

## **Chapter 8.01 TAXATION – GENERAL PROVISIONS**

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### **8.01.010 Authority.**

The Confederated Tribes of the Chehalis Reservation's authority to adopt the ordinances codified in this title is found in the Tribe's Constitution and in the inherent sovereignty of the Tribe to regulate its own territory and activities therein.

### **8.01.020 Purpose.**

The purpose of this chapter is to provide statutory rules applicable to all of the taxes imposed by the Confederated Tribes of the Chehalis Reservation. The Tribe finds that regulation of activities within its jurisdiction is essential to the health and welfare of the Chehalis Tribe, its members, and the Chehalis tribal community. The Tribe further finds that a tax base is essential to the Tribe's ability to provide goods and services, and to finance government operations and promote economic development for the safety, health, and welfare of the Tribe, its members, and those who work, live, visit and do business in the Tribe's Indian country. Therefore, in the public interest and for the welfare of the people of the Chehalis tribal community, the Chehalis Tribe declares its purpose by the provisions of this title to regulate certain activities and to impose, collect and administer taxes on those activities within its jurisdiction.

### **8.01.030 Scope.**

A. Application. Except where otherwise specifically limited, the provisions of this title shall apply to all persons, property, and activities, including any governmental entity or enterprise of the Chehalis Tribe, to the full extent of the sovereign jurisdiction of the Confederated Tribes of the Chehalis Reservation including but not limited to the Tribe's Indian Country.

B. Compliance with this title is hereby made a condition of the use of any land or premises in Indian country, or the conduct of any business or other activity in Indian Country.

C. Deemed to Consent. Any person who resides, conducts business, engages in a business transaction, receives benefits from the Tribal government or its enterprises including but not limited to police, fire, emergency services, transportation infrastructure, utilities, housing, or other programs, services and infrastructure, acts under Tribal authority, or enters Indian Country, shall be deemed thereby to have consented to the following:

1. To be bound by the terms of this title;
2. To the exercise of civil regulatory jurisdiction by the Chehalis Tribal Tax Commission;
3. To the exercise of civil jurisdiction by the Chehalis Tribal Court over said person in legal actions arising under this title; and
4. To detention, service of summons and process, and search and seizure, in conjunction with legal actions arising under this title.

#### **8.01.040 Definitions.**

The following definitions apply throughout this title unless otherwise specified or the context clearly indicates otherwise:

“Business” means any person or entity engaged in trade, commerce, manufacturing, power production, construction, timber or other natural resources cultivation, harvest, agricultural activities, or any other productive activity, whether for profit or not, wholly or in part within the Chehalis Reservation and / or Indian Country.

“Chehalis Tribal Tax Commission” or “Tax Commission” means the Chehalis Tribal Tax Commission established as a part of the government of the Chehalis Tribe for the administration of the taxes imposed under this title.

“Consideration” means any money or other pecuniary benefit, goods, personal or real property, services, or any combination thereof, which accrues as a right, profit, advantage, or benefit to a person, or which reflects a payment, detriment, loss, or responsibility of a person.

“Control” means the right or any kind of ability to direct the performance or activity of another, whether legally enforceable or not, and however such right may be exercisable or exercised.

“Court” or “Tribal Court” means the Chehalis Tribal Court.

“Essential government services” means services, as determined by the Business Committee of the Tribe, that the Chehalis Tribe provides to its members and to residents of and visitors to the Chehalis Reservation, in order to fulfill its governmental responsibilities.

“Fair market value” means the amount of consideration at which personal or real property or services would change hands via an arms-length transaction between a willing buyer and a willing seller, or a willing lessor and a willing lessee, neither of whom is under any compulsion to act. Fair market value is to be determined on the basis of consideration in comparable sales, leasing, or rental transactions. If such information is not available, the Tax Commission may estimate the fair market value of the subject of a transaction by any reasonable means.

“Fraud” occurs when any person:

1. Willfully makes and subscribes any return, statement or other document that contains a statement or is verified by a written declaration that it is true and correct as to every material matter, and that the person does not believe to be true and correct as to every matter;
2. Files any return electronically, knowing that the information in the return is not true and correct as to every material matter; or
3. With intent to evade or defeat the payment or collection of any tax, or knowing that the probable consequences of the person’s act will be to evade or defeat the payment or collection of any tax, removes, conceals, or releases any property on which levy is authorized or that is liable for payment of tax, or aids in accomplishing or causes the accomplishment of any of the foregoing.

“Goods” means all tangible or movable personal property produced, processed, or sold within Indian country.

"Gross receipts" means the total amount of money, credit, or any other pecuniary benefit or advantage, plus the fair market value of any other consideration, which is actually received during any period by any person from the sale or leasing of real or personal property of any kind, the sale of goods or services of any kind, and any other productive activity of any kind, whether for profit or not, conducted wholly or partially within Indian country. “Gross receipts” does not include the salary or wages of an individual engaged as an employee. "Gross

receipts" includes those amounts received for any and all personal or real property which is an integral, but not necessarily a significant or primary, component of the service(s) rendered, regardless of the date, time, manner, and location of sale, delivery, or use of such personal or real property. "Gross receipts" includes those amounts received for any and all services which are an integral, but not necessarily a significant or primary, component of the sale or delivery of personal or real property, such as those amounts received as payment or reimbursement for costs of putting personal or real property into a finished and marketable form, payment for delivery and set-up, and payment for warranty or service contracts, regardless of the date, time, manner, or location of performance of such services(s). “Gross receipts” does not include amounts received as reimbursement for federal, state, or Chehalis Tribal taxes.

“Indian Country” means all lands and waters within the exterior boundaries of the Chehalis Reservation and all Tribal lands located outside the Chehalis Reservation that are held in trust for a Chehalis Tribal member or the Chehalis Tribe or are otherwise subject to a restriction against alienation imposed by the United States, the Indian titles to which have not been extinguished, and over which the Chehalis Tribe exercises jurisdiction and governmental authority.

"Manufacturing activity" means combining or processing components or materials into a finished product, whether manually or mechanically, for the purpose of resale in the ordinary course of business, but does not include construction activity.

“Person” means any organization, whether a sole proprietorship, partnership, joint venture, trust, estate, unincorporated association, company, corporation, or government, or any part, division, or agency of any of the foregoing, and any individual or group of individuals.

“Personal property” means any tangible property, not real property, which may be seen, touched, weighed or measured, or is in any manner perceptible to the human senses, including, but not limited to, electricity, natural gas, goods or merchandise of any kind, goods purchased for consumption or other use, goods purchased for incorporation into other personal or real property, and goods purchased for use in the performance of any service, whether or not such goods are consumable, movable, separable, affixed to, or incorporated into, other personal or real property, and whether or not such goods retain their original character upon final sale. “Personal property” also means any intangible property which cannot be physically perceived by the human senses, such as patents, trademarks, copyrights, franchises, licenses, knowledge, information, ideas, advice, and other intangible items of value or legal rights of any kind.

“Quarter” for purposes of reporting and payment means a period of three consecutive months starting on one of January 1, April 1, July 1 or October 1.

“Real property” means land, and all things permanently attached thereto, such as buildings, structures and improvements, and includes crops growing upon the land.

“Received” means:

1. Three days after the postmark date, if action is taken by United States mail;

2. The date actually received by the Tribe, when documents and/or payments are hand-delivered, sent by overnight courier, or by delivery other than United States mail; or
3. The date of receipt by the Tribe, in the case of wire transfer payments.

“Regulations” means the regulations adopted by the Tax Commission.

“Related persons” means two or more persons owned or controlled, directly or indirectly, by the same person. As applied to natural persons, “related persons” means two or more natural persons who have a legal relationship arising out of marriage, adoption, or blood, through the third degree of kinship.

“Return” means any document required to be filed when paying any Chehalis Tribal tax, as contrasted with other documents required to be filed that are not associated with the actual payment of taxes. “Return” also includes any attachments, such as schedules or forms, which are associated with any return.

“Reservation” means all lands and waters within the exterior boundaries of the Chehalis Reservation and all Tribal lands located outside the Chehalis Reservation that are held in trust for a Chehalis Tribal member or the Chehalis Tribe and have been proclaimed as reservation lands.

“Services” means manual, mechanical, or intellectual labor performed, and includes other business activity that does not have physical characteristics.

“State” means the State of Washington.

“Taxes” means any tax, interest, penalties, and costs, imposed or assessed individually or collectively pursuant to this title.

