

## TITLE 13. TAX ADMINISTRATION CODE

### Chapter 13.6

#### POWERS, DUTIES, AND ADMINISTRATIVE PROCEDURES OF THE TAX COMMISSION, DIRECTOR OF DEPARTMENT OF REVENUE, AND DIRECTOR OF FINANCE

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**13.6.1. Powers/Duties of the Tax Commission.** The tax commission has the following powers/duties:

(a) To recommend to the Tribal Council that specific tax ordinances be established, modified, or amended, including, but not limited to, recommendations that existing tax rates be adjusted;

(b) To make recommendations to the Tribal Council relating to any tax collection and enforcement agreements between the Suquamish Tribe and the State of Washington or its agencies and subdivisions;

(c) To determine and rule upon any petition by any taxpayer for redetermination of that person's tax liability, penalties, interest, or refund due or paid according to the tribal tax administration code and tax ordinances;

(d) In its discretion, to waive any penalties imposed upon a showing of good cause, provided, however, that the tax commission may not waive any interest due by any taxpayer and may not establish, alter, or adjust in any way any tax rate established by the Tribal Council;

(e) To promulgate such rules and regulations as are necessary to carry out the powers and duties this chapter delegates to the tax commission, provided, however, that no tax commission rule or regulation will have any force or effect unless and until

notice of that rule or regulation has been given to the Tribal Council at least thirty (30) days in advance, or the Tribal Council affirmatively approves that rule or regulation;

(f) To administer oaths, conduct hearings, and seek Tribal Court orders to compel any person subject to any provision of the tribal tax administration code and tax ordinances to attend hearings, provide testimony, and produce any information, not privileged, which is requested by the commission and reasonably necessary to perform its duties; and

(g) To cause a suit to be filed in the Tribal Court on the Suquamish Tribe's behalf to:

(1) Collect taxes, penalties, and interest due;

(2) Enjoin actions by any taxpayer which would prevent, or have the effect of preventing, the administration and enforcement of any provision of the tribal tax administration code; and

(3) Seize, inventory, and forfeit property, or sell property in a commercially reasonable manner, in order to satisfy a taxpayer's unpaid tax liabilities, interest, or penalties due. (Res. 94-178, passed Dec. 19, 1994)

**13.6.2. Powers/Duties of the Director of the Department of Revenue.** The director of the department of revenue has the following powers and duties with respect to administration of the tribal tax administration code, not inconsistent with the authority of the tax commission:

(a) To determine the tax liability, penalties, interest, or refund paid or due by any person subject to the tribal tax administration code or tax ordinances;

(b) To keep and maintain, or cause to be kept and maintained, secure, complete, and accurate records and to prevent the unauthorized disclosure or release of such records as set forth in §13.6.8 and §13.6.9 of this chapter;

(c) To establish standard forms for taxpayers to use in reporting their tax liabilities and in petitioning the tax commission for a redetermination, and publish and make available such standard forms to any person subject to the tribal tax administration code or tax ordinances;

(d) To examine or investigate, or cause to be examined and investigated, any taxpayer's activities, property, or records at any time; provided, however, that the commission may not conduct or cause to be conducted any unreasonable search or seizure and that the examination or investigation must be authorized by a lawful search warrant issued by the Tribal Court when such a warrant is required by other applicable law;

(e) To promulgate such rules and regulations as are necessary to carry out the powers/duties this chapter delegates to the director of the department of revenue; provided, however, that no rule or regulation the director promulgates has any force or effect unless and until notice of that rule or regulation has been given to the Tribal Council at least thirty (30) days in advance or the Tribal Council affirmatively approves that rule or regulation;

(f) To prepare forecasts of tax revenue, budgets for compensation of employees and consultants, and budgets for the expenses of administering the tribal tax administration code and tax ordinances, as set forth in §13.6.7 of this chapter; and

(g) To transmit total taxes assessed to the director of finance for maintaining control accounts in the tribal general ledger tax fund.

