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TITLE IV – TAXATION

ARTICLE 1 - GENERAL PROVISIONS AND DEFINITIONS

Sec. 4-1-1 Policy and Purpose

The purpose of this Tax Code is to establish a system for the fair and expeditious imposition and administration of taxes by the Pueblo, so as to provide a regular source of revenue to help fund the costs of governmental services to the Pueblo's citizens, to regulate the conduct of persons doing business within Pueblo Lands and to protect and enhance the political integrity, the economic security, and the health and welfare of the Pueblo, its members, and others subject to its jurisdiction.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

Sec. 4-1-2 Applicability

This Tax Code applies, in accordance with its terms, to all persons and property subject to the Pueblo's jurisdiction; *provided* nothing in this Tax Code shall be construed as imposing a tax on the Pueblo or on the federal government.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

Sec. 4-1-3 Definitions

As used in this Tax Code, the following capitalized terms shall have the following meanings:

A. "Administrative Costs" means those costs and expenses reasonably incurred by the Tax Administrator in collecting Taxes from a Taxpayer who fails to pay any Taxes, penalties, or interest at the time due, including but not limited to attorney's fees, court costs, filing fees, costs of collection outside the jurisdiction of the Pueblo, and expenses for experts, accountants, appraisers and others;

B. "Assessment Date" means each January 1st or such other date as is specified in this Code for an assessment of the taxable value of an activity, property or land use;

C. "Authentic Pueblo Arts and Crafts" means any product which is (1) handcrafted by a Member artist, (2) not made by machine or from unnatural products, and (3) sold by or on behalf of such artist;

D. "Business" means any commercial activity engaged in or caused to be engaged in within Pueblo Lands for the purpose of direct or indirect benefit, profit, gain, or advantage to any person or entity, and shall include the delivery on Pueblo Lands of any good or service by a person or entity that does not have a physical presence on Pueblo Lands, based on an order placed from Pueblo Lands, as well as the delivery to a Person located on Pueblo Lands of any

digital goods or services, including software, applications, digital media, video, music, video games, e-books, webinars, online classes, and online trainings, as well as licenses of such digital goods and services;

E. “Cigarette” means:

1. any roll of tobacco or any substitute for tobacco wrapped in paper or in any substance not containing tobacco;

2. any roll of tobacco that is wrapped in any substance containing tobacco, other than one hundred percent natural leaf tobacco, which, because of its appearance, the type of tobacco used in the filler, its packaging and labeling, or its marketing and advertising is likely to be offered to or purchased by consumers as a Cigarette;

3. bidis and kreteks; or

4. any tobacco which, because of its appearance, type of packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making Cigarettes (“roll-your-own” tobacco), 0.09 ounces of roll-your-own tobacco shall constitute one Cigarette;

F. “Cigarette Package” means an individual pack, box or other container, but does not include a container that itself contains other containers, such as a carton of cigarettes.

G. “Division” or “Tax Division” means the Division of Tax Administration;

H. “Gaming Operator” shall mean the Person that is responsible for the management and control of the day-to-day operations of one or more of the Pueblo’s gaming facilities;

I. “Gasoline” means any flammable liquid hydrocarbon used primarily as fuel for the propulsion of motor vehicles, motorboats or aircraft, but does not include diesel engine fuel, kerosene, liquefied petroleum gas, compressed or liquified natural gas, or products specially prepared and sold for use in aircraft propelled by turboprop or jet-type engines;

J. “Gasoline Distributor” means a person who refines gasoline within the Pueblo, or imports gasoline into the Pueblo other than in the gasoline supply tank of a motor vehicle, for sale or use within the Pueblo. The person who owns the gasoline at the time of refining or importation is the distributor. A person may be both a distributor and a retailer as to the same quantities of gasoline;

K. “Gasoline Retailer” means a person who sells or gives away gasoline for any purpose other than for resale, and who delivers the gasoline into the fuel supply tanks of motor vehicles or into hand-carried fuel storage containers. A person may be both a distributor and a retailer as to the same quantities of gasoline;

L. “Gasoline Wholesaler” means any person other than a retailer who sells gasoline for resale;

M. “Gross Receipts” means the total amount of money or the value of other consideration received from performing services or selling goods or property within Pueblo Lands and includes any receipts from sales of Tangible Personal Property handled on consignment, receipts from leases or rentals of Tangible Personal Property, admission to any place of recreation or entertainment, and golf course green fees, but excludes cash discounts allowed and taken and excludes any gross receipts or sales tax imposed by the state of New Mexico or its political subdivisions, provided that such entity provides for a reciprocal exclusion for any gross receipts or sales tax imposed by the Pueblo;

N. “Gross Receipts Tax-Sharing Agreement” means any agreement entered into between the Tax Administrator on behalf of the Pueblo and the New Mexico Taxation and Revenue Department, pursuant to New Mexico law and this Code, providing for the administration of gross receipts taxes imposed by the State and the Pueblo on Taxpayers situated on Pueblo Lands, the equalization of gross receipts tax rates applicable to such Taxpayers, the granting of mutual tax credits so as to avoid double taxation of such Taxpayers, and the sharing of gross receipts tax revenues derived from such Taxpayers, and for other purposes;

O. “Gross Taxable Rent” means the total amount of rent paid for Lodging, not including the Gross Receipts Tax assessed on that amount, or amounts paid for incidental charges such as food, beverages, spa services, data and voice telecommunication services, and other types of charges that are typically assessed by the Business separately from the Gross Taxable Rent and only if and when such charges are incurred by the lodger;

P. “Lease” means a written agreement with the Pueblo or a tribal member assignee of the Pueblo, as lessor, whereby the lessee is granted a right to possession of designated Pueblo Lands, for a specified purpose and duration;

Q. “Levy” means the involuntary taking or surrender of any property or rights to property belonging to a delinquent Taxpayer. “Levy” also means the exercise of the Pueblo’s legislative authority in determining that a Tax shall be imposed;

R. “Lodging” means the transaction of furnishing rooms or other accommodations (“Lodgings”) by a Lodging Vendor to a Lodging Vendee who for rent uses, possesses or has the right to use or possess any room or rooms or other unit of accommodation in a hotel, motel, resort, lodging house or other premises used for lodging for a continuous period of less than 30 days;

S. “Lodging Vendor” means any Person furnishing Lodgings in the exercise of the taxable service of Lodging.

T. “Lodging Vendee” means a natural person to whom lodgings are furnished in the exercise of the taxable Service of lodging.

U. “New Mexico Tax Credit Stamp” means the stamp issued by the New Mexico Taxation and Revenue Department for use by state-licensed Cigarette distributors to indicate that the Cigarette Package bearing the stamp is to be or has been sold by a retailer located on land of a tribe that has imposed a qualifying tribal Cigarette tax, as defined by § 7-12-2(K) NMSA 1978, as amended;

V. “Notice of Assessment” means a written demand for Taxes, and applicable interest, penalties and Administrative Costs authorized by this Code, provided to a Taxpayer;

W. “Person” means any natural person, corporation, partnership, limited liability company, joint venture, association, club, company, estate, trust, political subdivision, government agency, or other entity of any kind;

X. “Personal Property” means anything that is subject to ownership and that is not Real Property, and includes incorporeal things such as licenses, franchises, patents, trademarks, and copyrights;

Y. “Possessory Interest” shall mean the interest and rights in Property obtained pursuant to a Lease, right-of-way, or occupancy (whether authorized or not), including any and all improvements, additions, equipment, and Tangible Personal Property thereon;

Z. “Property” means Real Property and Personal Property;

AA. “Real Property” means land, and generally whatever is built or growing on it;

BB. “Retail” means a sale to a customer not for resale;

CC. “Sale” means any transaction whereby title or possession, or both, of Personal Property is transferred by any means whatsoever, for a consideration, or any transaction whereby Services are rendered for consideration or are sold. Such consideration may be either in the form of a price in money, rights, or property, or by exchange or barter, and may be payable immediately, or in the future, or by installments;

DD. “Santa Ana Pueblo Enterprise” means a Business of which at least 51% is owned by the Pueblo or one or more Tribal Members, and that would be entitled to be exempted from the New Mexico cigarette tax pursuant to NMSA (1978) § 7-12-4(A)(2), as amended, if such Business were licensed hereunder;

EE. “Service” means any activity or conduct engaged in for consideration, which involves predominantly the performance of a service as distinguished from selling or leasing Property;

FF. “Tangible Personal Property” means all goods, wares, merchandise, produce, commodities and all tangible or corporeal things and substances which are capable of being possessed or exchanged;

GG. “Tax” or “Taxes” means any tax imposed under this Title;

HH. “Taxable Gaming Revenue” shall mean that amount of gaming revenue which is used to calculate payments to the State of New Mexico pursuant to the Pueblo's Class III Tribal-State Gaming Compact;

II. “Tax Administrator” means the Tax Administrator of the Pueblo;

JJ. “Tax Code” means this Title IV of the Santa Ana Tribal Code;

KK. “Taxpayer” means a person who pays a Tax, who is subject to and liable for a Tax, who is responsible for withholding and payment or for collection and payment of any Tax, or who engages in an activity or land use that is subject to a Tax under this Code;

LL. “Tax Protest Panel” means the body designated by Section 4-4-4 to hear tax protests;

MM. “Tax-Sharing Agreement” means any agreement entered into between the Pueblo of Santa Ana Tax Administration, on behalf of the Pueblo, and the New Mexico Taxation and Revenue Department, pursuant to New Mexico law and this Code, providing for the administration of gross receipts taxes imposed by the State and the Pueblo on Taxpayers situated on Pueblo Lands, the equalization of gross receipts tax rates applicable to such Taxpayers, the granting of mutual tax credits so as to avoid double taxation of such Taxpayers, and the sharing of gross receipts tax revenues derived from such Taxpayers, and for other purposes;

NN. “Tribal Court” means the Pueblo of Santa Ana Contemporary Court;

OO. “Tribal Member” means any natural person who is enrolled or otherwise recognized by the Tribal Council as a member of the Pueblo.