“Taxpayer” means the person liable for the taxes or the person responsible for collecting and remitting the taxes.

“Tribal business” means a business or enterprise that is majority owned and operated by the Tribe.

“Tribal member” or “member” means an enrolled member of the Chehalis Tribe.

“Tribal member business” means any business entity that is majority owned and operated by a Tribal member.

“Tribe” or “Tribal” means or refers to the Chehalis Tribe.

**8.01.050 Taxes are cumulative.**

The taxes levied pursuant to each chapter of this title are cumulative, and in addition to all other taxes, except as otherwise explicitly stated.

**8.01.060 Waiver of taxes.**

In order to promote economic development or other governmental purposes or policies, the Business Committee, in its discretion and upon a two-thirds vote, may:

- A. Exempt the Tribe, Tribal members and/or Tribal businesses from any tax imposed under this title;
- B. Offer tax rebates, credits or reductions to encourage economic development;
- C. Categorically exempt persons and entities from any tax under this title by business class or type.

**8.01.070 Nondiscrimination.**

No provision of this title shall be construed as imposing a tax which discriminates on the basis of whether a taxpayer is owned or controlled by Tribal members.

**8.01.080 Designation of individual.**

On an annual basis, each taxpayer must designate and provide the name and mailing address of a natural person for the purpose of receiving any notice under this title by filing the form required by the Tax Commission. The forms must be submitted each year to the Tax Commission by January 15, even if no changes have occurred since the prior filing. In addition, an updated form must be filed within thirty (30) days of a change in circumstances. The Tax Commission may by regulation impose requirements as to the individuals who shall be designated under this section, and may require information or documentation it deems necessary for the proper and efficient administration of taxes. For purposes of this section only, “taxpayers” shall not include restaurant or retail customers from whom the sales tax, cigarette tax, motor vehicle fuel tax, or other excise taxes may be collected, or guests from whom the Room Occupancy Tax may be collected, but shall include persons responsible for collecting and remitting such taxes to the Tribe. In addition, for purposes of this section only, “taxpayers” shall include all persons owning an interest in a lease subject to the Possessory Interest Tax.

**8.01.090 Administration.**

A. The Tribe hereby establishes the Chehalis Tribal Tax Commission to administer and enforce provisions of this title. The Business Committee shall serve as the Chehalis Tribal Tax Commission, but may delegate any or all of

its powers under this Section to the Tribe's Finance Department by resolution.

B. The Tax Commission is empowered to administer all Tribal taxes except where otherwise explicitly stated, and is empowered to adopt substantive and procedural rules and regulations, orders implementing its decisions and rulings, and instructions and forms as may be necessary to the proper and efficient administration of this title.

C. The Tax Commission shall implement a tax policy that allocates tax receipts to serve the needs of the Tribe and be consistent with any tax compacts to which the Tribe is a party. This policy shall be kept on file at the Tribe and may be amended at the discretion of the Tax Commission.

D. All taxes collected by the Tribe shall be deposited in a separate interest-bearing account to the credit of the Tribe and the Tribe's share of all taxes collected shall be remitted to the appropriate Tribal fund after collection.

E. The Tax Commission shall have the authority to levy fines for unpaid taxes and to take any other action necessary to administer or enforce this title, including filing in its own name or the Tribe's name in any court of competent jurisdiction to collect taxes that are due but unpaid.

F. The taxes imposed pursuant to this title are assessed for a statutory period and are the liability of the taxpayers.

G. The Tax Commission is authorized to assess taxes against a person and those assessments are presumed to be correct.

1. When it appears that the return filed by a person understates the taxes due

under this title, the Tax Commission is authorized to assess the person for any tax deficiency, interest, penalties, and costs. The assessment is binding on the person, but may be appealed in accordance with applicable rules and regulations.

2. If no return is timely filed as required, the Tax Commission is authorized to make an estimate of the tax due and to assess the person for that tax, interest, penalties, and costs. This assessment is binding on the person unless shown to be clearly erroneous.
3. If a person fails to provide information within its possession or control which is relevant to a determination of taxes due and which it is required to provide under this title, the Tax Commission is authorized to make an estimate of the tax due and to assess the taxpayer for that tax, interest, penalties, and costs. This assessment is binding on the person unless it is shown that the estimate, on the basis of the best information then available to the Tax Commission, was clearly erroneous or unless the Tax Commission for other good cause shown relieves the taxpayer from the operation of this section.

H. Any taxes assessed shall become the liability of the taxpayer on the date due. If the taxpayer is a corporation or a trust or a part thereof, then the corporation or trust shall be liable for the taxes. If the taxpayer is an association, joint venture, or partnership, or a part thereof, then all of the associates, participants, or partners both general and limited, shall be jointly and severally liable for

the taxes. Companies shall be treated as corporations or partnerships consistent with their treatment by the Internal Revenue Service.

I. The owners of the interests in a unit or lease shall be jointly and severally liable for the taxes assessed with respect to said unit or lease.

J. Consistent with applicable statute of limitations provisions of this chapter, the Tax Commission shall have the authority to re-determine incorrect or erroneous assessments, to issue amended assessments, if necessary, and to assess unassessed possessory interests as of the date on which they first became assessable.

#### **8.01.100 Audits.**

The Tax Commission shall have the authority to audit any person for the purpose of verifying compliance with this title and applicable regulations, and may retain a third-party auditor to conduct such audits. It shall be a violation of this title for any person to fail or refuse to comply with requests for information or records by the Tax Commission or its agents, including any third-party auditor retained by the Tax Commission.

#### **8.01.110 Records and reporting.**

A. Every taxpayer shall keep, maintain and preserve complete and accurate books, records and accounts necessary to establish compliance with the requirements of this title and applicable regulations, and shall make available such books, records and accounts to the Tax Commission and its agents for examination at all reasonable times. Such records shall be retained by taxpayers for a period of not less than four years.

B. Except as otherwise provided, every taxpayer shall file quarterly reports of sales or

other activities subject to any tax under this title. Reports are due within thirty (30) calendar days after the end of each quarter.

#### **8.01.120 Notice to customers.**

Businesses have a duty to notify their customers of the Tribal taxes being collected under this title. Except where otherwise provided, notice can be given by either listing the amount of tax collected as a separate line item on the invoice/receipt or by providing a written statement to the customer that the sales price includes Tribal tax. The "tax included" statement must be displayed in a place where customers are normally advised of the terms of sale, including but not limited to the sales invoice or receipt, brochures, contracts, menus, and signage.

#### **8.01.130 Payment of tax; failure to pay tax.**

A. Except as otherwise provided, each business or person subject to any tax under this title shall pay all applicable taxes to the Tax Commission on a quarterly basis. Payments are due within thirty (30) calendar days after the end of each quarter.

B. Taxes that are not remitted in full to the Tax Commission on or before the due date are delinquent and shall render the taxpayer liable to the Tribe for the delinquent amount plus a five percent (5%) late payment penalty. Interest shall also be imposed on any unpaid amount of tax from the date the payment was due, without regard to any extension of time or stay of payment, to the date payment is received at the rate of twelve percent (12%) per annum.

C. The Tax Commission shall have the authority to set off any amount owing under this title against any monies the Taxing Commission or the Tribe may otherwise owe the taxpayer. This

remedy shall be in addition to any other remedies the Tax Commission may have to collect or enforce the payment of taxes and other amounts due under this title.

**8.01.140 Administrative costs.**

A. A taxpayer failing to pay any taxes at the time due may be charged for extraordinary administrative costs incurred in collecting the unpaid amount, including, but not limited to, attorney fees and other costs of collection.

B. For good cause shown, the Tax Commission may relieve the taxpayer from all or part of the charges imposed under this section.

**8.01.150 Violations – Penalties for attempt to evade or defeat tax.**

A. Any taxpayer understating any tax imposed by this title through negligence of the Tribal Code and applicable regulations, but without the intent to defraud, may be assessed a penalty of up to \$250, plus twenty-five percent (25%) of the underpayment of tax.

B. Any taxpayer understating any tax imposed by this title through reckless disregard of the Tribal Code and applicable regulations, but without the intent to defraud, shall be assessed a penalty of \$250, plus twenty-five percent (25%) of the underpayment of tax.

C. If any part of an understatement of tax is shown to be due to fraud, the taxpayer shall be assessed a penalty of \$500, plus fifty percent (50%) of the underpayment of tax.

