

## CHAPTER 6. - CIGARETTE TAX<sup>[5]</sup>

Footnotes:

--- (5) ---

**Editor's note**—Ord. No. 500-10, Att. B, adopted Nov. 23, 2010, amended ch. 6 in its entirety to read as herein set out. Former 6, §§ 6-6-1—6-6-10, pertained to similar subject matter, and derived from: Ord. No. 200-10, adopted May 18, 2010; Amend. 1 to Ord. No. 200-10, adopted June 8, 2010; and Amend. 2 to Ord. No. 200-10, adopted June 8, 2010.

Section 6-6-1. - Title.

This chapter is known as the Cigarette Tax Ordinance.

(Ord. No. 500-10, Att. B, 11-23-2010)

Section 6-6-2. - Reserved.

Section 6-6-3. - Tax on cigarettes; rate.

For the privilege of engaging in the business of selling cigarettes within the Reservation, there is levied an excise tax, known as the cigarette tax, at the rate of:

- A. Three and seventy-five hundredths cents (\$0.0375) per cigarette if the cigarettes are packaged in lots of twenty (20) or twenty-five (25);
- B. Seven and one-half cents (\$0.075) per cigarette if the cigarettes are packaged in lots of ten (10);  
or
- C. Fifteen cents (\$0.15) per cigarette if the cigarettes are packaged in lots of five (5).

(Ord. No. 500-10, Att. B, 11-23-2010)

Section 6-6-4. - Exemptions.

The following sales of cigarettes are exempt from the cigarette tax imposed by this chapter:

- A. Sales within the Reservation for resale within the territory of an Indian Tribe, Pueblo or Nation other than the Pueblo of Laguna, provided that: (1) the sale must be to a person licensed by that other Indian Tribe, Pueblo or Nation to sell cigarettes within its territory; and (2) the sale of the cigarettes on the land of the other Indian Tribe, Pueblo or Nation must be subject to a qualifying tribal cigarette tax, as defined by § 7-12-2(K) NMSA 1978, as amended by Laws of New Mexico, 2010, 2nd Special Session, Chapter 5, imposed by that Indian Tribe, Pueblo or Nation.

(Ord. No. 500-10, Att. B, 11-23-2010)

Section 6-6-5. - License required; conditions of license.

- A. Each person engaged in the business of selling cigarettes within the Reservation, whether in wholesale transactions or at retail, shall obtain a license for that business, issued by the Treasurer, authorizing that person to engage in the business of selling cigarettes within the Reservation.
- B. The license to sell cigarettes within the Reservation is conditioned on the licensee's compliance with the following restrictions:
  - (1) The licensee shall not sell cigarettes to anyone under eighteen (18) years of age.
  - (2) The licensee shall pay all taxes due to the Pueblo on its cigarette sales.
  - (3) The licensee shall sell cigarettes that bear a New Mexico Tax Credit Stamp only for:
    - (i) Use or resale within the Reservation;
    - (ii) Use or resale within the territory of another Indian Tribe, Pueblo or Nation located in New Mexico; or
    - (iii) Use but not resale at a location in New Mexico outside of the territory of any Indian Tribe.

(Ord. No. 500-10, Att. B, 11-23-2010)

Section 6-6-6. - Tax return; payment of tax; records; assessment.

- A. Each taxpayer shall, on or before the 25th day of the month following the end of the month in which the cigarettes are sold, file with the division a return setting forth:
  - (1) The amount of cigarettes sold within the Reservation;
  - (2) The amount of cigarettes sold within the Reservation for which an exemption exists under subsection 6-6-4A., including the name and address of the purchaser and proof that the purchaser is licensed to sell cigarettes by another Indian Tribe, Pueblo or Nation;
  - (3) The amount of cigarette tax due to the Pueblo; and
  - (4) Such other information relevant to the administration of this chapter as the division may require.
- B. The taxpayer shall sign the return and shall affirm the accuracy of the information in the return.
- C. Each taxpayer shall pay all cigarette tax due on or before the 25th day of the month following the end of the month in which the cigarettes are sold, and such payment shall accompany the return for that reporting period.
- D. Each taxpayer shall:
  - (1) Keep and preserve for three (3) years records of all taxable sales and other books or accounts necessary to determine the amount of tax due under this chapter; and
  - (2) Open all such records for examination at any time by the division or its duly authorized representative or agent.
- E. The division is authorized to issue a tax assessment in the amount of any cigarette tax, interest or penalty that is due but unpaid by a taxpayer.

(Ord. No. 500-10, Att. B, 11-23-2010)

Sections 6-6-7, 6-6-8. - Reserved.

Section 6-6-9. - Severability.

If any part or application of this chapter is held invalid, the remainder of the chapter or its application to other situations or persons shall not be affected.

(Ord. No. 500-10, Att. B, 11-23-2010)

Section 6-6-10. - Effective date.

This chapter shall be effective on, and shall apply to the sale of cigarettes on the Reservation on and after July 1, 2010.

(Ord. No. 500-10, Att. B, 11-23-2010)

Section 6-6-11. - Indian Pueblo Cultural Center Trust Land.

- A. Indian Pueblos Marketing, Inc., is hereby authorized by the Pueblo of Laguna, acting for the benefit of the Nineteen Pueblos, to sell cigarettes on the Indian Pueblo Cultural Center Trust Land held by the United States in trust for the Nineteen Pueblos pursuant to Public Law 95-232. Based on this authorization, Indian Pueblos Marketing, Inc., shall not be required to obtain a license under subsection 6-6-5A.,
- B. All provisions of this chapter 6, as heretofore or hereafter amended, other than subsection 6-6-5A. shall apply to the sale of cigarettes by Indian Pueblos Marketing, Inc., on the Indian Pueblo Cultural Center Trust Land.
- C. The Pueblo of Laguna shall hold the cigarette tax revenue collected from Indian Pueblos Marketing, Inc., under this section 6-6-11 on behalf of the Nineteen Pueblos, and such funds shall be disbursed as determined by vote of the Governors of the Nineteen Pueblos as provided in the federal Charter of Indian Pueblos Marketing, Inc.
- D. The provisions of this section 6-6-11 shall be effective on July 1, 2010 and shall continue in effect June 30, 2013 unless earlier repealed by the Pueblo Council.

(Ord. No. 500-10, Att. B, 11-23-2010)