PP. “Tribal Resource Office” shall mean the Person that establishes, implements and communicates goals, objectives, policies and procedures to ensure an effective and current enrollment system. Maintains tribal land records including rights of ways. Updates data on demographics with regards to land, population, housing and workforce. Files death certificates with the State of New Mexico. Coordinates and supervises all tribal census activities. Administers possessory taxation. Acts as a representative to Native American Graves Protection and Repatriation Act (NAGPRA). Provides verification of membership status, birth dates, and certificates of degree of Indian Blood. Provides certificates of Indian Descent for tribal member services, for employment and identification purposes. And, ensures confidentiality of all Tribal member records;

QQ. “Utility” means any Business or Service that is engaged in regularly supplying some commodity or Service of public consequence, including, without limiting the foregoing, any Business or Service relating to cable television; telephone, cell phone, television or other telecommunication signals or Services by any means; railroads, natural gas lines, electrical transmission lines, water lines and wastewater disposal lines.

Enacted by Ordinance Number 85-O-02, adopted September 26, 1985; Amended by Ordinance No. 91-O-01, adopted May 23, 1991; Amended by Resolution No. 00-R-17, adopted April 13, 2000; Amended by as amended by Ordinance No. 01-O-02, adopted May 27, 2001; Amended by Ordinance No. 02-O-01, adopted April 11, 2002; and, Amended by Resolution No. 11-R-07, adopted April 13, 2011.

Sec. 4-1-4 Disposition of Tax Revenues; Payments Under Protest

A. Tax Revenues Generally. Except as otherwise provided in this Section, all Tax revenues shall be deposited into the general fund of the Pueblo and shall be disposed of or expended in such manner as is determined by the Tribal Council.

B. Deposit of Tax Payments Under Protest. All Taxes paid under protest shall be deposited in an interest-bearing account separate from any account(s) in which other Tax monies are deposited and shall be maintained in such account until the protest is finally disposed of, as provided in Section 4-4-4 of this Code.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

ARTICLE 2 - TAX ADMINISTRATION

Sec. 4-2-1 Division of Tax Administration

A. Division of Tax Administration Created. There is hereby created the Division of Tax Administration, also known as the Division or Tax Division, a governmental agency of the Pueblo, possessing all of the powers, duties, rights, and functions as are now and may be hereinafter conferred by this Code or by the Tribal Council. The Division shall be responsible for the day-to-day administration of this Code and shall carry out such duties as are conferred by this Code or delegated by the Tribal Council. The Division will be located at the tribal offices of the Pueblo. The office will be open during normal working hours, or otherwise as posted, to accept payments, filings, reports, notices, and other communications or materials.

B. Tax Administrator. There is hereby created the position of Santa Ana Pueblo Tax Administrator, who shall be an employee of the Pueblo and subject to the direction and supervision of the Governor and the Tribal Council.

C. Manner of Appointment: Compensation. The Governor shall nominate a person to serve as Tax Administrator, which nomination must be approved by the Tribal Council. If the position is a full-time position, the Tribal Council shall also establish his or her salary, in accordance with the budget approved by the Tribal Council.

D. Qualifications. The Tax Administrator shall have the following qualifications:

1. He or she shall be at least twenty-five (25) years of age, be of high moral character and integrity, never have been convicted of a crime involving dishonesty or moral turpitude, and be physically capable of carrying out his or her duties under this Section;

2. He or she must have sufficient experience in the area of tax administration, accounting, business management or public administration to enable him or her to oversee tax practices and procedures and to make sound judgments; and

3. He or she must possess a college degree, preferably in business management, accounting, banking, or law, or at least five (5) years of work experience in one or more of those fields.

E. Administrative Reports. The Division shall report all activities and collection to the Governor of the Pueblo and the Tribal Council at least annually.

F. Powers of the Tax Administrator. The Tax Administrator is charged with overseeing the day-to-day management of the Tax Division, including the following specific powers:

1. To assess, collect, and issue receipts for Taxes imposed or authorized by this Code;

2. In conjunction with the Pueblo's attorney, to represent the Tax Division in hearings before the Tribal Court, and any other court of competent jurisdiction, and to bring any necessary actions for the enforcement of this Code and the collection of any assessed and unpaid Taxes;

3. To take any necessary actions to foreclose any lien imposed on any property for non-payment of Taxes;

4. To prepare and make available to Taxpayers and other persons standard forms and instructions thereto to carry out the intent of this Code and regulations promulgated

thereunder;

5. To examine and investigate the places of business, equipment, facilities, Personal Property, books, records, papers, vouchers, accounts, documents, and financial statements of any Taxpayer, upon reasonable notice, or, failing to obtain the concurrence of the Taxpayer, at any time pursuant to a search warrant issued by the Tribal Court or other court of competent jurisdiction;

6. To administer oaths, conduct formal conferences, and, by subpoena, compel the attendance and testimony of persons and the production of any books, records, and papers of any Taxpayer, and examine under oath, either orally or in writing, any Taxpayer or agents, or any other witness;

7. To compromise and settle claims of legitimate controversy arising from the application of this Code by written agreement with a Taxpayer; *provided* that such agreement adequately protects the interests of the Pueblo and complies with the provisions of this Code;

8. To prepare and promulgate regulations and amendments thereto consistent with the provisions and intent of this Code as may be necessary and convenient for the administration of this Code;

9. To promulgate and enforce written rulings and orders as may be necessary and convenient to enforce this Code;

10. To provide to Taxpayers, upon request, copies of regulations, rulings, and orders affecting the Tax liability of such Taxpayers;

11. Subject to the budget approved by the Tribal Council, to hire, train, supervise and discipline, as necessary, the staff of the Tax Division, and to oversee the management of that Division;

12. To negotiate agreements with the New Mexico Department of Taxation and Revenue or any other governmental entity authorized by New Mexico law and this Tax Code to govern the administration of taxes on Pueblo Lands and to present to the Tribal Council for approval any form of agreement authorized by New Mexico law and this Code, and to execute such agreements on behalf of the Pueblo following their approval by the Tribal Council;

13. To recommend to the Tribal Council proposed amendments to this Code;

14. To prepare and submit to the Tribal Council each year a proposed budget for the operation of the Tax Division, and to appear before the Tribal Council to explain and defend the budget proposal; and

15. To exercise all other authority expressly conferred by this Code or by the

Tribal Council or as may reasonably be necessary to the administration and enforcement of this Code.

In carrying out the foregoing powers, the Tax Administrator may act personally or through staff or legal counsel employed or retained by the Tax Division.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

Sec. 4-2-2 Bonds

The Tax Administrator and selected employees of the Tax Division shall be bonded in the performance of their duties and safekeeping of all funds and documents entrusted to their care, in an amount set by the Tax Administrator.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

Sec. 4-2-3 Bookkeeping and Records

A. Bookkeeping. The Tax Administrator shall establish and keep such financial records and books as may be necessary to account for all Taxes and other monies received using generally accepted accounting standards. Separate books will be maintained for each type of Tax imposed.

B. Records. The Tax Administrator shall keep and maintain accurate and complete records which reflect all taxes, penalties, interest, and Administrative Costs levied, due, and paid, assessments, notices, and all other official transactions, communications, or actions by the Tax Administrator and responses, if any, from Taxpayers. Such records shall be subject to audit at any time, upon the direction of the Tax Administrator or the Tribal Council.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

Sec. 4-2-4 Promulgation of Regulations

A. Notice. The Tax Administrator shall publish a notice of proposed regulations in order to provide interested parties an opportunity to comment. The notice will invite written comments and give a deadline for their submission not less than thirty (30) days after the first publication of notice. The Tax Administrator may, but is not obligated to, hold a public hearing on any proposed regulations; and if so, shall make prior public announcement of the date, time and place of any such hearing.

B. Publication. Publication of a notice requires publication in the legal section of a newspaper of local circulation at least once a week for three (3) consecutive weeks and further requires a posting of the notice in at least three (3) conspicuous public places on Pueblo Lands. The notice shall identify or otherwise describe the content of the proposed new regulations and solicit comments.

C. Effective Date. After the notice and comment period ends, the Tax Administrator shall prepare the regulation in final format and shall publish the regulation in final format in the legal section of a newspaper of local circulation and post the regulation in final format for a week in at least three (3) conspicuous places on Pueblo Lands. The date of publication of the regulation in final format shall be the effective date of the regulation.

D. Promulgation. A copy of all regulations adopted will be filed and made available for public inspection at the Division, and the Tax Administrator shall endeavor to provide copies of relevant regulations to Taxpayers affected by them, or their representatives.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

Sec. 4-2-5 Rulings and Instructions

A. Rulings. The Tax Administrator may issue rulings, which are written statements of limited application to one or a small number of Taxpayers, interpreting this Code and the regulations issued hereunder. Rulings are ordinarily issued in response to a request by a Taxpayer for clarification of the consequences of a specified set of circumstances. A ruling shall be reviewed by the Pueblo's attorney before being issued. The Tax Administrator shall maintain a duplicate official set of current and superseded rulings. The extent to which a ruling will have retroactive effect shall be stated and, if no such statement is made, it will be applied prospectively only.