D. Any person who willfully assists a taxpayer in the fraudulent understatement of tax shall be subject to a penalty of \$500, plus twenty-five percent (25%) of the underpayment of tax.

E. Any liability arising under this section shall be assessed and collected as taxes imposed by this title.

F. For good cause shown, the Tax Commission may in its discretion relieve the taxpayer from all or part of the penalties imposed under this section.

**8.01.160 Violations – Enforcement.**

A. Obligations and requirements arising under this title may be enforced by action in any court of competent jurisdiction.

B. The penalties provided for by this title are cumulative and are in addition to other penalties pursuant to Tribal law.

C. Information concerning criminal interference with the administration of this title shall be provided to the Tribal Prosecutor or other authorities for appropriate action.

D. Any taxpayer who fails to comply with a requirement of this title or regulations adopted hereunder may have all or some of its rights to engage in productive activity within Indian country suspended, including but not limited to suspension of a Tribal business license, until compliance is made or for such shorter time as the Tax Commission may provide.

E. Upon receipt of a notice of non-compliance issued by the Tax Commission, a taxpayer has thirty (30) days in which to come into compliance. If the taxpayer fails to do so, the Tax Commission shall issue a notice of intent to suspend, specifying the rights and privileges to be suspended. The taxpayer shall have fifteen (15) days in which to come into compliance or to appeal only the notice of intent to suspend pursuant to section 8.01.290. This right of appeal is the sole remedy. Failure on the



taxpayer's part to act within the fifteen (15) days shall result in the Tax Commission issuing a final order of suspension. In addition, if an appeal is decided adverse to a taxpayer, the Tax Commission shall issue a final order of suspension.

F. The Chehalis Public Safety Department shall enforce the order of suspension, which shall remain in effect until the taxpayer comes into compliance.

**8.01.170 Collection powers.**

A. The Tax Commission has the power to collect any taxes assessed, including the power to attach and seize the assets of a taxpayer or any property subject to lien. In addition, the Tax Commission has all other powers available to the Chehalis Tribe for collection of debts owed it.

B. The Tax Commission may request legal counsel on behalf of the Tribe to bring suit or enforcement proceedings in any court of competent jurisdiction. Provided, that the bringing of suit or enforcement proceedings shall not constitute a waiver of sovereign immunity, and further provided that the Tax Commission shall never be compelled to assert a claim for taxes in litigation by way of counterclaim or otherwise.

**8.01.180 Security for payment.**

Whenever necessary to secure the payment of any taxes due or reasonably expected to become due, the Tax Commission is authorized to require the taxpayer to furnish an acceptable surety bond in an appropriate amount. The Tax Commission shall prescribe by regulation the terms and conditions for requiring such security. For the purposes of an appeal pursuant to this title, the requirement of security for payment shall be considered an adverse action.

**8.01.190 Lien for taxes.**

A. If a taxpayer fails to pay any taxes after demand or assessment by the Tax Commission, or fails to provide security as set out in Section 8.01.180, the amount shall be a lien in favor of the Chehalis Tribe upon all property or rights to property of those liable under this title.

B. The lien shall arise at the time the demand or assessment is made, shall attach to all property then owned and thereafter acquired, and shall continue until the amount of the lien is satisfied or released, and shall be effective against related persons without notice; provided, that with respect to a required return, a lien shall arise for any unpaid taxes at the time filing is due without further demand or assessment.

C. If a lien is required as a condition for granting an extension or stay of payment, such lien shall arise according to the terms of the extension or stay.

D. A lien shall be effective as against other parties upon notice being recorded in the offices of the Tax Commission in a form available for inspection by the public.

E. The Tax Commission may by regulation exempt certain property from the operation of the lien created by this section, consistent with CTC 2.2.4.060.

**8.01.200 Priority of lien.**

A lien arising under section 8.01.190 shall have priority over all other liens imposed by any government other than the Chehalis Tribe, regardless of the date of perfection.

**8.01.210 Release of lien.**

A. The lien shall be released upon payment of the entire liability of the taxpayer on account of whose liability the lien arose.

B. The payment of any part of the liability shall operate to reduce the amount of the lien by the amount paid.

C. Where a lien has been recorded and the Tax Commission thereafter receives all or part of the taxes giving rise to the lien, the Tax Commission will cause a notation of the complete or partial release of the lien to be made in the record.

D. The Tax Commission may in its discretion release liens on certain property without payment of all outstanding liabilities, for good cause, and where the interests of the Chehalis Tribe are adequately protected by other security.

#### **8.01.220 Foreclosure of lien.**

A. The Tax Commission may foreclose upon any or all items of property or rights to property subject to a lien for taxes by seizure and sale, to be conducted as set forth in this section and accompanying regulations.

B. Seizure:

1. After seizure of property or rights to property, the Tax Commission shall notify the owner thereof of the amount and kind of property seized and of the total amount demanded in payment of tax.

2. Any person shall have the right to pay the amount due, together with the expenses of the proceeding, or furnish acceptable security for the payment thereof, to the Tax Commission at any time prior to the sale thereof, and upon payment or furnishing of security, the Tax Commission shall restore the property to the taxpayer, and all further proceedings in connection with the seizure of the property shall cease from the time of the payment.

3. A taxpayer may appeal a seizure, and appeals shall be taken pursuant to section 8.01.290 under the following conditions:

a. The seized property shall not be removed from the jurisdiction of the Chehalis Tribe;

b. The taxpayer must provide an affidavit identifying all property or rights to property owned or controlled by the taxpayer located within the jurisdiction of the Chehalis Tribe.

4. The effect of a seizure upon any person for obligations due or payable to a taxpayer or persons liable under this title shall be continuous from the date the seizure is first made until the liability out of which the seizure arose is satisfied.

5. Any person in possession of or obligated with respect to property or rights to property which has been seized who, upon demand by the Tax Commission, surrenders such property or rights to property (or discharges said obligation) to the Tax Commission, shall be discharged from any obligation or liability to the taxpayer or persons liable under this title whose property or rights to property were seized.

C. Sale of Seized Property:

1. The Tax Commission shall publish a notice of sale, setting forth the time and place of the sale which shall be no less than ten (10) days after the date of notice.

2. Proceedings for the sale of property shall be effective to transfer to the purchaser all right, title, and interest therein of the taxpayer or person whose property or rights to property were seized. Provided, that where required by federal law the sale of property shall not be final without

the approval of the Secretary of the Interior or his/her designee.

D. The Tax Commission may delegate and empower persons to carry out the procedures of this section, including officers of the Chehalis Public Safety Department, who shall render assistance in this regard upon request by the Tax Commission.

**8.01.230 Application of proceeds.**

A. Money seized by the Tax Commission, or realized from property or rights to property seized, shall be applied first to the expenses of the seizure and proceedings for the conversion of property, and then to the liability for costs, penalties, interest, and tax, in that order.

B. The balance, if any, shall be remitted to the person or persons who have claimed and proved legal entitlement thereto, provided that the Tax Commission may set time limits or other reasonable conditions on the making and proving of such claims.

**8.01.240 Interference with foreclosure.**

A. No person shall remove from the jurisdiction of the Chehalis Tribe any property on which there is a lien for taxes pursuant to this title.

B. No person in possession of or obligated with respect to property or rights to property which have been seized shall fail to surrender such property or rights or to discharge such obligation upon demand by the Tax Commission therefor, except as to any part of the property or rights as is, at the time of the demand, subject to an attachment or execution under any judicial process.

C. Any person violating the provisions of this section shall be personally liable for the value of the property removed or not surrendered, or for

the amount of the obligation not discharged, not exceeding the amount for which the seizure was made. Any liability arising under this section shall be assessed and collected as taxes imposed by this title.

**8.01.250 Transfer of business.**

A. If a person buys substantially all of the assets of a taxpayer within the jurisdiction of the Chehalis Tribe, that person shall withhold from the purchase price and pay to the Tax Commission the amount of taxes due on account of activities of the taxpayer prior to the purchase.

B. Prior to transfer, a buyer may make a written request and, within 45 days after the owner's records are made available for audit, the Tax Commission shall send a notice to the buyer for the taxes due. Thereafter, the buyer shall not be personally liable under this section for any taxes in excess of the amount stated in the notice and accrued prior to the date specified in the notice, or for any such taxes if no notice is given within the time required.

C. Any buyer failing to make such a request or failing to withhold taxes from the purchase price shall be personally liable up to the value of all the property acquired. Any liability arising under this section shall be assessed and collected as taxes imposed by this title.