The chairman of the tax commission may serve as director of the department of revenue, if the Tribal Council has not appointed a director, and perform all the director's duties and responsibilities set forth in this chapter. (Res. 94-178, passed Dec. 19, 1994)

**13.6.3. Powers/Duties of the Director of Finance.** The tribal director of finance has the following powers/duties with respect to administration of the tribal tax administration code, not inconsistent with the authority of the tax commission and the department of revenue director:

(a) To deposit or cause to be deposited and to invest or reinvest any and all tax revenues, penalties, and interest as well as proceeds from the sale of seized property under the provisions of §13.8.5 of this code, received in the tax revenue accounts established as set forth in §13.4.1 of this title;

(b) To pay or cause to be paid any and all tax refunds from the tax refund accounts as set forth in §13.4.2 of this title; and

(c) To pay or cause to be paid all tax commission expenses that do not, in any fiscal year, exceed the total amount the Tribal Council has authorized for that year. (Res. 94-178, passed Dec. 19, 1994)

**13.6.4. Tax Commission's Procedures.** Either the chairperson or the acting chairperson may convene a meeting of the tax commission. To achieve a quorum, no fewer than three (3) tax commissioners must be present. If fewer than three (3) regular commissioners are present, then, for the purpose of establishing a quorum, not more than one (1) alternate commissioner may be counted. The tax commission may take actions to discharge any or all of the powers and duties set forth in §13.6.1 only in a meeting of the tax commission at which a quorum of commissioners is present. If the chairperson is unavailable, the vice chairperson may act as chairman. If the chairperson and vice chairperson are unable to attend any meeting of the tax commission, the remaining tax commissioners may designate an acting chairperson to

conduct that meeting only. The commission may also meet by telephone conference call, or through other electronic media allowing all commissioners present to contemporaneously make and perceive comments by all other commissioners. (Res. 94-178, passed Dec. 19, 1994)

**13.6.5. Bonding of Tax Commissioners and Staff.** Tax commissioners, the tribal administrator, the director of the department of revenue, and the director of finance may be required to be bonded in amounts the Tribal Council will establish. All premiums paid for bonds required for the tax commissioners and other tribal personnel in implementing this chapter are considered an expense incurred in administering the tribal tax administration code and will be budgeted as set forth in §13.6.7 and §13.6.11. (Res. 94-178, passed Dec. 19, 1994)

**13.6.6. Compensation of Tax Commissioners.** Tax commissioners, including alternate commissioners serving on a temporary basis, but only during actual service, will be compensated for their services in amounts the Tribal Council will establish. (Res. 94-178, passed Dec. 19, 1994)

**13.6.7. Revenue Forecasts and Budget.** Before each fiscal year begins, and at any other time as the Tribal Council requires, the director of the department of revenue must prepare or cause to be prepared and submit to the Tribal Council a forecast of tax revenues anticipated to accrue or to be collected during the coming fiscal year as well as an annual budget proposal detailing line item expenditures for administration of the tribal tax administration code, including, but not limited to, employees' wages and fringe benefits, payments for consultants, and any other expenses that are necessary and proper for the administration of the tribal tax administration code and tax ordinances. The total amount expended to administer the tribal tax administration code during any fiscal year may not exceed the amount the Tribal Council has authorized. (Res. 94-178, passed Dec. 19, 1994)

**13.6.8. Maintenance of Tax Records.** The director of the department of revenue must keep and maintain or cause to be kept and maintained secure, complete, and accurate records detailing all of the following:

(a) All taxes, penalties, and interest paid by any person and deposited in the tax revenue accounts established in §13.4.1 of the tribal tax administration code and as set forth in §13.6.11 of this chapter;

(b) All payments received as a result of Tribal Court judgments as provided in §13.8.4 and §13.8.8 of this title;

(c) All tax refunds paid to any person from the tax refund accounts established in §13.4.2 and as set forth in §13.6.12 of this chapter and §13.8.7;

(d) All taxes assessed, penalties, and interest paid and due by any person according to any and all tribal tax ordinances; and

(e) Any and all transactions, communications, or actions of the tax commission relating to each and every taxpayer including, but not limited to, every person's taxes, penalties, or interest paid and due, tax refunds, and records of any administrative remedies as provided in §13.7.1 through §13.7.4 of this title. (Res. 94-178, passed Dec. 19, 1994)