B. Instructions. The Tax Administrator may issue instructions, which are written statements or directives of the Tax Administrator not dealing with the merits of any Tax but otherwise aiding the reporting and payment of the Taxes and the accomplishment of the duties of the Tax Administrator hereunder.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

Sec. 4-2-6 Investigative Authority

A. Subpoenas. The Tax Administrator may issue subpoenas to allow him or his authorized representative to examine equipment, records, books, information, property, premises or other evidence; to require the production of any pertinent records, books, information, or other evidence; and to require the presence and testimony under oath of any Person concerning the subject matter of any tax inquiry, which subpoenas may be executed anywhere within the Pueblo Lands, or, if permitted by the laws of another jurisdiction, and in compliance with such laws, within such other jurisdiction.

B. Form of Subpoenas; Service. A subpoena shall state with reasonable certainty the nature of the evidence required to be produced, the time and place of the conference or hearing at which the Person to whom the subpoena is directed is required to attend and give testimony, the nature of the inquiry or investigation, and the consequences of failure to obey the subpoena, and

shall bear the signature of the Tax Administrator. Service of a subpoena shall be made by delivering or mailing, certified/return receipt requested, a copy to the Person named therein; or by delivering or mailing, certified/return receipt requested, a copy to the individual last designated by the Taxpayer to receive notice at the address shown on the designation. No subpoena shall be made returnable in fewer than ten (10) days from the date of service. Proof of service shall be made by filing with the Division a copy of the notice along with the date, manner of service, and name of the Person served, certified by the Person who made service.

C. Failure to Comply with a Subpoena. If any Person neglects or refuses to comply with the directives of a properly served subpoena, the Tax Administrator may invoke the aid of the Tribal Court to enforce the subpoena. As it deems appropriate, the Tribal Court may issue an order requiring the Person to appear and testify or produce books or records and may, upon failure of the Person to comply with the order, cite the Person for contempt and impose appropriate sanctions.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

Sec. 4-2-7 Sovereign Immunity

The Tribal Council hereby waives the sovereign immunity of the Tax Administrator and the Tax Protest Panel for the express, sole, and limited purpose of allowing review by the Tax Protest Panel of actions and decisions of the Tax Administrator and of allowing review of actions and decisions of the Tax Protest Panel by the Tribal Court, as provided in this Code; *provided* that any such appeals must be timely and properly filed; and *provided further* that such waiver is made only to the extent necessary for the determination of rights and obligations under this Code and any regulations promulgated hereunder, and does not waive immunity with respect to any suit against the Pueblo, the Tax Protest Panel, the Tax Administrator, or any contractor or employee of the Tax Division for monetary damages. This waiver is strictly limited and specifically does not waive the sovereign immunity of the Tribal Council, the Pueblo, or of any commission, agency, office, employee, or agent thereof.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

Sec. 4-2-8 Confidentiality

All records related to Taxpayers shall be confidential and not open to public inspection. No employee or former employee of the Tax Division shall disclose to any Person any information contained in the report of any Taxpayer made pursuant to this Code, or any other information about any Taxpayer acquired as a result of his or her employment by the Pueblo except:

A. To the Taxpayer or to the Taxpayer's authorized representative upon the Taxpayer's written request;

B. To an employee of the Pueblo or a member of the Tribal Council authorized by tribal

law to obtain such information for use in connection with a governmental function; *provided* that such employee or member of the Tribal Council shall not reveal such information except as otherwise provided for in this Section;

C. To an authorized representative of the State of New Mexico, or of an Indian nation, tribe, or band, for tax purposes only; *provided* that the state, Indian nation, tribe, or band has entered into a written reciprocal agreement with the Pueblo for the exchange of such information and that the state, Indian nation, tribe, or band has enacted a confidentiality law similar to this Section;

D. To a federal agency pursuant to the terms of a written reciprocal agreement entered into with the federal government for the exchange of such information;

E. To the Bureau of Indian Affairs for use in audits of rentals, royalties, fees, and other payments due the Pueblo under a land Sale, Lease, mineral or natural resource development, or other land use contracts;

G. To a court of the Pueblo or other court of competent jurisdiction:

1. in response to an order thereof in an action relating to Taxes or in which a Taxpayer has placed his or her own liability for Taxes at issue and to which the Tax Administrator or Tax Protest Panel is a party; or

2. in any action in which the Tax Administrator is attempting to enforce this Code or to collect a Tax;

H. In recording, executing upon, or releasing Tax Liens on the property of a Taxpayer or collecting Taxes by Levy upon the property or rights to property of a Taxpayer;

I. For statistical releases, in such a manner that the information revealed is not identified as applicable to any individual Taxpayer;

J. To a purchaser or assignee of a Business or a Possessory Interest, the amount and basis of any unpaid assessment of Tax for which the purchaser's seller or assignor is liable;

K. Upon written request, to a child support enforcement bureau of any jurisdiction, the last known address with date of all persons certified to the Tax Administrator as being absent parents of children receiving public financial assistance; *provided* that such child support enforcement bureau agrees in writing that its personnel will use such information only for the purpose of enforcing the support liability of such absent parents and shall not use the information or disclose it for any other purpose; and

L. The Tax Administrator may answer inquiries concerning whether a Person is a registered Taxpayer.

ARTICLE 3 - TAXPAYER REGISTRATION AND OBLIGATIONS

Sec. 4-3-1 Taxpayer Records

Every Taxpayer shall maintain accurate and complete records relevant to the reporting and paying of Taxes assessed by this Code. Taxpayers shall retain their records for at least seven (7) years beyond the date of payment to which they relate, or if no payment is due, at least seven years beyond the Assessment Date of a taxable year. Upon at least forty-eight (48) hours prior written notice, such records shall be subject to inspection by the Tax Administrator or his or her designated representative during the normal business hours of the Person whose records are to be inspected.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

Sec. 4-3-2 Registration and Information Required

A. Taxpayer Registration and Requests for Taxpayer Information. Every Taxpayer shall register and file with the Tax Administrator on the forms, at the times and in the manner determined by the Tax Administrator, such information, reports, and documentation as the Administrator may reasonably require.

B. Failure to Register or Provide Information. If a Taxpayer fails to comply with a request to register and/or to provide information, reports, or documents within its possession or control, the Tax Administrator may proceed to assess Taxes without that information, report, or documentation. In that event, the Notice of Assessment may not be challenged by the Taxpayer.

C. Reports. The Taxpayer shall sign reports to be filed and shall affirm the accuracy of the information therein.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

Sec. 4-3-3 Place and Manner of Filing and Payment

Taxpayers and other persons making filings and payments under this Code must comply with the following:

A. Place of Filing. On or before the date due, all reports, filings and payments must be delivered to the Division of the Tax Administrator or mailed to:

Division of the Tax Administrator
Pueblo of Santa Ana
2 Dove Road
Santa Ana Pueblo, New Mexico 87004

B. Payment. Payments shall be made payable to the Pueblo of Santa Ana. Payment will be considered to have been timely paid if it is postmarked before midnight on the date on which it is due or if it is delivered to the Division by certified mail or in person and a receipt is given before the due date.

C. Payment by Wire Transfer. Upon the prior written approval of the Tax Administrator and in accordance with the written forwarding instructions of the Tax Administrator, a Taxpayer may pay any Tax due by a recognized wire transfer system to the financial institution designated by the Administrator for receipt of such payments.

D. Application of Payments. Any payment received by the Division will be applied first in satisfaction of any Administrative Costs, second in satisfaction of any penalties, third in satisfaction of any interest, and lastly, in satisfaction of the Tax due. If any Tax remains unpaid, the Tax Administrator will issue a Notice of Non-Compliance and/or Assessment reporting the unpaid amounts, a description of the application of any payment made hereunder, and the resulting status of the Taxpayer's accounts.

E. Due Date. Due dates are those stated in this Code and on the forms, instructions, and regulations issued hereunder. If a due date falls on a Saturday, Sunday, or a legal holiday of the Pueblo, then the due date will be the next working day. When a Taxpayer acts by U.S. mail rather than another form of delivery, the date of the delivery to the Division shall be determined by the postmark; *provided* that the date of delivery to the Tax Administrator by self-metered mail shall be determined by the metered date only if such mail is received within five (5) days of the metered date.

F. Rounding. The Tax Administrator may require or permit rounding of amounts of money to the nearest whole dollar.

G. Failure to Collect Tax. The failure of a Taxpayer to collect the tax from a third party is not cause for the Pueblo to forgive the Tax due and owed.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

Sec. 4-3-4 Extension of Time for Paying Tax

The Division may extend, for a period not to exceed sixty (60) days, the due date for taxes assessed, but no further extension shall be allowed.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

Sec. 4-3-5 Extension of Time for Filing

Before a filing is due, a Taxpayer may file a written request with the Tax Administrator for an extension of time within which to file a report. The Tax Administrator, in his or her discretion may grant or deny a request for an extension and shall notify the Taxpayer in writing of such decision.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

Sec. 4-3-6 Designation of Individual for Purposes of Notice and Service; Notice and Service; Failure of Notice

A. Designated Individual. Each Taxpayer who is not a natural person must designate and provide to the Tax Administrator the name, mailing address, street address, e-mail address and telephone number of an individual who is a natural person for purpose of notice and service, and such designation must be updated by the Taxpayer upon any change in the identity or address of the designated individual.

