

NAVAJO NATION CODE
TITLE 24. TAXATION
CHAPTER 8. NICOTINE PRODUCTS & ELECTRONIC SMOKING PRODUCTS TAX
Resolutions CO-47-24 and CJY-21-25

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1001. SHORT TITLE

The tax imposed by this Chapter shall be called the “Nicotine Products and Electronic Smoking Products Tax.”

1002. PURPOSE

The Navajo Nation Council hereby enacts this tax for the privilege of engaging in business activity within the Navajo Nation, and for purposes of defraying necessary governmental expenses incurred in providing for the public welfare.

1003. TAX IMPOSED

A tax is hereby imposed on the Gross Receipts of a Person. The tax due for a Period is determined by first calculating applicable gross receipts from all Nicotine Products and Electronic Smoking Products sold for a Period, and then multiplying those Gross Receipts from all Nicotine Products and Electronic Smoking Products sold by the applicable tax rate.

1004. LEGAL INCIDENCE AND RESPONSIBILITY FOR PAYMENT

The Person liable for the payment of the tax imposed by this Chapter is the Person receiving the Gross Receipts from a Sale of Nicotine Products and Electronic Smoking Products.

1005. RATE OF TAX

The tax imposed by this Chapter is imposed at a rate of twenty- two percent (22%) of a Person's Nicotine Products Gross Receipts and Electronic Smoking Products Gross Receipts.

1006. ADMINISTRATION

The provisions of Chapter 1, the Uniform Tax Administration Statute, shall apply to this Chapter. The Office of the Navajo Tax Commission is charged with the administration of this tax. The Office of the Navajo Tax Commission shall retain five percent (5%) of all tax revenue collected under this Chapter as a fee to offset the costs of administration.

1007. DEFINITIONS

Subject to additional definitions contained in Title 24, Chapter 6, Sales Tax, the following definitions apply to this Chapter:

1. “Electronic Smoking Product” means any device that can deliver aerosolized or vaporized nicotine to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah. Electronic Smoking Product includes any component, part, or accessory of such a device, whether or not sold separately. It includes any substance intended to be aerosolized or vaporized during the use of the device, whether or not the substance contains nicotine. An electronic smoking device includes no battery or battery charger when sold separately. In addition, Electronic Smoking Product does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

2. "Person" as defined in the Uniform Tax Administration Statute, shall include any organization, whether a sole proprietorship, partnership, joint venture, trust, estate, unincorporated association, company, corporation, or government (other than the Navajo Nation government), or any part, division, or agency of any of the foregoing, and an individual or group of individuals. In accordance with Section 1008 of this Chapter, "person" for purposes of the Nicotine Products and Electronic Smoking Products Tax shall include the government of the Navajo Nation and any wholly owned subdivision or Enterprise of the Navajo Nation government.
3. "Nicotine Product" means any commercially processed or manufactured product for human consumption which contains nicotine, whether natural or synthetic. Nicotine Product does not include (i) any mixed nicotine and tobacco product included in the definition of Tobacco Product at 24 N.N.C. § 802(2), or (ii) any product designed or used for nicotine cessation that has been authorized by the U.S. Food and Drug Administration to be marketed and for sale as "drugs," "devices", "or "combination products, "as defined in the federal Food Drug, and Cosmetic Act."

1008. NAVAJO NATION GOVERNMENT

- A. Sales by corporations owned by the Navajo Nation government or any political subdivision thereof shall be fully subject to the tax imposed by this Chapter.
- B. Sales by the government of the Navajo Nation, or political subdivision or Enterprises thereof, shall be subject to the tax imposed by this Chapter.

1009. EXEMPTIONS AND EXCLUSIONS

- A. The tax imposed by this Chapter does not apply to Gross Receipts generated directly by the following:
 1. Sales for resale;
 2. Sales related to agriculture, farming, or livestock activities conducted within the Navajo Nation
 3. Sales, other than Sales from an unrelated trade or business as defined in § 511 - § 513 of the Internal Revenue Code, by any person operating exclusively for non-profit or charitable purposes, and recognized as such pursuant to § 501(C)(3) and § 501(C)(19) of the United States Internal Revenue Code at the time of the sale.
 4. Sales by hospital and health-care organizations or facilities such as nursing care institutions, residential care and mental health facilities, senior citizen care facilities or retirement homes, kidney dialysis facilities and blood banks, or other facilities which provide medical care and services.

1010. FILING A RETURN

- A. Each Person must file a return indicating all sales from applicable gross receipts and the tax due under this Chapter for each Period by the fifteenth day of the second month after the end of each calendar quarter. Returns are due on February 15, May 15, August 15, and November 15 of each calendar year.
- B. The Commission may by form or regulation require that other information, records or relevant documents which it deems

- C. necessary for the proper and efficient administration of this Chapter be included with the return and signed by a specified individual.
- D. No return need be filed by any Person who is exempt under Section 1009, provided that the Office of the Navajo Tax Commission may require such Person to file the information necessary to establish its exempt status.

1011. PAYMENT OF TAX

Payment in full of the taxes owed for a particular Period is due on the same date that the completed return for that same Period is due. The Office of the Navajo Tax Commission, however, may require payment of any taxes due on a monthly basis.

1012. RECORDKEEPING

- A. Each Person shall keep all records which pertain to or relate in any manner to all sales from any business activity engaged in at any time by such Person. Such records shall be maintained separately for each reporting Period during which a Person is engaged in business activity.
- B. Records required to be kept must be preserved for four years beyond the end of the Period for which the records relate.

1013. ALLOCATION OF REVENUE

After mandatory allocations of tax revenue as required by Navajo Nation law, all tax, interest, and penalties collected by the Office of the Navajo Tax Commission from this Act shall be deposited into the special account established in 24 N.N.C. § 808.

1014. NO CONFLICT WITH LOCAL GOVERNANCE ACT

The provisions of this Chapter and corresponding regulations shall not be construed to affect any governmental authority under the Local Governance Act, 26 N.N.C. § 1 - § 2008.

1015. SEVERABILITY

If any provision of this Chapter, as amended, or its application to any person or circumstance, is held invalid by a final judgment of a court of competent jurisdiction, the invalidity shall not affect other provisions or applications of the Chapter which can be given effect without the invalid provision or application, and to this end, the provisions of this Chapter are severable.

1016. REPEALS

All laws or parts of laws (or attachments thereto) which are inconsistent with the provisions of this Chapter are hereby repealed, including, without limitation, any law purporting to waive any right of taxation by the Navajo Nation.