

TITLE 13. TAX ADMINISTRATION CODE

Chapter 13.5

TRIBAL TAX COMMISSION ESTABLISHED

Sections:

- 13.5.1 Membership of Tribal Tax Commission.
- 13.5.2 Recusal of Tax Commissioners.
- 13.5.3 Removal of Tax Commissioners.

13.5.1. Membership of Tribal Tax Commission. (a) A tribal tax commission is established by this chapter. The tax commission will consist of five (5) member commissioners who serve staggered terms of office. The Tribal Council will appoint an initial commission having terms as follows: two (2) commissioners will have terms of one (1) year, one (1) will have a term of two (2) years, and the chairperson and vice chairperson will have terms of three (3) years. The first terms will be considered to begin on January 1, 1995. The Tribal Council will appoint all subsequent commissioners as each term ends.

(b) After the initial commission, each commissioner will serve for three (3) calendar years unless a commissioner resigns, is permanently recused, or is otherwise removed. If any member of the tax commission resigns, or is temporarily or permanently removed from the tax commission, the Tribal Council will appoint another person to fill the vacancy for the rest of the term.

(c) Members of the Tribal Council, tribal members, or other persons may be appointed to serve on the tax commission. All members of the tax commission must be qualified to serve based upon education, administrative experience, and any other qualities which the Tribal Council judges to be relevant. At the time of appointment, the Tribal Council will designate one tax commissioner as the chairperson and another commissioner as vice chairperson. The Tribal Council may also designate a tax commissioner, or another person, as the director of the department of revenue.

(d) The Tribal Council may appoint no more than two (2) persons to serve as alternate members of the tax commission. The alternate members' purpose is to ensure a quorum at commission meetings and to provide additional input to commission deliberations. Alternate members should have the same qualifications as regular commissioners. Alternate members may attend and participate in all commission business, but no alternate member may serve as an officer of the commission or be permitted to vote at any commission meeting unless his or her vote is necessary to establish a quorum. (Res. 94-178, passed Dec. 19, 1994)

13.5.2. Recusal of Tax Commissioner. A tax commissioner may not participate in or attempt to influence any tax commission action or decision if, for any reason, that commissioner is unable to act with fairness and impartiality with respect to that action or

decision or if participation in that action or decision would create a conflict of interest. Any party to an action or decision pending before the tax commission may, by timely motion (and in any case before the commission takes action), raise the issue as to whether a tax commission member should recuse him- or herself from participation in an action or decision based on inability to act with fairness or impartiality or due to a conflict of interest. The issue, once raised in a timely manner, will be put to the commissioner who, it is suggested, must recuse him or herself. The tax commissioner must recuse him- or herself if a reasonable Suquamish tribal community member would believe that grounds for recusal exist, using sections (a) through (e) below. In the event the tax commission member whose recusal is sought refuses to do so, the matter will be decided quickly by the remaining tax commissioners concerning the commissioner whose recusal is requested. The commissioner who is the subject of the recusal vote may not vote on the matter. If a majority of the non-conflicted commissioners decide that a commissioner is conflicted using sections (a) through (e) below, and should recuse him- or herself, that tax commissioner will not participate in the action or decision. A conflict of interest that requires a commissioner to be recused exists whenever the tax commission makes a decision or takes action involving:

- (a) That commissioner's personal tax liability;
- (b) The commissioner's immediate family's tax liability;
- (c) The tax liability of any entity of which the commissioner or any of his or her immediate family is a director, an officer, a managing agent, or an employee;
- (d) The tax liability of any entity of which the commissioner or any of his or her immediate family has a substantial ownership interest; or
- (e) The tax liability of any entity with which the commissioner or any of his or her immediate family has a significant contractual relationship. (Res. 94-178, passed Dec. 19, 1994; amended by Res. 2017-195, passed Sep. 25, 2017)

13.5.3. Removal of Tax Commission Members. A tax commissioner may be removed from office by a two-thirds (2/3) Tribal Council vote for serious inefficiency or neglect of duty, for malfeasance or misfeasance in office, or for mental or physical incapacity to perform his or her duties, but only after a hearing before the Council and only after the commissioner has been given a written notice of the specific charges against him or her at least ten (10) days before the hearing. At any such hearing, the member will have the opportunity to be heard in person or by counsel and to present witnesses in his or her behalf. No appeal may be taken from the Tribal Council's final decision. (Res. 94-178, passed Dec. 19, 1994)

Note 1: Subsections 13.5.2(1)-(5) renumbered 13.5.2(a)-(e) for consistency. (Res. 2016-097, passed Jul. 11, 2016)

Note 2: In addition to amending the recusal process for tax commissioners, Resolution 2017-195, passed Sep. 25, 2017, made changes to the language, but not the content, throughout this chapter, to increase clarity and ease of reading.