

## Chapter 19. Taxation

### Legislative History.

This revision to the Fort McDermitt Law & Order Code amends Chapter 19, Taxation which was originally enacted on September 13, 1988. The Fort McDermitt Paiute-Shoshone Tribe of Oregon and Nevada is organized in accordance with Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984) as amended. The Tribal Council has enumerated powers under Article VI, Section 1 (a), to negotiate with Federal, State and local governments; and (e), to manage all economic affairs and enterprises of the Fort McDermitt Paiute and Shoshone Tribe in accordance with the terms of a charter that may be issued to the Tribe by the Secretary of Interior. This revision to Chapter 19 of the Law and Order Code was enacted by the Tribal Council on June 8, 2011.

### Sec. 1. Purpose and Applicability.

The Fort McDermitt Paiute and Shoshone Tribe is vested with the power, inter alia, to conduct business affairs concerning all matters that relate solely to the Tribe. The purpose of this chapter is to promote economic development activities and economic growth of the Fort McDermitt Indian Reservation; to assert its inherent powers of self-government; to exercise its sovereign powers by regulating certain conduct and levying a tax on the sale of tobacco within the jurisdiction of the Fort McDermitt Paiute and Shoshone Tribe; to provide increased services to residents of the Fort McDermitt Reservation; to provide funds for tribal government activities; and to regulate the sales of tobacco products within the Fort McDermitt Indian Country. This chapter is applicable to all sales of tobacco products within the Fort McDermitt Indian Country.

### Sec. 2. Definitions.

- (1) "Fort McDermitt Indian Country", as used in this chapter, means all lands of the Fort McDermitt Tribe including the Oregon lands and the lands within the state of Nevada, e.g., Lasa Purchase, Hog John Ranch, etc.
- (2) "Consumer" is defined to mean and include any person, regardless of the race of the person, who consensually purchases, receives or comes into possession of a Tribal Tobacco product from a Tribal Retailer located within the exterior boundaries of the Fort McDermitt Reservation.
- (3) "Person" is defined to mean and include any natural person, company, Tribally owned corporation, partnership, corporation, commission, government agency, joint venture, association, trust, or other political or identifiable entity to which this tax code can be applied.
- (4) "Sale" or "Sales" or their derivatives is defined to mean and include all sales, barter, trades, exchanges, or other transfers of ownership for value of Tribal Tobacco from a Tribal Wholesaler or Tribal Retailer to any Consumer or Person no matter how characterized and the rental, leasing, or other transfer of actual or constructive possession and right to use Tribal Tobacco for value received from a Tribal Wholesaler or Tribal Retailer to any Person no matter how characterized.

- (5) "Tribal Retailer" is defined to mean and include any person in the ordinary course of business who sells any tribal tobacco product within the exterior boundaries of the Fort McDermitt Indian Reservation to another person.
- (6) "Tribal Tax Stamp" is defined as all tobacco products sold by a Tribal Wholesaler to a Tribal Retailer and does not have another government jurisdiction's tax stamp already affixed to the tobacco package. The definition of Tribal Tobacco does not include products sold by a Tribal Wholesaler to Persons, Consumers, Retailers or other wholesalers who intend to resell the product outside the exterior boundaries of the Reservation.
- (7) "Tribal Wholesaler" is defined as a person who in the ordinary course of business sells Tobacco products to Tribal Retailers or Persons intended for resale within the exterior boundaries of the Reservation.

Sec. 3. Tax Levy.

The Fort McDermitt Paiute and Shoshone Tribe hereby levies a tax equal to \$1.00 per pack of cigarettes sold, exclusive of any rebate, upon the sale of Tribal Tobacco by a Tribal Wholesaler for Sales within the exterior boundaries of the Fort McDermitt Indian Country.

Sec. 4. Tax Stamp.

The Fort McDermitt Paiute and Shoshone Tribe hereby requires that Tribal Tobacco products have a Tribal Tax Stamp affixed to them.

Sec. 5. Application of Tribal Tobacco Tax.

The Fort McDermitt Tribal Tax shall not apply to sales to Persons, Customers, retailers or other wholesalers who intend to sell the product outside the exterior boundaries of the Reservation.

Sec. 6. Tax Impact and Collections.

- (1) The impact of the Fort McDermitt Tribal Tobacco Tax is declared to be on the Tribal Wholesaler.
- (2) The Tribal Wholesaler shall collect the applicable taxes when selling to a Tribal Retailer or other persons intending to resell the tobacco products within the exterior boundaries of the Reservation.
- (3) Every Tribal Wholesaler is required to purchase all applicable tax stamps from the Fort McDermitt Tribe or its designee and the Tribe shall sell the applicable tax stamps to the Tribal Wholesaler at the applicable rate set by this chapter.
- (4) The Fort McDermitt Tribal Tobacco Tax applies to all Sales of Tribal Tobacco effective the date the Resolution was adopted by the Tribal Council, June 8, 2011.

Sec. 7. Full Force and Effect.

This chapter is intended to have the full force and effect of Fort McDermitt Tribal Law, enforceable in Tribal Court.

Sec. 8. Implementation.

The Fort McDermitt Tribal Council Chairperson is hereby authorized to take all actions necessary to implement the Tribal Tax effective immediately.

Sec. 9. Audit.

All records required to be kept by this chapter shall be open to inspection and audit by a representative of the Tribal Council, at reasonable times and places, to ensure compliance with this chapter.

Sec. 10. Restricted Sale to Minors.

No manager or employee of the outlet shall sell any tobacco products to any person under the age of 18 years.

Sec. 11. Civil Action.

The Tribe may bring a civil action against any manager or other person to enforce compliance with this chapter. Such action shall be brought in accordance with the procedures of the Tribal Court. The Tribal Court shall have exclusive jurisdiction over any action arising from the sale of tobacco products or payment of any taxes imposed by this chapter.

Sec. 12. Severability.

Should any sections of this chapter be disapproved by the Secretary of the Interior, in accordance with the Constitution, or be found unconstitutional or in violation of tribal or federal law by any court of competent jurisdiction, such declaration shall not affect the remaining terms or sentences of any section or the remaining sections of this chapter.