

TITLE 12. TAXES

Chapter 12.3

RETAIL SALES TAX

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12.3.1. Title. This chapter shall be referred to as the “Retail Sales Tax Ordinance.” (Res. 2015-124, passed Jun. 8, 2015)

12.3.2. Purpose and Scope. The purpose of this chapter is to assess and collect a tax on retail sales from all current or future tribally-owned economic enterprises conducting business on real property of the Suquamish Tribe, whether located within or outside the boundaries of the Port Madison Indian Reservation. (Res. 2015-124, passed Jun. 8, 2015)

12.3.3. Authority. This chapter is enacted pursuant to authority provided in Article III of the Constitution and Bylaws of the Suquamish Indian Tribe of the Port Madison Indian Reservation, as amended, and pursuant to the inherent sovereign powers of the Suquamish Indian Tribe. (Res. 2015-124, passed Jun. 8, 2015)

12.3.4. Findings. The Suquamish Tribal Council finds that:

(a) The power to tax is an essential attribute of tribal sovereignty because it is a necessary instrument of self-government and territorial management. It derives from the Tribe’s general authority, as sovereign, to control economic activity within its jurisdiction, and to defray the cost of providing governmental services by requiring contributions from persons or enterprises engaged in economic activities within that jurisdiction. Taxation is of vital importance to the Tribe’s economy and political integrity, and to the health, welfare, and economic well-being of its members and the tribal community.

(b) Among the benefits provided by the tribal government to tribal members and to non-members residing, visiting, or conducting business upon the reservation or Suquamish territory include the following: governmental services, including public sewage collection systems, water systems to provide safe drinking water and fire protection, tribal roads, social services, and education programs; public health, safety, and law and order services, including tribal police, fisheries enforcement, hazardous emergency response, environmental protection, land use planning and regulation, and the provision of a Tribal Court system with general jurisdiction for the resolution of civil disputes and limited jurisdiction for the prosecution of criminal actions; the protection of reservation lands and resources; the provision of public recreational amenities and facilities such as athletic fields, sports facilities, meeting rooms, and parks; the support of cultural and religious events and activities; the promotion and regulation of reservation businesses and economic development; and the provision of employment to both members and non-members of the Tribe.

(c) The entire reservation community, both tribal members and non-members, whether visiting, residing, employed or otherwise doing business on the reservation, benefits from these tribal governmental services and programs directly and because the tribal services and programs supplement or replace other governmental programs and relieve other units of government from the full burden of these programs.

(d) It is appropriate, therefore, that a portion of the costs of these essential government services be borne by persons engaged in or benefiting from residential, business, or recreational activities on the Reservation, who thereby benefit from governmental services provided by the Tribe.

(e) Additionally, the Tribe makes contributions to local fire and police agencies to defray a portion of the cost of fire protection, emergency medical services, and law enforcement assistance, where necessary, on the reservation. Revenues are needed by the Tribe to fund such contributions.

(f) Economic enterprises of the Tribe are supported by and benefit from numerous programs and services provided by the Tribe as described in subsection (b) above. (Res. 2015-124, passed Jun. 8, 2015)

12.3.5. Definitions. (a) For the purposes of this chapter, the following words and phrases have the following meanings, unless explicitly stated otherwise:

(1) "Buyer" means, without limiting the scope hereof, every person who receives goods or services from a seller in exchange for a promise to deliver to the seller, or for the actual delivery to the seller, of money or other goods or services of value to the seller.

(2) "Cash discount" means a deduction from the invoice price of goods or charge for services that is allowed if the bill is paid on or before a specified date.

(3) “Economic enterprises” means the subordinate economic and business enterprises and subdivision of the Suquamish Tribe established by STC Title 11, Chapter 4 – Port Madison Enterprises and STC Title 11, Chapter 6 – Suquamish Seafoods Enterprise and any other business enterprise of the Suquamish Tribe.

(4) “Local retail sales tax” means the combined Washington local retail sales taxes applicable in the area.

(5) “Retail selling price” means the ordinary, customary, or usual price paid by the consumer for the item which price does not include the tribal retail sales tax.

(6) “Retail sale” means for purposes of this chapter:

(A) A retail sale consisting solely of the sale of tangible personal property shall be deemed to have occurred at the retail outlet at or from which delivery is made to the consumer.

(B) A retail sale consisting essentially of the performance of personal business or professional services shall be deemed to have occurred at the place at which such services were primarily performed.

