. The total number of Cigarettes, by brand and package quantity, sold during the reporting period.
4. The total number of Cigarettes, by brand and package quantity, lost due to shrinkage, returns, or other such reductions to inventory, provided that Licensee shall also provide proof to the Tax Administrator's satisfaction to support its claim of any such loss, shrinkage or returns.
5. The total number of Cigarettes, by brand and package quantity, on hand on the last day of the reporting period.

Enacted by Res. No. 2010-07, April 7, 2010; approved by Sec'y, May 27, 2010.

Sec. 23.11 Effective Date

The effective date of this Chapter is July 1, 2010, subject to the approval of the Secretary of the Interior.

Enacted by Res. No. 2010-07, April 7, 2010; approved by Sec'y, May 27, 2010.

Chapter 24 – MOTOR VEHICLE EXCISE TAX

Sec. 24.1 Title

This chapter shall be cited as the Santa Clara Pueblo Motor Vehicle Tax Code.

Enacted by Res. No. 2023-041; approved by Sec'y, July 21, 2023.

Sec. 24.2 Definitions

For purposes of this Motor Vehicle Tax Code, the following terms shall have the following meanings:

A. "Motor Vehicle" means every Vehicle which is self-propelled and every Vehicle which is propelled by electric power obtained from batteries or from overhead trolley wires but not operated upon rails;

B. "Motor Vehicle Dealer" means any person who is engaged in the sale or distribution of new or used Motor Vehicles or new or used Motor Vehicle engines to the ultimate purchaser or buyer;

C. "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a highway, including any frame, chassis or body of any Vehicle or Motor Vehicle, except devices moved by human power or used exclusively upon stationary rails or tracks.

Enacted by Res. No. 2023-041; approved by Sec'y, July 21, 2023.

Sec. 24.3 Imposition and Rate of Motor Vehicle Tax; Exemption

A. There is hereby imposed and levied an excise tax on the sale of Motor Vehicles by Motor Vehicle Dealers on Pueblo lands that are in trust or restricted fee status. The tax imposed by this section shall be referred to as "the Motor Vehicle Tax."

B. The excise tax shall be in the amount of four percent (4%) of the sale price of the Motor Vehicle, including all optional equipment and devices affixed to such Vehicle, but net of the amount of any trade-in credited against the sale price. If the price actually paid for the Vehicle is less than the true value of the Vehicle in the condition it was in at the time of the sale, the tax rate shall be applied to the reasonable value of the Vehicle in its condition at the time of the sale.

C. Any sale of a Motor Vehicle to the Pueblo shall be exempt from the excise tax imposed by this Chapter.

Enacted by Res. No. 2023-041; approved by Sec'y, July 21, 2023.

Sec. 24.4 Time and Manner of Payment of Tax; Record of Payment

A. The Motor Vehicle Tax shall be paid by the buyer at the time of the sale of the Vehicle, and shall be collected by the Motor Vehicle Dealer, and the amount of the tax shall thereafter be placed in a separate bank account maintained by the Dealer but to the records of which the Pueblo shall have access.

B. The Motor Vehicle Dealer shall issue a receipt to the buyer, in a form prescribed by the Tax Administrator, evidencing the buyer's payment of the tax and the amount of tax paid, which

receipt should entitle the buyer to a credit against the New Mexico Motor Vehicle excise tax under the provisions of NMSA § 7-14-7(B) (2022).

Enacted by Res. No. 2023-041; approved by Sec'y, July 21, 2023.

Sec. 24.5 Remission of Tax to Pueblo

No later than the tenth (10th) day of each month, every Motor Vehicle Dealer subject to this tax shall remit to the Tax Administrator, for deposit into the Pueblo's general fund, the total amount of Motor Vehicle Taxes collected by the Dealer during the preceding month, together with an itemized list of sales on which such taxes were collected, copies of the sales agreements for such sales and of the receipts issued to the buyers, all of which documents shall remain strictly confidential and shall not be disclosed by the Tax Administrator or by any other Pueblo officer or employee to any third party, except to the Taxation and Revenue Department or unless pursuant to the order of a court having jurisdiction.

Enacted by Res. No. 2023-041; approved by Sec'y, July 21, 2023.

Sec. 24.6 Penalty for Failure to Collect or to Remit Tax

A. Any Motor Vehicle Dealer subject to this tax who fails to collect the tax on such sale as imposed by this Chapter, or who, having collected the tax, fails to remit the tax collected as required by Section 24.5 hereof, shall be liable to the Pueblo for a penalty in the amount of two (2) times the amount of tax due.

B. A Motor Vehicle Dealer who remits the tax to the Pueblo but fails to do so within the time or with the documentation specified in Section 24.4 hereof, shall be liable to the Pueblo for a penalty in the amount of ten percent (10%) of the total amount of tax so remitted.

C. The Tax Administrator shall have the authority to undertake audits of Motor Vehicle Dealers subject to this tax when deemed appropriate, to determine that required Motor Vehicle excise taxes are being collected and remitted to the Pueblo as set forth in this Chapter, but not for any other reason. Every Motor Vehicle Dealer shall cooperate fully with the Tax Administrator's auditors in such event, and shall provide all relevant information and documents to enable the auditor to complete its work.

Enacted by Res. No. 2023-041; approved by Sec'y, July 21, 2023.

Sec. 24.7 Effective Date

The effective date of this Chapter is the date that it is approved by the Secretary of the Interior.

Enacted by Res. No. 2023-041; approved by Sec'y, July 21, 2023.