B. Notice and Service. Except as otherwise provided in this Code, any notice or service required may be given:

1. to a Taxpayer by mailing the notice or documents to the individual last designated by the Taxpayer at the mail or e-mail address shown on the designation; *provided* that if a Taxpayer has not designated an individual for purpose of notice and service, notice may be given by mailing to any Person having a property interest in the Business or activity subject to Tax under this Code or to a Person holding a permit or License for the conduct of activity that is subject to Tax under this Code; and

2. to any other Person by mailing the notice or documents to such Person at his or her last known address. The foregoing is not intended to exclude the use of other methods of giving notice or service that comports with due process under applicable laws of the Pueblo or federal law, including but not limited to personal service or publication.

C. Failure of Notice. Failure of the Tax Administrator to mail or of a Taxpayer to receive any notice, assessment, bill, or other communication will not affect the Taxpayer's liability for a Tax and any interest, penalty, or administrative cost related thereto.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

Sec. 4-3-7 Delinquent Taxpayer

Any Taxpayer who fails to file a required tax reporting form, or fails to pay taxes due, or against whom Taxes have been assessed and who does not make payment, before thirty (30) days after the due date or any extensions thereof, or fails to file a timely Protest of Assessment and

make a payment under protest, or otherwise fails to furnish timely security for payment, becomes a delinquent Taxpayer and remains such until payment of the total amount of all such Taxes including penalty, interest and Administrative Costs. If a Taxpayer files a Protest of Assessment, the Taxpayer nevertheless becomes a delinquent Taxpayer upon the Taxpayer's failure to appear at any conference or hearing, failure to make a payment under protest, or failure to perfect an appeal from any decision or part thereof adverse to the Taxpayer to the next higher appellate level as provided in this Code.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

Sec. 4-3-8 Interest on Late Payments

A. Imposition of Interest. All Taxes, fees, or other charges not paid when due shall bear interest from the date such Taxes, fees, or charges become due until the date paid. Interest shall be imposed on any unpaid amount from the date the payment was due, without regard to any extension of time or stay of payment, to the date payment is received.

B. Rate of Interest. The annual rates of interest shall be as follows until otherwise established in the regulations:

1. Interest due to the Pueblo shall be computed at the rate of one and one-fourth percent (1 1/4% or 1.25%) per month or any fraction thereof, except that if the amount of interest due at the time payment is made is less than one dollar (\$1.00), no interest shall be due.

2. Notwithstanding the above,

a. if demand is made for the payment of any Tax, and if such amount is paid within ten (10) days after the date of such demand, no interest on the Tax so paid shall be imposed for the period after the date of demand; and

b. for so long as the Pueblo is a party to a Tax-Sharing Agreement, the rate of interest on past-due Gross Receipts Taxes shall be the maximum rate of interest allowed on gross receipts taxes under the New Mexico Tax Code.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

Sec. 4-3-9 Penalty

A. No Intent to Evade Taxes. A Taxpayer who, without deliberate intent to evade a tax, fails due to negligence or disregard of the requirements of this Code or of the regulations issued hereunder to pay a Tax when due, or to file a report when due, is liable to pay a penalty in the amount of two percent (2%) of the amount of Tax due per month, for each month or portion thereof from the due date to the date of payment, but not to exceed ten percent (10%) of the total amount of the Tax due. In the event the penalty is for failure to file a report, and no Tax is due, the amount of the penalty shall be ten dollars (\$10.00) per month from the due date to the date of

filing.

B. Deliberate Intent to Evade. A Taxpayer who, with deliberate intent to evade a tax, fails to pay a tax when due or to file a report when due, is liable to pay a penalty in the amount of fifty percent (50%) of the tax due, or a minimum of one hundred dollars (\$100.00), whichever is greater.

C. Determination of Intent. The question whether a taxpayer acted with deliberate intent to evade payment of taxes or not shall be made by the Tax Administrator, but subject to the Taxpayer's right of appeal to the Tribal Court.

D. Maximum Penalty when Tax-Sharing Agreement is in Effect. Notwithstanding the foregoing, for so long as the Pueblo is a party to a Tax-Sharing Agreement, the penalties to be assessed on past-due Gross Receipts Taxes shall be the maximum penalties allowed on gross receipts taxes under the New Mexico Tax Code.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

Sec. 4-3-10 Charges for Administrative Costs

The Tax Administrator may charge Administrative Costs to any Taxpayer as to whom the Tax Division must take affirmative steps to collect Taxes that are due.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

Sec. 4-3-11 Waiver of Interest, Penalty, or Administrative Costs

For good cause shown, the Tax Administrator may waive in writing the imposition of all or part of any interest, penalty, or Administrative Costs assessed against a Taxpayer.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

Sec. 4-3-12 Business License; Conditions of License

Every person who engages in Business within the Pueblo and is required to pay a tax imposed by this Title shall obtain a business license from the Pueblo by submitting an application to the Pueblo of Santa Ana Tribal Resource Office along with payment of the required fee. The applicant must provide its name and address and other information as the Tribal Resources Office requires. A business license may be renewed by submitting payment of renewal fee by January 1 of year following the year the business license was issued, and each year thereafter, along with any information necessary to update the application. The license is not assignable and is valid only for the person whose name it is issued until that person ceases to do Business or until the license is revoked by the Tribal Resources Office for any violation of the provisions of this Code.

Enacted by Ordinance Number 91-O-01, adopted May 23, 1991; Amended by Resolution No. 00-R-17, adopted April 13, 2000; Amended by,

Resolution No. 00-R-52; and, Amended by Resolution No. 11-R-07, adopted April 14, 2011.

Sec. 4-3-13 Cigarette License; Conditions of License

A. Each Santa Ana Pueblo Enterprise engaged in the Business of selling Cigarettes on Pueblo Lands shall obtain (in addition to a business license) a Cigarette License, issued by the Tax Administrator, authorizing that entity to engage in the Business of selling Cigarettes on Pueblo Lands. The license application fee shall be \$200.00, and the term of the license shall be for one year or for such longer period (not to exceed three years) as the Tax Administrator shall determine.

B. The application for such license shall be on a form prescribed by the Tax Administrator, and shall require, among other things, a showing that the applicant qualifies as a Santa Ana Pueblo Enterprise.

C. The license to sell Cigarettes on Pueblo Lands 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, by the due date;
3. The licensee shall only sell Cigarettes that bear a New Mexico Tax Credit Stamp;
4. The license shall not be transferable, confers no property interest, and is revocable by the Tax Administrator should the licensee fail to comply with the provisions of the Tax Code.

Enacted by Ordinance Number 10-O-02, adopted May 27, 2010.

Sec. 4-3-14 Registration of Gaming Operators

Each Gaming Operator shall register with the Division using the forms required by the Division. Whenever the Person who is the Gaming Operator changes, or whenever a new gaming facility begins operation, the new Gaming Operator shall immediately register with the Division as such, using the forms required by the Division.

Enacted by Ordinance Number 02-O-01, adopted April 11, 2002.

Sec. 4-3-15 Registration of Gasoline Retailers, Gasoline Distributors, and Gasoline Wholesalers

A. Every person engaged in the business of distributing Gasoline within the Pueblo, and every person engaged in business as a Gasoline Retailer, Gasoline Distributor, or Gasoline Wholesaler within the Pueblo shall register with the Division.

B. The registration shall include the name, address, telephone number, Social Security number or federal taxpayer identification number, and state taxpayer identification numbers of the Person registering and of the voting and non-voting interests in the Person registering and such other information required by the Division.

Enacted by Ordinance Number 02-O-01, adopted April 11, 2002.

Sec. 4-3-16 Gasoline Distributor, Gasoline Wholesaler and Gasoline Retailer Bonds

A. Every Gasoline Distributor, Gasoline Wholesaler and Gasoline Retailer shall file with the Division a bond or other security acceptable to the Division, unless exempt from this requirement under subsection D of this section.

B. The bond shall name the Santa Ana Pueblo as obligee and shall be conditioned upon the prompt filing of true reports and the prompt payment of all taxes imposed by this Article, together with all applicable penalties and interest.

C. The amount of the bond or other security shall be the greater of one thousand dollars (\$1,000) or an amount equal to twice the estimated monthly gasoline tax obligation of the person filing the bond.

D. Any Person required to file a bond or other security under this section who timely and fully files all reports required by this Article and pays all tax due under this Article for a period of twelve (12) consecutive months shall thereafter not be required to post a bond or other security, *provided* that if such Person becomes delinquent in any obligation to file a report or pay a tax required by this Article, it will be required to post a bond or other security under this section within ten (10) days after receipt of written notice from the Division.

Enacted by Ordinance Number 02-O-01, adopted April 11, 2002.

Sec. 4-3-17 Fuel Manifests

A. Every person transporting Gasoline from a refinery, other production facility or pipeline terminal within the Pueblo, importing Gasoline into the Pueblo or exporting Gasoline out of the Pueblo, other than by pipeline or in the fuel supply tank of a motor vehicle, shall carry a manifest and/or bill of lading in a form prescribed by or acceptable to the Division.

B. The manifest or bill of lading shall be signed by the person who delivered possession

of the Gasoline to the transporter and by every person accepting delivery of any part of the Gasoline from the transporter, indicating the amount accepted.

C. Any Person transporting thirty-five (35) gallons or more of Gasoline within the Pueblo, other than in the fuel supply tank of a motor vehicle, shall upon demand furnish proof acceptable to the Division that the Gasoline so transported was legally acquired and that the Gasoline Tax due has been paid.

Enacted by Ordinance Number 02-O-01, adopted April 11, 2002.