(7) “Sale” means for the purposes of this chapter any provisions of services or the transfer of ownership of, title to, or possession of property for a valuable consideration and includes any activity classified as a “retail sale.” It includes renting or leasing, conditional sales contracts, and any contract under which possession of the property is given to the purchaser but title is retained by the vendor as security for the payment of the purchase price.

(8) “Seller” means the person making a retail sale to a buyer.

(9) “Selling price” means the consideration, whether money, credits, rights or other property, expressed in the terms of money paid or delivered by a buyer to a seller, all without any deduction on account of the cost of tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expenses whatsoever paid or accrued by the seller and without any deduction on account of losses; but shall not include itemized taxes paid by the buyer and the amount of cash discount actually taken by a buyer.

(10) “State” means the state of Washington.

(11) “State retail sales tax” means the Washington retail sales tax.

(12) “Tribe” means the Suquamish Indian Tribe of the Port Madison Indian Reservation.

(b) All other words and phrases shall have their ordinary and customary meanings. (Res. 2015-124, passed Jun. 8, 2015)

12.3.6. Tax Imposed. (a) There is levied and there shall be collected a tax on each retail sale by the economic enterprises in an amount equal to one hundred percent (100%) of the state and local retail sales taxes.

(b) Should there be any future increase or decrease in the state and local retail sales taxes, the tribal retail sales tax shall increase or decrease by no less than one hundred percent (100%) of the increase or decrease in the combined state and local tax rates. (Res. 2015-124, passed Jun. 8, 2015)

12.3.7. Tax Separate from Sales Price. (a) The tax required by this Chapter to be collected by the seller may be stated separately from the selling price in any sales invoice or other instrument of sale. If not stated separately on the sales invoice or other instrument of sale, then the tax shall be accounted for separately in the records of the transaction by the seller.

(b) For purposes of determining the tax due from the buyer to the seller and from the seller to the tribal treasurer, it shall be conclusively presumed that the selling price quoted in any price list, sales document, contract or other agreement between the parties does not include the tax imposed by this chapter, but if the seller advertises the price as including the tax or that the seller is paying the tax, the advertised price shall not be considered the selling price. (Res. 2015-124, passed Jun. 8, 2015)

12.3.8. Exempt Sales. (a) The tax levied in §12.3.7 shall not apply to the following items and transactions:

- (1) All cigarettes and tobacco products;
- (2) Motor vehicle fuel;
- (3) Distilled spirits, wine, and beer sold in their original containers;
- (4) Newspapers; and
- (5) Products sold from vending machines.

(b) Additional exempt sales may be declared by a separately enacted tribal resolution, including exempt sales to tribal member buyers and/or by specific tribal economic enterprise sellers. (Res. 2015-124, passed Jun. 8, 2015)

12.3.9. Payment of Taxes. The tax hereby imposed shall be paid by the buyer to the seller, and each seller shall collect from the buyer the full amount of the tax payable in

respect to each taxable sale in accordance with this chapter. (Res. 2015-124, passed Jun. 8, 2015)

12.3.10. Collection and Remittance of Taxes. (a) Taxes shall be collected by the seller and remitted monthly to the tribal treasurer.

(b) The seller shall maintain accurate written records of the retail sales, and shall make such records available for inspection by the Tribe's treasurer and/or third party auditor retained by the Tribe. Records shall be maintained for no less than three years after the audit. (Res. 2015-124, passed Jun. 8, 2015)

12.3.11. Penalties for Late Filing or Late Payment. For returns and payments that are not received by the tribal treasurer when due, a penalty will be assessed for each month or part of a month the returns or payments are delinquent in an amount equal to two percent (2%) of the taxes due. (Res. 2015-124, passed Jun. 8, 2015)

12.3.12. Severability. If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances, is not affected. (Res. 2015-124, passed Jun. 8, 2015)

12.23.13. Effective Date. This chapter shall be effective upon the date enacted by the Tribal Council. (Res. 2015-124, passed Jun. 8, 2015)

Note: All subsections in this chapter have been renumbered for consistency, as follows.

All upper case letters (A, B, C, etc.) used as subsection headings have been changed to lower case letters (a, b, c, etc.)

All lower case letters have been changed to upper case letters

Example: What was previously 12.3.5(A)(6)(a) is now 12.3.5(a)(6)(A)