D. No consent to the assignment or transfers of any lease or other rights to engage in productive activity within the jurisdiction of the Chehalis Tribe shall be granted by the Tribe unless the Tax Commission first certifies that all applicable taxes have been paid, or that payment has been adequately secured.

**8.01.260 Prohibition of suits.**

No suits for the purpose of restraining the assessment or collection of the taxes imposed under this title shall be maintained in any court by any person, whether or not such person is the person against whom such taxes were assessed. All actions concerning the application of the title shall be brought pursuant to section 8.01.290.

**8.01.270 Statute of limitations.**

A. Taxes imposed and required to be collected by this title shall be assessed within four years after the return is filed, or the notice of assessment is issued, except as provided in subsection (B) of this section.

B. Exceptions to the statute of limitations on assessment:

1. In the case of fraudulent conduct, no period of limitations shall apply.
2. In the case of failure to file a return, declaration of interest, or other required document, no period of limitations shall apply.
3. The running of the period of limitations on assessment is suspended during any period the Tax Commission is prohibited by any court from making an assessment.
4. The running of the period of limitations on assessment may be suspended for any period agreed upon between the taxpayer and the Tax Commission.

C. Any action in a court or by seizure for collection of taxes imposed by this title must be commenced within four years of the date of assessment, except as provided in subsection (D).

D. Exceptions to the statute of limitations on collection:

1. The running of the period of limitations on collection is suspended during any period the Tax Commission is prohibited by any court from commencing collection proceedings and during any period of appeal under this title.

2. The running of the period of limitations on collections may be suspended for any period agreed upon between the taxpayer and the Tax Commission.

**8.01.280 Procedure for refunds.**

Any taxpayer believing it has made an overpayment of taxes may file a written claim for refund with the Tax Commission. These refund claims must be filed within one year after the alleged overpayment was made. The procedure for refund claims shall be established in regulations.

**8.01.290 Procedure for appeal.**

A. Appeals from assessments, denials of refund, or other adverse action shall be made to the Tax Commission according to procedures established in regulations; these procedures shall also apply to any challenges to the validity of the title. The Tax Commission may permit or require one or more levels of review by the Tax Commission or its designees and may provide for hearings before a body established by regulation. The failure to duly proceed to a next required level of review under this subsection or any regulations adopted hereunder shall constitute a waiver of any further appeal pursuant to this subsection or subsection (C).

B. Except where otherwise provided, any appeal under this title must be filed within thirty (30) calendar days of the receipt of the receipt of

the notice of tax levy, notice of violation, or other relevant notice.

C. Appeals from final actions of the highest level of administrative review shall be made only to the Chehalis Tribal Court, according to procedures established in regulations, but in no case may an appeal of an assessment be taken to the Tribal Court until payment of the taxes assessed has first been made.

D. Actions before the Tribal Court:

1. Review of administrative actions in the Tribal Court shall be on the record and not de novo, and shall be limited to the determination whether the administrative action was not supported by the evidence, or was arbitrary, capricious, an abuse of discretion, beyond its authority, or otherwise contrary to applicable Chehalis Tribal or federal law.

2. Upon review by the Tribal Court of a determination of the classification, square footage, sale price, fair market value, tax amount or similar determination, it shall be presumed that the determination of the person charged with the duty of establishing such matter is correct but this presumption shall not be a defense against any correction indicated by clear, cogent, and convincing evidence.

3. The Tribal Court shall be empowered to affirm, reverse, or modify any administrative action, or to remand the matter for further action.

4. The decision of the Tribal Court shall be final and is not subject to appeal.

E. Procedures for staying the payment of taxes which are being appealed under subsection (A) of this section may be established in regulations. The Tax Commission in its discretion may

condition the grant of a stay on the posting of a bond or provision of other security.

**8.01.300 Abatement of authority.**

A. In response to a written request for abatement, or when an assessment is found to be incorrect, the Tax Commission may abate any part of the assessment determined to have been incorrectly, erroneously, or illegally made.

B. Upon a compromise of liability and according to the terms of the closing agreement formalizing the compromise, the Tax Commission shall abate the appropriate amount of the assessment.

**8.01.310 Closing agreements.**

A. If in good faith the Tax Commission at any time is in doubt of the taxpayer's liability, it may enter into a written closing agreement with the taxpayer that adequately protects the interests of the Chehalis Tribe, provided that such agreement shall be subject to approval by the Office of Tribal Attorney of the Chehalis Tribe.

B. If entered into after an appeal has been filed pursuant to section 8.01.290, a closing agreement shall be part of a stipulated order or judgment disposing of the case.

C. As a condition for entering into a closing agreement, the Tax Commission may require the provision of security for payment of any taxes due according to the terms of the agreement.

D. A closing agreement is conclusive as to the liability or non-liability for payment of taxes relating to the periods referred to in the agreement only, except upon a showing of fraud, malfeasance, or misrepresentation or concealment of a material fact.

**8.01.320 Confidentiality rules.**

A. Nothing in this section is intended to prevent the publication or disclosure of the names and addresses of registered taxpayers or general information which is otherwise in the public record or generally available to the public upon the making of reasonable inquiry.

B. It shall be unlawful for any employee or former employee of the Tax Commission to reveal to any person, other than another employee, agent, or legal counsel for the Tax Commission, any information contained in the return of any taxpayer or any other information about any taxpayer acquired as a result of his or her employment by the Tax Commission, except:

1. Where the taxpayer has given detailed consent in writing to the release of specific information;
2. To an authorized representative of the taxpayer;
3. To an employee of the Chehalis Tribe for use in connection with the governmental function of said employee, provided that it shall be unlawful for the Chehalis Tribe employee to reveal said information except as permitted in this section;
4. To an authorized representative of another Indian nation or a state, provided that the receiving nation or state has entered into a written agreement with the Chehalis Tribe or the Tax Commission to use the information for tax purposes only and that the receiving nation or state has enacted a confidentiality statute similar to this section;
5. To an authorized representative of a federal agency, pursuant to the terms of a

reciprocal agreement for the exchange of such information or applicable law;

6. In any administrative or judicial proceeding in which the taxpayer's liability for compliance with the Chehalis Tribal tax laws is in issue, as to all information directly reflecting, referring, or relating to that taxpayer that is not otherwise privileged;

7. In compliance with the order of a hearing officer of competent jurisdiction or any court of competent jurisdiction in which the information sought is material to the inquiry;

8. In recording tax liens on the property of a taxpayer or collecting taxes by levy upon the property or rights to property of a taxpayer;

9. In statistical releases not identifying the information provided as applicable to any single taxpayer;

10. To the extent of revealing whether a taxpayer has or has not made a designation (and, if so, the name and address of that designee), or whether a person is or is not a designee (and, if so, by whom he has been designated); and

11. To the extent of revealing to the purchaser or intended purchaser of a taxpayer or the property thereof the amount and basis of any unpaid taxes for which the seller is liable.

C. For purposes of this section, "employee of the Tax Commission" shall include employees of the Tax Commission and any person for whose services the Tax Commission has contracted, provided that such person shall agree in the contract for services to abide by the provisions of this section.

D. Any employee or former employee of the Chehalis Tribe who violates any of the provisions of this section shall be subject to a civil fine not to exceed \$500. The Chehalis Tribal Court shall have jurisdiction to hear cases arising under this section, which may only be brought by the taxpayer harmed by the violation of this section.

E. The Tax Commission may in its discretion further restrict the disclosure of information, and violation of such restriction shall be considered an adverse action for purposes of section 8.01.290.

**8.01.330 Notice.**

The Tax Commission may give notice to a taxpayer by mailing the notice to the individual last designated by the taxpayer, at the address shown on the designation. Where a taxpayer has not designated an individual, notice may be given by mailing the notice to the last known address of the taxpayer, or by mailing the notice to a person who is a lessee, permittee, or assignee of the affected property, or to a person holding a permit or license for the conduct of the taxable activity. The use of other methods of providing notice, including publication, may be made so long as the method comports with due process.

**8.01.340 Investigative authority.**

A. For the purpose of enforcing the provisions of this title, the Tax Commission is authorized to inspect property, to examine and require the production of any pertinent records, books, information, evidence, or financial data, and to require the presence of any person and require testimony under oath concerning the subject matter of an inquiry, and to make a permanent record of the proceeding.