ARTICLE 4 - ADMINISTRATIVE PROCEEDINGS

Sec. 4-4-1 Administrative Remedies

Neither the Tax Administrator, the Tax Protest Panel, nor the Tribal Court shall have jurisdiction to entertain any proceeding by a Taxpayer in which the Taxpayer questions the Taxpayer's liability for any Tax or the application to the Taxpayer of any provision of this Code or any regulations promulgated hereunder, except in accordance with the provisions of this Article.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

Sec. 4-4-2 Notice of Assessment

Whenever the Tax Administrator becomes aware of information indicating that a Taxpayer owes and has failed to pay any Tax, the Tax Administrator shall send such Taxpayer a Notice of Assessment, notifying the Taxpayer of the type of Tax due, the period of time or specific transaction or transactions to which the Tax pertains, and the amount of the Tax due, together with all applicable penalties and accrued interest. The total amount due as set forth in the Notice of Assessment shall be paid in full by no later than thirty (30) days from the date of the Notice of Assessment, unless within such time, or an extension of such period granted as is provided herein, the Taxpayer has filed a Protest as provided in this Article.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

Sec. 4-4-3 Refunds

A. Requests for Refunds. Any Taxpayer who claims to have overpaid a Tax imposed by this Code may file with the Tax Administrator a request for refund; *provided* that such request for a refund must be filed within one (1) year from the date of overpayment or be forever barred. The request for a refund must identify itself as a request for refund, declare the relief sought, and include a complete statement of the facts upon which the relief sought is based, together with any information or documents necessary to support such facts. Contemporaneously with the filing of a request for refund, the Taxpayer also may request a conference with the Tax Administrator. The Tax Administrator, if he or she believes it would be appropriate, may set a conference on the

request for refund whether or not the Taxpayer requested one.

B. Final Decision by the Tax Administrator on a Request for a Refund. The Tax Administrator shall make a final decision to grant or deny a refund, or to grant such refund in part, within thirty (30) calendar days after a conference, or, if no conference was held, after the request for refund was received. The Tax Administrator must mail a copy of his or her decision, certified mail, return receipt requested, to the Taxpayer. If the Tax Administrator finds that an overpayment has occurred, the Tax Administrator, in his or her discretion, shall credit the amount of the overpayment to any current or future Taxes due from the Taxpayer, refund the overpayment in full, or credit a portion of the overpayment to any current Taxes due from the Taxpayer and refund the remainder of the overpayment. If no appeal to the Tax Protest Panel is timely made as provided in this Code, the Tax Administrator's denial of a request for a refund shall be final and not subject to further appeal.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

Sec. 4-4-4 Protests

A. Protest of Assessment. Any taxpayer who believes that an assessment is incorrect may protest by filing a written notice of protest with the Division within thirty (30) days after the date of the Notice of Assessment. The notice of protest must be identified as a notice of protest, declare the relief sought, state with particularity the basis of the Taxpayer's claim that the assessment is erroneous, and include a complete statement of the facts along with any information or documents necessary to support such facts and the Taxpayer's claim, including but not limited to any appraisals. Upon written request, filed with the Tax Administrator within the period allowed for filing a notice of protest, the Tax Administrator shall grant an extension of the time for filing a notice of protest of up to thirty (30) days.

B. Payment under Protest. No protest shall be heard unless the assessed taxes have first been paid by the taxpayer to the Division. Any contested amounts so paid shall be held without expenditure in an interest-bearing account, if possible, until a determination is made on the protest filed.

C. Procedure Following Protest. Any protests received shall be referred to a three-member Tax Protest Panel consisting of the three persons appointed by the Governor. The Tax Protest Panel may seek any additional information or hold such hearings or meetings as it determines are necessary in such a manner (either formal or informal) as it determines is necessary. Additionally, said Tax Protest Panel may issue rules for the conduct of a tax protest hearing.

D. Burden of Proof. The taxpayer has the burden of proof to establish that the protested tax was erroneously or illegally collected.

E. Determination by Tax Protest Panel. The Tax Protest Panel shall make a determination as to whether the protested tax shall be refunded and shall report its decision in

writing to the protesting party, the Division, and the Governor within five (5) working days after the date of determination of said protest. The decision of the Tax Protest Panel shall be final and not subject to further appeal in any forum unless timely appealed to the Tribal Court in accordance with the provisions of this Code.

F. Interest Allowed. If any tax is found to be erroneously or illegally collected, interest at the rate of four percent (4%) per annum shall be allowed on the amount erroneously or illegally collected. The Tax Administrator shall refund any such taxes paid with interest as allowed by this Code within thirty (30) days of the date of a final decision.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

Sec. 4-4-5 Appeal to the Tribal Court

A. Exclusive Jurisdiction Over Appeals. The Tribal Court shall have exclusive jurisdiction to hear all appeals from final decisions of the Tax Protest Panel and, except as otherwise provided for in this Code, the procedural rules of that Court shall apply. The case shall be tried by the court, not by a jury.

B. Notice of Appeal. Within twenty (20) days after the Taxpayer's receipt of a final decision of the Tax Protest Panel, if the Taxpayer or the Tax Administrator is dissatisfied with the decision of the Tax Protest Panel, either may file an appeal to the Tribal Court, by filing a notice of appeal with the court clerk stating the date of the decision and the specific issue or finding being appealed. A filing fee equal to the Court's fees for filing a civil action shall accompany the notice. The party appealing the decision must serve a copy of the notice of appeal on the other party. Within fifteen (15) days thereafter, the Tax Protest Panel shall file a copy of the complete record of its proceedings with the Tribal Court.

C. Review on the Record. The Tribal Court shall consider the appeal only to the same extent and upon the same theories and evidence as were asserted before the Tax Protest Panel. All such appeals shall be upon the administrative record presented to the Tax Protest Panel, together with briefs and argument.

D. Standard of Review. The Tribal Court shall set aside a decision of the Tax Protest Panel only if it finds the decision not to be supported by substantial evidence, or otherwise not in accordance with applicable law.

E. Decisions of the Tribal Court. The Tribal Court shall issue a written decision on all appeals, which decision shall be final, binding, and enforceable, and will not be subject to any further appeal to any court or forum.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

Sec. 4-4-6 Compromise and Settlement

The Tax Administrator may compromise and settle any disputed claim for payment of taxes by entering into a written settlement agreement with the Taxpayer in a manner that adequately protects the interests of the Pueblo; *provided* that any such agreement involving a compromise of in excess of ten thousand dollars (\$10,000) shall require the approval of the Tribal Council. If an agreement is entered into pursuant to this Section after any court acquires jurisdiction of the matter, the agreement shall become part of the stipulated order or judgment of the court. As a condition for entering into an agreement, the Tax Administrator may require the provision of security for the Taxes that shall be payable under the agreement. A settlement agreement is conclusive as to the liability for the payment of the Taxes to which it refers and the period to which it relates, except upon a showing of fraud, malfeasance, misrepresentation, or concealment of a material fact.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

Sec. 4-4-7 Prohibition of Suits

No suits for the purpose of restraining the Tax Administrator or the Tax Protest Panel from assessing or collecting Taxes imposed by this Code shall be maintained in any court by any person.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

ARTICLE 5 - COLLECTION POWERS

Sec. 4-5-1 Tax a Personal Debt

If not paid when due, the Tax imposed by this Code shall become a debt of the Taxpayer.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

Sec. 4-5-2 Collection of Powers

The Division, in the name of the Pueblo, shall have the full power to collect taxes and penalties assessed, including the power to file suit in tribal, state or federal court, and to execute on any judgment including attachment and seizure of the assets of any taxpayer.

Enacted by Ordinance Number 85-O-2, adopted September 26, 1985.

Sec. 4-5-3 Tax Liens; Enforcement

A. Liens. Generally. The Tax assessed against any Person under this Code shall be a lien upon any and all property, real and personal, owned by such Person within Pueblo Lands. A Tax lien shall have precedence over any other claims, liens, or demands, and may be enforced in the name of the Pueblo and can be satisfied by property belonging to Taxpayer.

B. Lien Date. If a Taxpayer fails to pay any Tax when due, a lien shall arise, without demand, in the unpaid amount in favor of the Pueblo as of the Assessment Date. Such lien shall be upon and attach to all property or rights in property then owned or thereafter acquired by the Taxpayer. The lien shall continue until satisfied or released.

C. Recording Notice of Lien. In order to preserve the lien against subsequent mortgages, purchasers, or judgment creditors, the Tax Administrator may file with the Tribal Court, with the Superintendent of the Southern Pueblos Agency, Bureau of Indian Affairs, and with any other court or governmental entity charged with the duty of maintaining lien records, a Notice of Lien in such form as may be required. The Tax Administrator shall also send the Taxpayer a copy of the Notice of Lien so filed. The Tax Administrator shall keep a register of such Liens, including but not limited to the name of each Taxpayer, date and time the notice of lien was received by Taxpayer, amount, and when satisfied.

D. Judicial Foreclosure and/or Execution. After a Notice of Lien has been filed, the Tax Administrator may apply to the appropriate court or courts to foreclose and/or execute upon any or all items of property or rights to property subject to the lien by Levy upon the same, or where such property does not consist of money, converting the same into money by any means authorized under applicable law including the Sale thereof or the operation under receivership of the Business in which the property is used.

E. Non-Judicial Levy and Sale. In his or her discretion, the Tax Administrator may proceed to collect Taxes due from a delinquent Taxpayer by Levy upon all property or rights to property of such Taxpayer, and the conversion thereof to money by the means provided in this subsection.

