

TITLE 13. TAX ADMINISTRATION CODE

Chapter 13.8

JUDICIAL REMEDIES

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13.8.1. Filing of Suits – Waiver of Fees – Limitations on Bringing Enforcement Actions.

By this chapter, the tax commission is authorized and directed to bring suit in the Tribal Court for all civil remedies necessary for the effective administration and enforcement of the tribal tax administration code and tax ordinance including, but not limited to:

- (a) Collection of any taxes, penalties, or interest assessed and unpaid;
- (b) The recovery of reasonable fees, costs, and expenses incurred; and
- (c) Suits for the seizure, forfeiture, or sale of property.

In all suits to enforce the tribal tax administration code and tax ordinances, the posting of any filing fees by the tax commission as complainant is waived and the statute of limitation for the Tribe to file an action is seven (7) years from the date the cause of action accrued or seven (7) years from the date the Tribe should reasonably have known that the cause of action had accrued. (Res. 94-178, passed Dec. 19, 1994)

13.8.2. Tax Commission Representation. In all suits filed under §13.8.1 and/or §13.8.6 of this chapter to enforce the tribal tax administration code and tax ordinances, the Suquamish Legal Department will represent the tax commission, unless the tax commission requests and receives permission from the Tribal Council to obtain other representation. (Res. 94-178, passed Dec. 19, 1994)

13.8.3. Certification of Record. No later than thirty (30) days after all defendants' responses to a suit filed as provided in §13.8.1 and/or §13.8.6 of this chapter to enforce the tribal tax administration code and tax ordinances are filed and served, the tax commission will certify the record to the Tribal Court. (Res. 94-178, passed Dec. 19, 1994)

13.8.4. Tribal Court to Hear All Enforcement Suits. The Tribal Court has jurisdiction to hear and determine all matters arising under the tribal tax administration code and tax ordinances that the tax commission properly and regularly files before it as provided in §13.8.1 of this chapter. The Tribal Court will hear the matter on the record established before and certified by the tax commission. In any action brought under §13.8.1 of this chapter, the Tribal Court may:

(a) Compel witnesses to appear before it, as well as impose penalties under applicable law for failure to appear at any judicial proceeding as ordered, which sanctions may include contempt of court;

(b) Issue judgments, including awards of taxes due, interest, penalties, and costs to the tax commission;

(c) Issue orders executing those judgments, as provided by applicable law;

(d) Assess costs against defendants, including expenses of witnesses, juror fees, and incidental expenses or other costs as provided by law;

(e) Hold unlawful and set aside the commission's action or decision and remand the matter to the commission upon finding that a person's substantial rights have been prejudiced because the commission's action or decision is:

(1) In violation of the Suquamish Constitution;

(2) Arbitrary, capricious, or in excess of the commission's lawful authority or jurisdiction;

(3) Not supported by substantial evidence in the administrative record as a whole; or

(4) Without observance of procedure as required by applicable tribal or federal laws. (Res. 94-178, passed Dec. 19, 1994)

13.8.5. Disposition of Awards and Proceeds from Sale of Seized Property. All taxes, interest, penalties, or costs paid to the tax commission resulting from a judgment of the Tribal Court and proceeds from the sale of seized property according to this chapter must be submitted to the director of finance, deposited, invested, reinvested, and made available for use by the Suquamish Tribe as provided in §13.6.3 of this code. (Res. 94-178, passed Dec. 19, 1994)

13.8.6. Taxpayer Suits for Judicial Review of Decisions on Petitions for Redetermination. Any person who has filed a proper and timely petition for redetermination as set forth in §13.7.1 of the tribal tax administration code and who believes he or she was not fairly treated by the tax commission's final decision with respect to that petition for redetermination may petition the Tribal Court to review the

tax commission's decision by filing a civil action in the Suquamish Tribal Court, provided that such action is:

(a) Only for declaratory or injunctive relief or a refund of taxes, interest, and penalties paid; and

(b) Filed within thirty (30) days after the date upon which the director of the department of revenue provides notice of the tax commission's decision according to §13.7.4 of this code. (Res. 94-178, passed Dec. 19, 1994)

13.8.7. Tribal Court to Decide All Suits for Review of Decisions on Petitions for Redetermination. Upon receiving a properly and regularly filed request by a taxpayer to review a tax commission decision regarding the taxpayer's petition for redetermination, the Tribal Court will notify the tax commission and, within thirty (30) days of receiving such notice, the tax commission will certify the record to the Tribal Court. The Tribal Court will hear the matter on the record established before the tax commission. No new or additional evidence may be introduced and the Tribal Court will uphold all of the tax commission's factual findings unless it determines that those findings are not supported by substantial evidence in the record as a whole. (Res. 94-178, passed Dec. 19, 1994)

13.8.8. Appeal of Tribal Court Decision. The ordinances of the Tribe and the rules of the Court regarding civil actions and appeals apply to all civil actions in the Tribal Courts under the tribal tax administration code, except to the extent such rules or ordinances are inconsistent with the tribal tax administration code. (Res. 94-178, passed Dec. 19, 1994)

13.8.9. Separation of Powers. Nothing in this chapter or other tribal law authorizes, or may be construed to authorize, the Tribal Court, in an action arising under this chapter, to:

(a) Alter, adjust, or change in any manner any provision of the tribal tax administration code or tribal tax ordinance, including such tax rates as the Tribal Council establishes, provided that the Court may enter declaratory and injunctive relief against enforcement of provisions of those codes or ordinances that the Court finds to violate the Suquamish Constitution or laws or to exceed the Tribe's jurisdiction under tribal or federal law;

(b) Prohibit the tax commission from collecting any taxes determined by the Court to be due; or

(c) Order the Suquamish Tribe or any constituent part of the Tribe to pay damages, fees, expenses, or costs in any litigation arising under the Tribe's tax laws, provided that the Court may issue against a tribal agency or entity which is a taxpayer under the tribal tax administration code any order that may be issued against any other taxpayer. (Res. 94-178, passed Dec. 19, 1994)

Note: 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 13.8.4(5)(a) is now 13.8.4(e)(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.