B. As a means for accomplishing the foregoing, the Tax Commission is hereby vested with the power to issue subpoenas and summonses, pursuant to regulations.

C. The Tribal Court shall have the power to enforce administrative subpoenas and summonses issued by the Tax Commission.

**8.01.350 Oaths and affirmations.**

Any agent or employee designated by the Tax Commission for that purpose is authorized to administer such oaths or affirmations and to certify to such documents as may be necessary under this title or the regulations.

**8.01.360 Sovereign immunity.**

The sovereign immunity of the Chehalis Tribe, its subsidiaries and enterprises, and the officers, directors, employees, agents, and representatives of any of them (collectively, for the purposes of this section, the "Tribe") is not in any way waived or limited by any provision of or action taken pursuant to this title or regulations adopted hereunder, including the filing of any suit or enforcement action hereunder, or by any appeal commenced pursuant to this title or any regulations adopted pursuant thereto, and nothing in this title or such regulations shall constitute or be construed as a waiver of sovereign immunity of the Tribe, its subsidiaries and enterprises, and the officers, directors, employees, agents, and representatives of any of them. The sovereign immunity of the Tribe shall extend to the Tribe's agents, including without limitation any appraiser or assessor with whom the Tribe has contracted under this title or regulations adopted pursuant thereto, as to all actions taken in, or concerning, the administration or enforcement of this title and regulations adopted pursuant thereto, and as to

all actions taken pursuant to any authority of any action, decision or order authorized by this title.

**8.01.370 Severability.**

If any section, provision, phrase, addition, word, sentence or amendment of this title or its application to any person is held invalid, such invalidity shall not affect other provisions or applications of this title that can be given effect without the invalid application and, to that end, the provisions of this title are declared severable.

**8.01.380 Effective date.**

This title shall take effect upon approval by the Business Committee in accordance with Tribal law.



## **Chapter 8.05 MOTOR VEHICLE FUEL TAX**

### Sections:

- 8.05.010 Purpose.
- 8.05.020 Scope.
- 8.05.030 Definitions.
- 8.05.040 Fuel tax – Levy.
- 8.05.050 Exemptions and credits.
- 8.05.060 Fuel tax – Collection and payment – Sale records.
- 8.05.070 Fuel tax – Use of Tribal levy.
- 8.05.080 Effective date.

### **8.05.010 Purpose.**

The Confederated Tribes of the Chehalis Reservation finds that tax revenues are essential to the Tribe's ability to provide governmental services, and to finance government operations and promote economic development, for the safety, health and welfare of the Tribe, its members, and those who work in, live in, and visit the Chehalis Reservation and other lands within the Tribe's jurisdiction. The Chehalis Tribe finds that there are substantial unmet needs in funding for road construction and maintenance, transportation services, public safety, transportation infrastructure, public utilities and governmental programs that serve Tribal members, employees, customers, and other residents of and visitors to the Chehalis Reservation. Therefore, it is in the public interest of the Chehalis Tribe and the Chehalis Reservation community to help fund these essential governmental services through imposition, collection and administration of taxes on the motor vehicle fuel sold to Tribal fuel facilities. [Res. \_\_\_\_].

### **8.05.020 Scope.**

This chapter shall apply to all retail motor vehicle fuel sales to all Tribal fuel facilities located in Indian country. [Res. \_\_\_\_].

### **8.05.030 Definitions.**

The following definitions apply throughout this chapter unless otherwise specified or the context clearly indicates otherwise:

"Fuel station" means a retail place of business operated for the purpose of selling and delivering to the general public motor vehicle fuel into the fuel tanks of motor vehicles.

"Fuel supplier" means the entity selling motor vehicle fuel to Tribal fuel facilities.

"Fuel Tax Administrator" means the official designated by the Chehalis Tribe to administer fuel tax collection and ensure compliance with this chapter.

"Motor vehicle fuel" means gasoline and any other inflammable gas or liquid, by whatsoever name the gasoline, gas, or liquid may be known or sold, the chief use of which is as fuel for the propulsion of motor vehicles or motorboats.

"Tribal fuel facility" means a retail motor vehicle fuel station owned by the Tribe, a Tribal business, or a Tribal member business. [Res. \_\_\_\_].

### **8.05.040 Fuel tax – Levy.**

A. The Tribe shall impose a tax, pursuant to the terms of this section, on all motor vehicle fuel sales to Tribal fuel facilities.

B. The fuel supplier selling the motor vehicle fuel to the Tribal fuel facility shall be responsible for payment of the tax.

C. The Tribal motor vehicle fuel tax rate shall be the same as the then-current Washington State motor fuel tax rate applicable to the same type of fuel per gallon of motor vehicle fuel sold and delivered to Tribal fuel facilities.

D. Sales of motor vehicle fuel shall not be subject to a general Tribal sales tax levy under other provisions of Tribal law.

E. The taxes levied under this section shall not affect state and federal exemption reimbursements for motor vehicle fuel used in Tribal governmental vehicles. [Res. \_\_\_\_].

**8.05.050 Exemptions and credits.**

A. Effect of Tribal Member Discounts. Tribal fuel facilities may offer price discounts to Chehalis Tribal members, but such discounts shall not affect the amount of tax imposed under CTC 8.05.040.

B. Tax Credit. During the term of any motor vehicle fuel tax compact between the Chehalis Tribe and the State of Washington under which the Tribe agrees to purchase only fuel on which all Washington State motor vehicle fuel excise taxes have been paid, the Chehalis Tribe shall provide a tax credit by allowing the fuel supplier to deduct from the amount of taxes due each month an amount equal to the amount of Washington State motor vehicle and special fuel tax previously paid with regard to each delivery of fuel sold to a Tribal fuel facility. [Res. \_\_\_\_].

**8.05.060 Fuel tax – Collection and payment – Sale records.**

A. The fuel supplier selling fuel to Tribal fuel facilities shall, on or before the seventh day of each month, submit invoices of all motor vehicle fuel sold and delivered to Tribal fuel facilities in the preceding month. The fuel supplier shall remit all taxes due to the Tribal Fuel Tax

Administrator, adjusted for any credit provided in subsection B of this section, within thirty (30) days of each monthly fuel tax reporting cycle. The Tribe may require or allow all reporting and remittance required by this section to be done electronically.

B. The Tribal fuel supplier shall maintain accurate written records of the sales of motor vehicle fuel to Tribal fuel facilities and shall make such records available for inspection by the Tribal Fuel Tax Administrator, the Tribal Finance Officer and/or third-party auditor retained by the Tribe. Records shall be maintained for no less than four years.

C. The Tribal fuel facility shall maintain accurate written records of the purchase and retail sales of motor vehicle fuel. Each Tribal fuel station shall make such records available for inspection by the Fuel Tax Administrator, the Tribal Finance Officer and/or third-party auditor retained by the Tribe. Records shall be maintained for no less than four years.

D. The Tribal Fuel Tax Administrator is authorized to impose civil penalties for noncompliance with this section. Such penalties are authorized to be imposed up to twice the amount of the fuel tax not paid or reported. The Tribal Court shall have jurisdiction over all matters relating to enforcement of this chapter, and appeals of any civil penalties. [Res. \_\_\_\_].

**8.05.070 Fuel tax – Use of Tribal levy.**

Tribal fuel tax revenue, including any fuel tax refund revenue received from the State pursuant to a fuel tax agreement, shall be used only for essential government services, including, but not limited to: transportation infrastructure; transportation planning, construction, and transit services; maintenance of roads and

transportation-related facilities; marine access and transportation; rights-of-way and utilities; and public safety and law enforcement as permitted by the terms of such tax agreement.  
[Res.\_\_\_\_\_].

**8.05.080 Effective date.**

The fuel tax imposed under this chapter shall be effective as of the date the Chehalis Tribe commences Tribal fuel facility operations.  
[Res.\_\_\_\_\_].

## Chapter 8.10 SALES OR USE TAX<sup>1</sup>

### Sections:

- 8.10.010 Purpose.
- 8.10.020 Definitions
- 8.10.030 Sales or use tax – Levy.
- 8.10.040 Rate of tax.
- 8.10.050 Exemptions and exclusions.
- 8.10.060 Collection.
- 8.10.070 Filing of return.