1. A Levy shall be made by taking possession of property pursuant to authority contained in a distress warrant served by any authorized law enforcement officer upon the Taxpayer or other Person in possession of property or rights to property of the Taxpayer or upon any Person or depository owing or who will owe money to or holding funds of the Taxpayer, ordering him or her to reveal the extent thereof and surrender it to the Tax Administrator forthwith or agree to surrender it or the proceeds therefrom in the future, but in any case on the terms and conditions stated in the warrant. A distress warrant shall:

a. bear on its face a statement of the authority for its service and compelling compliance with its terms;

- b. be attested to by the Tax Administrator;
- c. identify the Taxpayer whose liability for Taxes is sought to be enforced, the amount thereof, and the date or approximate date on which the Tax became due;
- d. order the Person on whom it is served to reveal the amount of property or rights to property in his or her own possession that belong to the Taxpayer and the extent of his or her own interest therein, and to reveal the amount and kind of property or rights to property of the Taxpayer that are, to the best of his or her knowledge, in the possession of others;
- e. order the Person on whom it is served to surrender the property forthwith, but may allow him or her to agree in writing to surrender the property or the proceeds therefrom on a certain date in the future when the Taxpayer's right to it would otherwise mature;
- f. state on its face the penalties for willful failure by any Person upon whom it is served to comply with its terms; and
- g. state that the Pueblo claims a lien for the entire amount of Tax asserted to be due.

2. Any Person in possession of property or rights to property upon which a Levy has been made shall, upon demand of the Tax Administrator, surrender the property or rights in property to the Tax Administrator except as to any property or rights in property that, at the time of the demand, is already subject to a *bona fide* attachment, execution, Levy, or other similar process.

3. As soon as practicable after the Levy, the Tax Administrator shall notify the owner thereof of the amount and kind of property seized and of the total amount demanded in payment of Tax. The Tax Administrator shall decide on a time and place for the Sale of the property, shall make a diligent inquiry as to the identity and whereabouts of the owners of the property and persons having an interest therein, and shall notify the owner and persons having an interest therein of the time and place for the Sale. The fact that any Person entitled thereto does not receive the notice provided for in this Subsection shall not affect the validity of the Sale.

4. No Sale of imperishable property shall be held before the expiration of thirty (30) days from the date of the Levy thereon and until after the publication of a notice in a newspaper of general circulation in the county wherein the property was located when levied upon once each week for three (3) consecutive weeks stating the time and place of the Sale and describing the property to be sold. The Tax Administrator may sell perishable property immediately after seizure without publication or notice of the Sale.

5. At any time prior to the Sale, any Person whose property has been levied upon shall have the right to pay the amount due, together with the expenses of the proceeding, or furnish acceptable security for the payment as provided in this Article. Upon payment or furnishing of security, the Tax Administrator shall restore the property to that Person and cease

further proceedings in connection with the Levy.

6. Before any Sale, the Tax Administrator shall determine a minimum, commercially reasonable price for which the property shall be sold, and if no Person offers such minimum price, the Sale shall be re-advertised and held at a later time. Sales shall be by public auction, and payment must be made in full at the time a bid is accepted. After the property is sold and payment received, the Tax Administrator shall deliver to the purchaser a certificate of Sale reciting the authority for the transaction, the date of the Sale, the interest in the property that is conveyed, and the price paid therefor. A certificate of Sale, when endorsed by the Tax Administrator, shall:

- a. be *prima facie* evidence of the right of the Tax Administrator to make the Sale and conclusive evidence of the regularity of the proceedings in making the Sale;
- b. transfer to the purchaser all right, title, and interest of the delinquent Taxpayer in and to the property sold, but subject to any outstanding prior interests and encumbrances;
- c. if such property consists of stock certificates, be notice, when received, to any corporation of such transfer and be authority to such corporation to record the transfer on its books and records as if the stock certificates were transferred or assigned by the record owner; and
- d. if such property consists of a motor vehicle as represented by its title, be notice, when received, to any public official charged with the registration of title to motor vehicles of the transfer and be authority to that official to record the transfer on that official's books and records in the same manner as if the certificate of title to the motor vehicle were transferred or assigned by the record owner.

F. Application of Proceeds. The proceeds of foreclosure, execution, or non-judicial Levy shall be applied, first, to expenses of foreclosure, execution or Levy; second, to other Administrative Costs; third, to penalties; fourth, to interest; and finally, to Tax; *provided* that any remainder thereafter shall be remitted to the owner(s) of the property foreclosed, executed, or levied upon.

G. Release of Lien. Payment of the entire liability of the owner on account of whose liability the lien arose shall operate to release the Lien. The payment of any part of the liability shall operate to reduce the amount of the lien by that amount paid. If a Notice of Lien has been filed or recorded, the Tax Administrator immediately shall cause a notation of the complete or partial release of the lien to be made in such record. The Tax Administrator, in his or her discretion, also may release Liens without full payment for good cause shown and where the interests of the Pueblo are protected by other security.

Amended by Resolution No. 11-R-07, adopted April 13, 2011.

Sec. 4-5-4 Security for Payment

Whenever necessary to secure the payment of Taxes due and unpaid or reasonably

expected to become due, the Tax Administrator may require the Taxpayer to furnish an acceptable surety bond in an appropriate amount, payable to the Pueblo and conditioned upon the payment of amounts therein identified, or to furnish other acceptable security in an appropriate amount.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

ARTICLE 6- UTILITY POSSESSORY INTEREST TAX

Sec. 4-6-1 Imposition and Rate of Tax

There is hereby imposed and levied an *ad valorem* tax upon each Possessory Interest owned by a Utility that is situated on Pueblo Lands. Such tax shall be referred to as the “Utility Possessory Interest Tax.” The rate of the Utility Possessory Interest Tax shall be six percent (6%) of the total value of the Possessory Interests owned by the Utility as determined and computed in accordance with this Article.

Enacted by Ordinance Number 85-O-2, adopted September 26, 1985; Amended by Ordinance Number 85-O-03, adopted November 26, 1985; Amended by Ordinance Number 92-O-02, adopted September 22, 1992.

Sec. 4-6-2 Exemptions

A. No Possessory Interest that consists of a utility delivery or distribution facility or line that exclusively serves the Pueblo, the Pueblo’s wholly or majority owned business entities, or Tribal Members shall be subject to the Possessory Interest Tax.

B. No Possessory Interest with a total value, determined in accordance with the provisions of this Article, exceeding three million dollars (\$3M), shall be subject to the Possessory Interest Tax *provided* the Owner has negotiated a lump sum payment or payments to the Pueblo in lieu of taxes in an amount acceptable to the Tribal Council, but no such exemption shall be for a period of time longer than the term of any right-of-way or easement held by the taxpayer. At the direction of the Governor, the Tax Administrator is authorized to negotiate a lump-sum payment or payments in lieu of taxes to be submitted to the Tribal Council for its approval.

Enacted by Ordinance Number 85-O-2, adopted September 26, 1985; Amended by Ordinance Number 92-O-03, adopted December 17, 1992; Amended by Ordinance Number 93-O-01, adopted August 26, 1993.

Sec. 4-6-3 Method of Claiming Exemption

A claim for exemption from the Utility Possessory Interest Tax shall be made at the time of the filing of the annual report and shall include appropriate documentation of the applicability of an exemption as determined by the Tax Administrator, including, in the case of an exemption under Sec. 4-6-2(A), a map indicating the utility distribution facility or line for which an exemption is claimed.

Enacted by Ordinance Number 85-O-2, adopted September 26, 1985.

Sec. 4-6-4 Computation of Value of Possessory Interests

A. Date of Valuation. All property that is subject to valuation under this Article for all or any part of any tax year, shall be valued as of October 1st of each year on which tax assessments for the following year shall be made. Taxes shall be due in advance based on the assessment.

B. Method of Valuation. The value of a Possessory Interest shall be determined in the same manner as such values are determined pursuant to NMSA 1978, §§ 7-36-1 to 33, and regulations approved pursuant thereto, as amended or supplemented, unless the Tax Administrator adopts a different method by regulation.

Enacted by Ordinance Number 85-O-2, adopted September 26, 1985.

Sec. 4-6-5 Reporting Requirements

A. Each Utility with a Possessory Interest subject to the Utility Possessory Interest Tax shall file an annual report with the Tax Administrator on or before November 15 of each year. On written request, and for good cause, the Tax Administrator may extend the due date of the report by up to thirty (30) days. The Tax Administrator will provide forms for the use of the Taxpayer in complying with the reporting requirement. This report shall contain the following:

1. A description of the Possessory Interest, including all property and improvements situated thereon, and the location thereof;
2. A description of *any* improvements and additions thereto installed or made during the calendar year in which the report is submitted;
3. A description of any related equipment kept on Pueblo Lands during the calendar year in which the report is submitted; and
4. An itemized statement of the total values of the Possessory Interest and all related equipment as set forth in clauses 1, 2, and 3 above, as of October 1 of the year in which the report is submitted.

B. A Taxpayer who is required to file an annual report under the provisions of this section and who fails to file such report by ten (10) days after the due date shall, in addition to any other liability such Taxpayer may have, be assessed a penalty of one percent (1%) of the amount of Utility Possessory Interest Tax owed by that Taxpayer for that year, for each month or partial month from the due date of the report until the date the report is received, up to a maximum of five hundred dollars (\$500).

Enacted by Ordinance Number 85-O-2, adopted September 26, 1985.

Sec. 4-6-6 Assessment and Payment

A. Upon receipt of the Taxpayer's annual report of its Possessory Interests on Pueblo Lands and the value thereof, but by no later than December 1st of each year, the Tax Administrator shall send a tax bill to the Taxpayer, assessing Utility Possessory interest Tax based on the values shown in the annual report, together with any applicable penalties or interest. The amount of the tax shall be due in full either within thirty (30) days after the tax bill is mailed or another date specified by the Tax Administrator, whichever is later.