**13.6.9. Audit and Disclosure of Tax Commission's Records.** The tax records maintained as required by §13.6.8 of this chapter must be audited not less than annually by an independent, qualified auditor the Tribal Council selects and may be audited at any time at the Tribal Council's direction. All records relating to any taxpayer's taxes, penalties, and interest paid, due, and refunded, including the record of any administrative remedies, must be kept, maintained, and secured within the department of revenue and may not be opened for public inspection, released, or disclosed to any person; provided, however, that:

(a) An individual taxpayer or any person authorized in writing by the taxpayer will be provided access only to that part of the tax records which relates to that individual taxpayer's taxes, penalties, interest, and refunds paid and due, excluding any records which are attorney-client privileged or attorney work product and any records disclosure of which could reasonably be supposed to jeopardize an ongoing investigation related to failure to pay taxes, or to reveal confidential sources or the criteria and methods the Tribe uses to investigate any person's failure to pay taxes;

(b) An auditor the Tribal Council has selected to audit the tax records may have access to such records only to the extent necessary to perform a proper audit; and

(c) Tribal staff authorized to administer and enforce the tribal tax administration code and tax ordinances, including, but not limited to, the tribal attorneys and Tribal Court personnel, may have such access to tax records as is necessary to such administration and enforcement. (Res. 94-178, passed Dec. 19, 1994)

**13.6.10. Use of the Services of Other Tribal Personnel.** In carrying out the powers and duties set forth in this chapter, the tax commission, the director of the department of revenue and the director of finance may use the services of tribal personnel other than employees of the tax commission, provided that such use is authorized by the tribal administrator or Tribal Council. (Res. 94-178, passed Dec. 19, 1994)

**13.6.11. Receipt, Deposit, Investment, Reinvestment, Appropriation, Budgeting, and Expenditure of Tax Revenues.** All tax receipts, penalties, interest, proceeds from sales of seized property, costs awarded, or other monies the director of the department of revenue collects or the Suquamish Tribe receives according to any Tribal Court judgment in a tax case must be submitted by the director of revenue to the director of finance and promptly deposited in the tax revenue accounts. The director of finance may withdraw, invest, and/or reinvest those funds at the Tribal Council's direction, or deposit them in the tax refund accounts as set forth in §13.4.2 and §13.6.12 of this

chapter for purposes of making tax refunds. Nothing in the tribal tax administration code restricts or constrains, or may be construed to restrict or constrain, the Tribal Council's ability to change any amounts earmarked, appropriated, budgeted, or expended from the Tribe's tax revenue accounts as tribal priorities and program funding needs change. (Res. 94-178, passed Dec. 19, 1994)

**13.6.12. Payment of Tax Refunds.** Any and all tax refunds may be paid only from the tax refund accounts established in §13.4.2 of this code and only to taxpayers who are entitled under tribal law to receive such refunds. The amount of funds that may be deposited into the tax refund accounts for purposes of making tax refunds to taxpayers is limited to such funds as are available in the tax revenue accounts established according to §13.4.1 of this code and does not include any portion of the Tribe's general or other funds. Tax refunds will be paid only by the director of finance acting according to a written request by the director of the department of revenue accompanied by:

(a) A written directive issued by the tax commission stating that a taxpayer is entitled to a refund after a petition for rehearing has been concluded as set forth in §13.7.1 through §13.7.4 of this title;

(b) A written directive issued by the tax commission stating that such deposit is needed to maintain the balance in the refund accounts authorized by §13.4.2; or

(c) A judgment issued by the Tribal Court which entitles a taxpayer to a refund as set forth in §13.8.7 of this title. (Res. 94-178, passed Dec. 19, 1994)

Note 1: All subsections in this chapter have been renumbered for consistency, as follows. (Res. 2016-097, Jul. 11, 2016)

All Arabic numerals (1, 2, 3, etc.) used as subsection headings have been changed to lower case letters (a, b, c, etc.)

All lower case letters have been changed to Arabic numerals

Example: What was previously 13.6.1(7)(a) is now 13.6.1(g)(1)

Note 2: 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.