#### **8.10.010 Purpose.**

The Confederated Tribes of the Chehalis Reservation finds that tax revenues are essential to the Tribe's ability to provide governmental services, and to finance government operations and promote economic development, for the safety, health and welfare of the Tribe, its members, and those who work in, live in, and visit the Chehalis Reservation and other lands within the Tribe's jurisdiction. Therefore, it is in the public interest of the Chehalis Tribe and the Chehalis Reservation community to help fund these essential governmental services through imposition, collection and administration of taxes on retail sales in Indian country. [Res. \_\_\_\_].

#### **8.10.020 Definitions.**

"Gross receipts of a business carrying out construction activities" shall be determined and shall be equal to the total value of the contract sum, which is provided in the award of contract pursuant to which the construction company is performing its activities and rendering its services within Indian country.

"Resale Certificate":

- A. As used in this section, "resale certificate" means documentation provided by a buyer to a seller stating that the purchase is for

resale in the regular course of business or that the buyer is exempt from retail sales tax, and containing the following information:

1. The name and address of the buyer;
2. The Tribal Business License, Indian Trader's License, or uniform business identifier or registration certificate number of the buyer, if the buyer is required to be registered;
3. The type of business engaged in;
4. The categories of items or services to be purchased for resale or that are exempt, unless the buyer is in a business classification that may present a blanket resale certificate as provided by the Chehalis Tribal Tax Authority by rule;
5. The date on which the certificate was provided;
6. A statement that the items or services purchased either: are purchased for resale in the regular course of business; or are exempt from tax pursuant to statute;
7. A statement that the buyer acknowledges that the buyer is solely responsible for purchasing within the categories specified on the certificate and that misuse of the resale or exemption privilege claimed on the certificate subjects the buyer to a penalty of fifty percent (50%) of the tax due, in addition to the tax, interest, and any other penalties and costs imposed by this chapter or chapter 8.01;

8. The name of the individual authorized to sign the certificate, printed in a legible fashion;

9. The signature of the authorized individual; and

10. The name of the seller.

B. Unless a seller has taken from the buyer a resale certificate, the burden of proving that a sale of tangible personal property or services was not a sale at retail or a service within the meaning of this subsection shall be upon the person who sold the item or provided the services.

C. If a seller does not receive a resale certificate at the time of the sale, have a resale certificate on file at the time of the sale, or obtain a resale certificate from the buyer within a reasonable time after the sale, the seller shall remain liable for the tax, unless the seller can demonstrate facts and circumstances according to rules adopted by the Tax Commission that show the sale was properly made without payment of sales tax.

D. Resale certificates shall be valid for a period of four years from the date the certificate is provided to the seller.

E. The Tax Commission may provide by rule for suggested forms for resale certificates or equivalent documents containing the information that will be accepted as resale certificates. The Tax Commission shall provide by rule the categories of items or services that must be specified on resale certificates and the business classifications that may use a blanket resale certificate.

“Retail Sale”. For purposes of this chapter:

A. A retail sale consisting solely of the sale of tangible personal property shall be deemed to have occurred at the retail outlet at or from which delivery is made to the consumer;

B. A retail sale consisting essentially of the performance of personal, business, or professional services shall be deemed to have occurred at the place at which such services were primarily performed;

C. A retail sale consisting of the rental of tangible personal property shall be deemed to have occurred (i) in the case of rental involving periodic rental payments, at the place of primary use by the lessee during the period covered by each payment, or (ii) in all other cases, at the place of first use by the lessee;

D. A retail sale consisting of the providing to a consumer of telephone, cable, fiber optic, broadband or similar service, other than a sale of tangible personal property under subsection (A) of this section or a rental of tangible personal property under subsection (C) of this section or a sale of mobile telecommunications services, shall be deemed to have occurred at the situs of the telephone or other instrument through which the service is rendered to the purchaser. In the case of mobile telecommunications services, shall be deemed to have occurred at the primary situs of the mobile device or other instrument through which the service is rendered to the purchaser, which is presumed to be the billing address for the relevant account.

“Sale”. For the purposes of this chapter, a sale consists of a transfer of ownership between

seller and buyer, or performance of a service by a seller for a buyer, for a consideration.

“Taxable event” means any retail sale or any use, upon which a sale or use tax is imposed pursuant to this chapter. [Res. \_\_\_\_].

#### **8.10.030 Sales or Use Tax – Levy.**

A. There is imposed and levied and shall be collected a sales or use tax, as the case may be, upon every taxable event, as defined by CTC 8.10.020, occurring within Indian country. The tax due is computed by multiplying the total gross receipts for the taxable event by the tax rate. The tax hereby imposed shall be paid by the buyer to the seller, and each seller shall collect from the buyer the full amount of the tax payable in respect to each taxable event in accordance with the schedule of collections adopted by the Tax Commission. The tax imposed by this chapter, to be collected by the seller, shall be deemed to be held in trust by the seller until paid to the Tax Commission, and any seller who appropriates or converts the tax collected to his or her own use or to any use other than the payment of the tax to the extent that the money required to be collected is not available for payment on the due date as prescribed in this chapter shall be subject to a civil penalty of \$\_\_\_\_ plus \_\_ percent (\_\_%) of the amount of tax payable. Such penalty shall not be exclusive of any criminal penalties that may apply.

B. In case any seller fails to collect the tax herein imposed or, having collected the tax, fails to pay it to the Tax Commission in the manner prescribed by this chapter, whether such failure is the result of his or her own acts or the result of acts or conditions beyond his or her control, he or she shall, nevertheless, be personally liable to the Chehalis Tribe, unless the seller has taken

from the buyer in good faith a properly executed resale certificate pursuant to CTC [8.10.020](#). The amount of tax, until paid by the buyer to the seller or to the Tax Commission, shall constitute a debt from the buyer to the seller and any seller who fails or refuses to collect the tax required with intent to violate the provisions of this chapter or to gain some advantage or benefit, either directly or indirectly, and any buyer who refuses to pay any tax due under this chapter, shall be subject to a civil penalty of \$\_\_\_\_ plus \_\_ percent (\_\_%) of the amount of tax payable. Such penalty shall not be exclusive of any criminal penalties that may apply.

C. Where a buyer has failed to pay to the seller the tax imposed by this chapter and the seller has not paid the amount of the tax to the Tax Commission, the Tax Commission may, in its discretion, proceed directly against the buyer for collection of the tax, in which case a penalty of ten percent (10%) may be added to the amount of the tax for failure of the buyer to pay the same to the seller, regardless of when the tax may be collected by the Tax Commission.

D. The tax required by this chapter to be collected by the seller shall be stated separately from the selling price in any sales invoice or other instrument of sale. On all retail sales through vending machines, the tax need not be stated separately from the selling price or collected separately from the buyer. For purposes of determining the tax due from the buyer to the seller and from the seller to the Tax Commission, it shall be conclusively presumed that the selling price quoted in any price list, sales document, contract or other agreement between the parties does not include the tax imposed by this chapter, but if the seller advertises the price as including the tax or that the seller is paying the tax, the advertised price

shall not be considered the selling price. [Res. \_\_\_\_].

#### **8.10.040 Rate of tax.**

The rate of the tax levied and imposed by CTC 8.10.030 shall be established by the Business Committee as a percentage of the selling price (in the case of a sales tax) or value of the article used (in the case of a use tax). [Res. \_\_\_\_].

#### **8.10.050 Exemptions and exclusions.**

A. Nothing in this chapter shall be construed as imposing a tax on the gross receipts of a subcontractor, provided that:

1. The general contractor with whom the subcontractor has contracted has reported and paid all taxes due under this chapter, or has assumed liability for payment of all taxes due under this chapter by signing and issuing a certificate of exemption to the subcontractor; and,

2. The subcontractor must obtain from the general contractor a certificate of exemption issued to the general contractor by the Tax Commission. This certificate must be signed by the general contractor, and must indicate that the general contractor has reported and paid all taxes due under this chapter, or has assumed liability for payment of all taxes due under this chapter.

3. The Tax Commission may by form or regulation provide for the proper issuance and filing of the certificate of exemption.