B. In the event a Taxpayer fails to file its annual report, the Tax Administrator shall issue a tax bill to the Taxpayer based on the Tax Administrator's determination as to the value of Possessory Interests owned by the Taxpayer that are subject to the Utility Possessory Interest Tax, together with any applicable penalties and interest.

C. The Administrator shall have authority to redetermine incorrect or erroneous assessments, payments, or valuations.

Enacted by Ordinance Number 85-O-2, adopted September 26, 1985.

ARTICLE 7 - GROSS RECEIPTS TAX

Sec. 4-7-1 Imposition of Gross Receipts Tax; Rate

A. For the privilege of engaging in Business, a tax is hereby imposed on the Gross Receipts of any person engaging in Business. Such tax shall be referred to as the "Gross Receipts Tax."

B. So long as the Pueblo is party to a Tax-Sharing Agreement that is in effect, the Gross Receipts Tax shall be a percentage of the Taxpayer's total Gross Receipts equal to the Gross Receipts tax rate applicable to such Taxpayer under New Mexico law, or that would be applicable if the Taxpayer were subject to New Mexico Gross Receipts tax, including any local option portion. The Gross Receipts Tax rate shall be adjusted automatically from time to time so as to maintain parity of the tribal tax rate with the applicable rate imposed by New Mexico and its political subdivisions as to each Taxpayer subject to the Gross Receipts Tax. As of the date on which the Pueblo ceases to be party to a valid Tax-Sharing Agreement, the Gross Receipts Tax rate shall be six and one-quarter percent (6.25%) of Gross Receipts.

Enacted by Ordinance Number 91-O-01, adopted May 23, 1991; Amended by Resolution No. 00-R-17, adopted April 13, 2000; Amended by Resolution No. 00-R-52; Amended by Resolution No. 04-R-26A, adopted August 5, 2004; Amended by Resolution No. 11-R-07, adopted April 14, 2011; and, Amended by Resolution No. 13-R-19, adopted August 29, 2013.

Sec. 4-7-2 Vending Machine Sales; Installment Sales

A. The Gross Receipts Tax applies to sales made through vending machines and similar devices, and to installment sales.

B. In the case of installment sales of Tangible Personal Property, the Taxpayer shall collect and remit the tax imposed by this Article upon the principal amount of each installment of the purchase price at the time the installment is paid.

Enacted by Ordinance Number 91-O-01, adopted May 23, 1991; Amended by Resolution No. 00-R-17, adopted April 13, 2000; and, Amended by Resolution No. 11-R-07, adopted April 14, 2011.

Sec. 4-7-3 Exemptions

Gross Receipts from the following transactions are exempt from Gross Receipts Taxes imposed by this Article:

- A. sales of livestock or agricultural goods;
- B. sales to the Pueblo, its governmental entities and political subdivisions, and Pueblo-owned enterprises or businesses;
- C. sales of natural gas, electricity, coal, fuel oil or other fuels sold or furnished for residential or commercial use;
- D. leasing or renting of real property for residential purposes, including mobile home lots;
- E. sales of water;
- F. sales of Authentic Pueblo Arts and Crafts;
- G. sales of data and voice telecommunication services, whether provided by land line, cable, satellite, mobile phone, or other technology;
- H. sales of cigarettes by a Santa Ana Pueblo Enterprise;
- I. sales of gasoline;
- J. gaming activity conducted by an entity licensed by the Pueblo to conduct gaming on Pueblo Lands;
- K. sales of motor vehicles on Pueblo lands.

Enacted by Ordinance Number 91-O-01, adopted May 23, 1991; Amended by Resolution No. 00-R-17, adopted April 13, 2000; Amended by Resolution No. 11-R-07, adopted April 14, 2011; Amended by Resolution No. 14-R-12, adopted April 10, 2014; Amended by Resolution No.

2022-R-09, adopted March 15, 2022.

Sec. 4-7-4 Credits

A. So long as the Tax Administration Division or the Pueblo is party to a Tax-Sharing Agreement, every Taxpayer who is subject to the New Mexico Gross Receipts tax laws shall be entitled to a credit against the Gross Receipts Tax imposed by this Article, in the amount set forth in the Tax-Sharing Agreement, which credit shall be administered as provided in the Tax Sharing Agreement, but any such tax credit shall expire as of the date on which no Tax-Sharing Agreement is in effect.

B. A Taxpayer shall be entitled to a credit all taxes returned to the purchaser upon the refund of the purchase price.

Enacted by Resolution No. 00-R-17, adopted April 13, 2000; and Amended by Resolution No. 11-R-07, adopted April 14, 2011.

Sec. 4-7-5 Collection of Tax

Every person engaging in Business is responsible for the collection and payment of the Gross Receipts Tax imposed by this Article. The Taxpayer shall add the gross receipts tax to the purchase price and give the purchaser a receipt for the tax collected, which shall be stated separately from the purchase price. The receipt is prima facie evidence that the purchaser has paid, and the Taxpayer has collected, the tax.

Enacted by Ordinance Number 91-O-01, adopted May 23, 1991; Amended by Resolution No. 00-R-17, adopted April 13, 2000; and, Amended by Resolution No. 11-R-07, adopted April 14, 2011.

Sec. 4-7-6 Payment of Tax; Records

A. Gross Receipts Tax is to be paid on or before the fifteenth (15th) day of the month following the end of the calendar month in which the Gross Receipts are received. Each monthly payment must be accompanied by a report, on a form provided by the Tax Administrator, showing the Taxpayer's total Gross Receipts for the month, and any amounts claimed to be exempt from taxation.

B. The Gross Receipts Tax as computed in the report shall be based upon the total non-exempt sales made during the preceding month, including both cash and charge sales.

C. So long as the Pueblo is party to a Tax-Sharing Agreement that is in effect, a Taxpayer who is also subject to New Mexico Gross Receipts tax and who timely reports and pays New Mexico Gross Receipts tax due with respect to Gross Receipts received on Pueblo Lands, in accordance with the provisions of the Tax-Sharing Agreement, shall be deemed to have complied with the requirements of this Article with respect to reporting and payment of Gross Receipts Tax.

Enacted by Ordinance Number 91-O-01, adopted May 23, 1991; and, Amended by Resolution No. 00-R-17, adopted April 13, 2000.

ARTICLE 8 - GASOLINE EXCISE TAX

Sec. 4-8-1 Imposition of Gasoline Excise Tax; Rate

There is hereby imposed an excise tax of seventeen cents (\$0.17) per gallon on each gallon of Gasoline sold on Pueblo Lands by a Gasoline Retailer, to be known as the "Gasoline Excise Tax." The rate of the tax shall be adjusted automatically whenever the gasoline tax charged by the State of New Mexico changes, so that the Gasoline Excise Tax shall always be equal to the gasoline tax charged by the State.

Enacted by Ordinance Number 02-O-01, adopted April 11, 2002.

Sec. 4-8-2 Deductions

In computing the amount of Gasoline Excise Tax due, a Gasoline Retailer may deduct from the total amount of Gasoline sold on Pueblo Lands:

A. Gasoline that is delivered by the Gasoline Retailer into a tank that is not a fuel supply tank of a motor vehicle or a hand-carried fuel storage container, and that is then exported from Pueblo Lands.

B. Gasoline sold to the Pueblo or to any division, agency, or department of the Pueblo for the exclusive use of the Pueblo or of its division, agency, or department, including all gasoline delivered into the fuel supply tank of any motor vehicle registered in the name of the Pueblo or its division, agency, or department. For purposes of this subsection, a business enterprise of the Pueblo shall not be considered an agency of the Pueblo.

C. Gasoline lost or destroyed by fire or unavoidable accident while in the possession of the Gasoline Retailer.

D. Gasoline sold to the United States or any agency or instrumentality thereof for the exclusive use of the United States and any agency or instrumentality thereof, including gasoline delivered into the fuel supply tank of a vehicle registered in the name of the United States or any agency or instrumentality thereof.

E. The Gasoline Retailer claiming any deduction has the burden of proving to the reasonable satisfaction of the Division that the gasoline is deductible under this section.

Enacted by Ordinance Number 02-O-01, adopted April 11, 2002.

Sec. 4-8-3 Gasoline Retailer Reports and Tax Payments

A. Every Gasoline Retailer shall file a report on the form prescribed by the Tax Administrator on or before the twenty-fifth (25th) day of the month following each month in

which it sells Gasoline at retail on Pueblo Lands.

B. The report shall state the number of gallons of Gasoline sold, the identity of the Gasoline Distributor or Gasoline Wholesaler from whom the Gasoline Retailer obtained the Gasoline, the number of deductible gallons and the basis for each deduction, and any other information required by the Tax Administrator.

C. Along with its report, the Gasoline Retailer shall submit payment of the Gasoline Excise Tax due.

Enacted by Ordinance Number 02-O-01, adopted April 11, 2002.

Sec. 4-8-4 Gasoline Distributor Reports

A. Every Gasoline Distributor shall file a report in the form prescribed by the Division on or before the 25th day of the month following the month in which it refines gasoline within the Pueblo or imports gasoline into the Pueblo.

B. The tax report shall state the number of gallons of gasoline refined or imported, the date refined or imported, the disposition of all gallons refined or imported, and any other information required by the Division.

Enacted by Ordinance Number 02-O-01, adopted April 11, 2002.

Sec. 4-8-5 Gasoline Wholesaler Reports

A. Every Gasoline Wholesaler shall file a report in the form prescribed by the Division on or before the 25th day of the month following the month in which it sells gasoline at wholesale within the Pueblo.