B. In calculating applicable gross receipts, a person may exclude those gross receipts on which any of the following Chehalis Tribal taxes have been paid:

1. Chehalis Tribal Cigarette Tax; or

2. Chehalis Tribal Motor Vehicle Fuel Tax.

C. The tax imposed by this chapter does not apply to gross receipts generated directly by the following:

1. Sales for resale;

2. Sales related to agricultural, farming, or livestock activities conducted within Indian country;

3. Sales, other than sales from an unrelated trade or business as defined in §§ 511 – 513 of the Internal Revenue Code, by any person operating exclusively for nonprofit or charitable purposes, and recognized as such pursuant to §§ 501(C)(3) and 501(C) (19) of the United States Internal Revenue Code at the time of sale;

4. Sales by facilities engaged in childcare, foster care or adoption placement, or battered families and homeless shelters;

5. Sales of stocks, private or government-issued bonds, mutual funds, or other investments, including income received as dividends or interest;

6. Sales by itinerant salespersons;

7. Occasional sales by persons who are not regularly engaged in the business of selling personal or real property or services;

8. Sales by educational institutions, including primary and secondary schools, colleges, vocational, and job training programs;

9. Sales by hospitals and health-care organizations or facilities, such as nursing care institutions, residential care and mental health facilities, senior citizen care facilities or retirement homes, kidney dialysis facilities and

blood banks, or other facilities which provide medical care and services;

10. Sales from coin-operated vending machines of any type;

11. Sales related to traditional Native American ceremonies or services;

12. Sales of prescription medicines, prosthetic devices, or other medical devices, including medical oxygen, monitoring devices, dentures, hearing aids, crutches, insulin syringes, blood sugar monitoring strips or devices, prescription eyeglasses and contact lenses, or any durable medical equipment primarily and customarily used for medical purposes and not useful in the absence of illness, injury, or other medical condition;

13. Sales related to funerals and human burials;

14. Sales paid for by coupons issued by the United States Department of Agriculture under the Food Stamp Act of 1977 (P.L. 95-113);

15. Sales paid for by vouchers issued under § 17 of the Child Nutrition Act (P.L. 95-627 and P.L. 99-669);

16. Sales of newspapers or other daily publications; or

17. Sales of mobile homes, motor homes, motor vehicles, tractors, and hauling trailers for private use, possession, or enjoyment, provided that such items are not resold or used in any business activity or service.

D. Nothing in this chapter shall be construed as imposing directly upon the United States a tax which is prohibited by federal law. [Res. \_\_\_\_].

#### **8.10.060 Collection.**

The Tax Commission shall have power to adopt rules and regulations prescribing methods and schedules for the collection of the tax required to be collected by the seller from the buyer under this chapter. The methods and schedules described shall be adopted so as to eliminate the collection of fractions of one cent and so as to provide that the aggregate collections of all taxes by the seller shall, insofar as practicable, equal the amount imposed by this chapter. Such schedules may provide that no tax need be collected from the buyer upon sales below a stated sum and may be amended from time to time to accomplish the purposes set forth herein. [Res. \_\_\_\_].

#### **8.10.070 Filing of return.**

A. Except as provided in subsection (C) of this section, each business must file a return of gross receipts and the tax due for the period by the thirtieth calendar day after the end of each calendar quarter.

B. The Tax Commission may by regulation require that other information and relevant documents which it deems necessary for the proper and efficient administration of the tax be included with a return, and that the return be signed by specified persons.

C. No return need be filed by a taxpayer for any period in which gross receipts not exempt from taxation pursuant to this chapter are less than \$1,000. This exception does not apply if a business had annual gross receipts of \$5,000 or more in any of the three years preceding the period.

D. If a business is an association, joint venture, or partnership, or a party thereof, the Tax Commission may require that each associate,



participant, or partner, whether general or limited, file a separate return in accordance with regulations.

E. The Tax Commission may by formal regulation require information of returns to be filed by any person that it deems necessary for the proper and efficient administration of the tax. [Res. \_\_\_\_].

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1 Implementation of this chapter shall be limited to Tribal government businesses. Full implementation of this chapter to all businesses shall require a subsequent resolution.

## Chapter 8.15 CIGARETTE TAX

### Sections:

- 8.15.010 Purpose.
- 8.15.020 Definitions.
- 8.15.030 Tribal retailers – License required.
- 8.15.040 Cigarette tax – Levy.
- 8.15.050 Chehalis cigarette tax stamp required.
- 8.15.060 Wholesaler requirements.
- 8.15.070 Cigarette tax – Payment.
- 8.15.080 Retail sales tax on cigarettes – Payment.
- 8.15.090 Cigarette tax exemption.
- 8.15.100 Records maintenance, intergovernmental agreement compliance and audit.
- 8.15.110 Sales to minors prohibited.
- 8.15.120 Cigarette tax revenues.
- 8.15.130 Civil penalties – License revocation.

### **8.15.010 Purpose.**

The Chehalis Tribe finds that the generation of tax revenue is essential to provide government services for the safety, health and welfare of the Tribe, its people, and all those who reside, work or visit in Chehalis Indian country. The Chehalis Tribe therefore enacts this chapter for the purpose of imposing a tax on the sale of cigarettes to provide revenue for essential governmental operations and services. [Res. \_\_\_\_].

### **8.15.020 Definitions.**

“Carton” or “carton of cigarettes” means, unless otherwise indicated, a carton of 200 cigarettes.

“Cigarette” means any roll for smoking made wholly or in part of tobacco, irrespective of size

or shape and irrespective of the tobacco being favored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any material, except where such wrapper is wholly or in the greater part made of natural leaf tobacco in its natural state.

"Compact" means the contract entered into by the Chehalis Tribe and the state of Washington dated [date] as thereafter amended.

“Local retail sales tax” means the combined Washington local retail sales taxes applicable in the area.

"Non-Indian" means an individual who is neither a Tribal member nor a nonmember Indian.

"Nonmember Indian" means an enrolled member of a federally recognized Indian Tribe other than the Chehalis Tribe.

"Retail selling price" means the ordinary, customary, or usual price paid by the consumer for each package of cigarettes, which price includes the Tribal cigarette tax.

"Self-certified tribal wholesaler" means a wholesaler who is a federally recognized Indian Tribe or a member of such a Tribe, who is not required to be licensed under any state law, and who has by letter certified to the Washington State Department of Revenue that it will abide by the terms of the Compact and who has signed a contract with the Tribe requiring it to abide by the terms of the Compact.

"Self-certified wholesaler" means an out-of-state wholesaler who is not a self-certified tribal wholesaler and who has by letter certified to the Washington State Department of Revenue that it will abide by the terms of the Compact and who

has signed a contract with the Tribe requiring it to abide by the terms of the Compact.

"Tobacco products" means cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco, snuff, snuff flour, cavendish, plug and twist tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking. "Tobacco product" does not include cigarettes.

"Tribal cigarette tax" means the tax or taxes enacted as a provision of Tribal law on the units of cigarettes sold and on the purchase of cigarettes by retail buyers.

"Tribal retailer" means a cigarette retailer wholly owned by the Chehalis Tribe and located in Indian country or a member-owned cigarette retailer located in Chehalis Indian country and licensed by the Tribe.

"Tribal tax stamp" means the stamp or stamps that indicate the Chehalis Tribal cigarette tax imposed under this chapter is paid.

"Wholesaler" means every person who purchases, sells, or distributes cigarettes for the purpose of resale only. [Res. \_\_\_\_].

#### **8.15.030 Tribal retailers – License required.**

All Tribal retailers engaged in a business involving the retail sales of cigarettes in Indian country shall be required to obtain a business license with a cigarette retail endorsement from the Chehalis Tribal Planning Department. The application and fee for such license shall be in accordance with applicable Tribal law. The Tribal retailer shall post such license in a

conspicuous place at all locations where cigarettes are sold. [Res. \_\_\_\_].

#### **8.15.040 Cigarette tax – Levy.**

A. The Chehalis Tribe hereby imposes a tax on all sales by Tribal retailers of cigarettes within Indian country. The tax shall initially be levied at a rate of \$0.15125 per cigarette (\$30.25 per carton). The cigarette tax shall be automatically adjusted to match any cigarette tax rate adjustments enacted by the State. Tribal cigarette tax rate adjustments shall take effect on the same date that the State cigarette tax rate adjustments take effect.

B. The Chehalis Tribe hereby imposes a retail sales tax on all sales by Tribal retailers of cigarettes within Indian country. The tax shall be levied at a rate equivalent to the combined State and local retail sales tax at the location multiplied by the retail sales price of the cigarettes. The retail sales tax on cigarettes shall be automatically adjusted to match any adjustments in the combined State and local retail sales tax. Tribal cigarette retail sales tax adjustments shall take effect on the same date that the combined State and local tax rate adjustments take effect.

C. The Tribal cigarette tax and retail sales tax on cigarettes imposed by this chapter shall become effective on the date the State formally retrocedes taxing authority with regard to the sales of cigarettes by Tribal retailers to nonmember purchasers. [Res. \_\_\_\_].