B. The report shall state the number of gallons of gasoline sold, the identity of the distributor from whom the wholesaler obtained the gasoline, the identity of the Person to whom the gasoline was sold, and any other information required by the Division.

Enacted by Ordinance Number 02-O-01, adopted April 11, 2002.

ARTICLE 9 - CIGARETTE TAX

Sec. 4-9-1 Imposition of Cigarette Tax; Rate

For the privilege of engaging in the Business of selling Cigarettes, there is hereby levied upon any Santa Ana Pueblo Enterprise that is licensed to sell cigarettes pursuant to this Code an excise tax on the Sale of Cigarettes on Pueblo Lands, which tax is known as the "Cigarette Tax." The rate of the Cigarette Tax is:

A. three and seventy-five hundredths cents (\$0.0375) per Cigarette if the Cigarettes are packaged in lots of twenty or twenty-five;

B. seven and one-half cents (\$0.075) per Cigarette if the Cigarettes are packaged in lots of ten; or

C. fifteen cents (\$0.15) per cigarette if the cigarettes are packaged in lots of five.

Enacted by Ordinance Number 10-O-02, adopted May 27, 2010.

Sec. 4-9-2 Exemption

Sales of Cigarettes for resale on the lands of an Indian tribe, pueblo or nation other than the Pueblo are exempt from the Cigarette Tax imposed by this Article, provided that (1) the Sale must be to a Person licensed by that other Indian tribe, pueblo or nation to sell Cigarettes within its jurisdiction, and (2) the Sale of the Cigarettes on the land of the other Indian tribe, pueblo or nation is subject to a qualifying tribal Cigarette tax, as defined by § 7-12-2(K) NMSA 1978, as amended, imposed by that Indian tribe, pueblo or nation.

Enacted by Ordinance Number 10-O-02, adopted May 27, 2010.

Sec. 4-9-3 Report: Payment of Tax

A. Each Santa Ana Pueblo Enterprise shall, on or before the twenty-fifth (25th) day of the month following the end of the month in which the Cigarettes are sold, file with the Tax Administrator a report setting forth:

1. the number of Cigarettes sold on Pueblo Lands;
2. the number of Cigarettes sold on Pueblo Lands that are exempt from the Cigarette Tax pursuant to Section 4-9-2 of this Article, 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 as the Tax Administrator may require.

B. The report shall be accompanied by payment in full of the amount of Cigarette Tax due.

Enacted by Ordinance Number 10-O-02, adopted May 27, 2010.

ARTICLE 10 - LODGER'S TAX

Sec. 4-10-1 Imposition of Lodger's Tax; Rate

There is hereby imposed on Lodging Vendors a tax on Lodging, known as the "Lodger's Tax," at the rate of eight and one-half percent (8.5%) of the Gross Taxable Rent. The Lodger's Tax is in addition to the tax imposed on Gross Receipts from the Sale of Lodging and other services. The rate of the Lodger's Tax shall be reviewed on an annual basis. The Santa Ana Hospitality Corporation is directed to provide the Tribal Council, at least once a year, recommendations on adjustments to the Lodger's Tax based on input from businesses operating within the Pueblo impacted by the tax and the tax rates in surrounding jurisdictions.

Enacted by Ordinance Number 91-O-01, adopted May 23, 1991; Amended by Resolution No. 00-R-17, adopted April 13, 2000; Amended by Resolution No. 00-R-52; Amended by Resolution No. 04-R-26A, adopted August 5, 2004; Amended by Resolution No. 11-R-07, adopted April 14, 2011; and, Amended by Resolution No. 13-R-19, adopted August 29, 2013.

Sec. 4-10-2 Exemptions

The following transactions are exempt from the Lodger's Tax:

A. The Lodging of aged, sick, disabled, indigent or mentally infirm persons by public or private institutions operated specifically for the purpose of providing such lodging.

B. Lodging provided by the Pueblo; but provided that for purposes of this subsection, "Pueblo" shall not include any economic enterprises owned by the Pueblo.

Enacted by Resolution No. 2022-R-39, adopted December 17, 2022.

Sec. 4-10-3 Collection of Tax; Report; Payment of Tax

A. Each Lodging Vendor shall be liable to the Pueblo for the Lodger's Tax on the Gross Taxable Rent paid for Lodging at its respective place of business.

B. Every Lodging Vendor shall collect the Lodger's Tax from Lodging Vendees on behalf of the Pueblo and shall act as a trustee therefor. The Lodger's Tax shall be charged separately from the rent fixed by the Lodging Vendor for the Lodgings.

C. Each Lodging Vendor shall make a report by the twenty-fifth (25th) day of each month, on forms prescribed by the Tax Administrator, of the receipts for Lodging in the preceding calendar month, and shall submit the proceeds of the Lodger's Tax to the Tax Administrator and include sufficient information to enable the Tax Administrator to audit the reports.

D. Lodger's Tax payments are due by the twenty-fifth (25th) day of each month for receipts of Lodging in the preceding calendar month.

Enacted by Resolution No. 00-R-17, adopted April 13, 2000; and, Amended by Resolution No. 00-R-52.

ARTICLE 11 - GAMING TAX

Sec. 4-11-1 Imposition of Gaming Tax; Rate

There is hereby imposed on each Gaming Operator a tax to be known as the Gaming Tax. The Gaming Tax shall be assessed at the rate of fifteen percent (15%) of the Taxable Gaming Revenue.

Enacted by Ordinance Number 97-O-01, adopted on December 2, 1997.

Sec. 4-11-2 Reporting/Payment Dates; Additional Reports/Information

A. On January 25, April 25, July 25, and October 25 of each year, each Gaming Operator shall submit the tax due for the immediately preceding calendar quarter along with all required reports. Payment and required reports will be considered to have been timely submitted if postmarked before midnight on the date due or, if delivered to the Division by certified mail or in person and a receipt is given showing delivery before the due date.

B. The Division is authorized to obtain any additional reports and information necessary to verify the amount of taxes due.

Enacted by Ordinance Number 97-O-01, adopted on December 2, 1997.

ARTICLE 12 – MOTOR VEHICLE EXCISE TAX

Sec. 4-12-1 Imposition of Motor Vehicle Excise Tax

There is hereby imposed on the sale of a motor vehicle on Pueblo lands an excise tax in the amount of four percent (4%) of the sale price of the motor vehicle, including all optional equipment and devices affixed to such vehicle, but net of the amount of any trade-in credited against the sale price. If the price actually paid for the vehicle is less than the true value of the vehicle in the condition it was in at the time of the sale, the tax rate shall be applied to the reasonable value of the vehicle in its condition at the time of the sale.

Enacted by Resolution No. 2022-R-09, March 15, 2022.

Sec. 4-12-2 Time and Manner of Payment of Tax; Record of Payment

A. The motor vehicle excise tax shall be paid by the buyer at the time of the sale of the vehicle, and shall be collected by the vehicle seller, and the amount of the tax shall thereafter be placed in a separate bank account maintained by the seller but to the records of which the Pueblo shall have unlimited access.

- B. The seller shall, in connection with the issuance of a Temporary Registration Permit in accordance with Section 17-9-7 of the Motor Vehicle Dealer Code, issue a receipt to the buyer, in a form prescribed by the Tax Administrator, evidencing the buyer's payment of the tax and the amount of tax paid, which receipt should entitle the buyer to a credit against the New Mexico Motor Vehicle excise tax under the provisions of NMSA § 7-14-7(B) (2022).

Enacted by Resolution No. 2022-R-09, March 15, 2022.

Sec. 4-12-3 Remission of Tax to Pueblo

No later than the tenth (10th) day of each month, every seller of motor vehicles on Pueblo land shall remit to the Tax Administrator, for deposit into the Pueblo's general fund, the total amount of motor vehicle excise taxes collected by the seller during the preceding month, together with an itemized list of sales on which such taxes were collected, copies of the sales agreements for such sales and of the receipts issued to the buyers, all of which documents shall remain strictly confidential and shall not be disclosed by the Tax Administrator or by any other Pueblo officer or employee to any third party, unless pursuant to the order of a court having jurisdiction.

Enacted by Resolution No. 2022-R-09, March 15, 2022.

Sec. 4-12-4 Penalty for Failure to Collect or to Remit Tax

- A. Any person that sells a motor vehicle on Pueblo lands who fails to collect the tax on such sale as imposed by this Article, or who, having collected the tax, fails to remit the tax collected as required by Section 4-12-3 hereof, shall be liable to the Pueblo for a penalty in the amount of two (2) times the amount of tax due.
- B. A motor vehicle seller who remits the tax to the Pueblo, but fails to do so within the time or with the documentation specified in Section 4-12-3 hereof, shall be liable to the Pueblo for a penalty in the amount of ten percent (10%) of the total amount of tax so remitted.
- C. The Tax Administrator shall have the authority to undertake audits of motor vehicle dealers on Pueblo lands when deemed appropriate, to determine that required motor vehicle excise taxes are being collected and remitted to the Pueblo as set forth in this article, but not for any other reason. Every motor vehicle dealer shall cooperate fully with the Tax Administrator's auditors in such event, and shall provide all relevant information and documents to enable the auditor to complete its work.

Enacted by Resolution No. 2022-R-09, March 15, 2022.

Sec. 4-12-5 Exemptions From Tax

Notwithstanding the foregoing, any sale of a motor vehicle to the Pueblo shall be exempt from the excise tax imposed by this article.

Enacted by Resolution No. 2022-R-09, March 15, 2022.