#### **8.15.050 Chehalis cigarette tax stamp required.**

A. All cigarettes sold by Tribal retailers shall bear a Tribal tax stamp.

B. A bank or other qualified tax stamp vendor selected by the Tribe shall distribute Chehalis

Tribal tax stamps to the wholesaler for affixing to cigarette packages. The stamp vendor shall remit to the Tribe all revenue collected from the distribution of Tribal tax stamps. The stamp vendor shall submit regular reports detailing the number of Tribal tax stamps sold and make its records available for audit. [Res. \_\_\_\_].

#### **8.15.060 Wholesaler requirements.**

A. Tribal retailers shall purchase cigarettes only from:

1. Cigarette wholesalers licensed by the State; and
2. Self-certified Tribal and out-of-state wholesalers.

B. Wholesalers shall be responsible for affixing the Tribal stamp to the smallest container of cigarettes that will be sold or distributed by the Tribal retailer. Stamps shall be affixed so that the stamps may not be removed from the package without destroying the stamp. Stamps shall be affixed so that it may be readily ascertained by inspection that the tax has been paid. [Res. \_\_\_\_].

#### **8.15.070 Cigarette tax – Payment.**

All applicable taxes shall be paid prior to the sale, distribution, or transfer of possession of the cigarettes. The cigarette tax shall be initially prepaid to the tax stamp vendor prior to distribution of the tax stamps for affixation to the cigarette packages. The tax stamp vendor shall remit the tax payment to the Tribe in accordance with CTC 8.15.050. Whenever cigarette taxes are paid by any person other than the consumer, user, or possessor, that payment shall be considered a pre-collection of such taxes due. When the tax is prepaid, this amount is part of the selling price of the cigarette to the retail purchaser. [Res. \_\_\_\_].

#### **8.15.080 Retail sales tax on cigarettes – Payment.**

The retail sales tax on cigarette sales shall be paid by the retail purchaser at the time of purchase. The Tribal retailer shall remit the retail sales tax to the Tribe on a quarterly basis. [Res. \_\_\_\_].

#### **8.15.090 Cigarette tax exemption.**

Individuals who are enrolled members of the Chehalis Tribe shall be exempt from the cigarette and retail sales tax for cigarettes purchased from Tribal retailers that are wholly owned by the Chehalis Tribe. Cigarettes purchased by Tribal members from Tribal retailers wholly owned by the Chehalis Tribe shall bear a Tribal tax stamp but the cigarette and retail sales tax rate shall not be charged to the tax-exempt purchaser.

The Tribal retailers wholly owned by the Chehalis Tribe may charge a separate price for cigarettes sold to Tribal members, and such price shall not include the Tribal cigarette or retail sales tax. In order to purchase cigarettes at the tax-exempt price, Tribal members must present a Tribal identification card or other sufficient proof of their enrollment in the Chehalis Tribe at the time of purchase.

All tax-exempt sales shall be limited to five cartons per person, per day. Resale of tax-exempt cigarettes purchased from Tribal retailers is prohibited.

Tribal retailers wholly owned by the Chehalis Tribe shall be required to maintain records of all tax-exempt sales. Tribal retailers shall submit to the Tribe on a quarterly basis records documenting tax exempt sales of cigarettes to Tribal members. Upon receipt of proper documentation of the amount of tax-exempt

sales of cigarettes by the Tribal retailer, the Tribe shall refund to the Tribal retailer the value of the tax stamps affixed to cigarettes sold to tax exempt Tribal members.

Tribal retailers that are not wholly owned by the Chehalis Tribe shall not be permitted to sell tax exempt cigarettes. [Res. \_\_\_\_].

**8.15.100 Records maintenance, intergovernmental agreement compliance and audit.**

All Tribal retailers shall maintain accurate written records of the purchase, stamping, and retail sales of taxable and tax-exempt cigarettes, and shall make such records available for inspection and audit. Records shall be maintained no less than four years.

Tribal retailers shall be required to comply with all applicable provisions of any intergovernmental agreement or memorandum of understanding on cigarette taxes between the Chehalis Tribe and the State of Washington entered into pursuant to RCW 43.06.455. Tribal retailers shall provide access to their records for audits in conformity with the provisions of such intergovernmental agreement(s). [Res. \_\_\_\_].

**8.15.110 Sales to minors prohibited.**

Sale of cigarettes to any person under 18 years of age is strictly prohibited. [Res. \_\_\_\_].

**8.15.120 Cigarette tax revenues.**

All revenues generated from the cigarette and retail sales taxes imposed by this chapter shall be used for essential governmental functions. Cigarette tax revenue shall not be used to subsidize Tribal retailers engaged in cigarette sales. Cigarette tax revenue shall be deposited in a separate Tribal government account, and shall not be commingled with other Tribal funds. [Res. \_\_\_\_].

**8.15.130 Civil penalties – License revocation.**

The Chehalis Tribe shall have authority to assess a civil fine of up to \$500 for each violation of this chapter, and shall also have the authority to suspend or revoke the license of any Tribal retailer that is found to have violated the requirements of this chapter. The procedural due process provisions of CTC chapter 8.01 shall apply to all fines, license suspensions or revocations issued for violations of this chapter. [Res. \_\_\_\_].

## **Chapter 8.20 HOTEL OCCUPANCY TAX**

### Sections:

- 8.20.010 Purpose.
- 8.20.020 Definitions.
- 8.20.030 Hotel occupancy tax – Levy.
- 8.20.040 Rate of tax.
- 8.20.050 Exemptions and exclusions.

### **8.20.010 Purpose.**

The Chehalis Tribe finds that regulation of the operation of motels, hotels, and other temporary lodging businesses in Indian country is essential to the health and welfare of the Tribe, its members, and the Chehalis tribal community.

The Tribe further finds that tax revenues are essential to the Tribe's ability to provide goods and services, and to finance government operations and economic development, for the safety, health, and welfare of the Tribe, its members, and those who work, live, visit and do business in Indian country. Therefore, in the public interest and for the welfare of the Tribe, its members, its employees, the residents of and visitors to Indian country, the Tribe declares its purpose by the provisions of this chapter to regulate the operation of motels, hotels, and other temporary lodging businesses in Indian country and to impose, collect, and administer taxes on room occupancy. [Res. \_\_\_\_]

### **8.20.020 Definitions.**

For the purposes of this chapter, "Hotel" means a building in which members of the public obtain sleeping accommodations for consideration. The term includes a hotel, motel, tourist home, tourist court, lodging house, inn, or rooming house, but does not include a hospital, sanitarium, residential treatment facility, or nursing home, or any RV park or camping facility where the

customer provides their own RV, tent, or other camping accommodations. [Res. \_\_\_\_]

### **8.20.030 Hotel occupancy tax – Levy.**

There is hereby levied and imposed a tax upon the privilege of renting, whether through a lease, concession, permit, right of access, license, contract or other agreement, guest rooms in motel, hotel and other temporary lodging facilities within Indian country. For the purposes of this chapter, the price of a room in a hotel does not include the cost of food and beverages served by the hotel and the cost of personal services performed by the hotel for the person except for those services related to cleaning and readying the room for use or possession. [Res. \_\_\_\_].

### **8.20.040 Rate of tax.**

The tax rate imposed under this chapter shall be three percent (3%) of the room rental charge. [Res. \_\_\_\_].

### **8.20.050 Exemptions and exclusions.**

The tax imposed by this chapter does not apply to hotel rentals to a person who has the right to use or possess the room for at least 30 consecutive days. [Res. \_\_\_\_].

## Chapter 8.25 RESTAURANT PRIVILEGE TAX

### Sections:

- 8.25.010 Purpose.
- 8.25.020 Definitions.
- 8.25.030 Restaurant privilege tax – Levy.
- 8.25.040 Rate of tax.
- 8.25.050 Exemptions and exclusions.
- 8.25.060 Liability for payment.
- 8.25.070 Collection of tax.
- 8.25.080 Filing of applications.
- 8.25.090 Filing of return.
- 8.25.100 Effective date.

### **8.25.010 Purpose.**

The purpose of the restaurant privilege tax is to provide the Chehalis Tribe the revenues necessary to fund essential governmental services, including without limitation health inspection, public utility and road improvement programs and police and fire protection which will benefit all persons, governmental, and business entities within Indian country. [Res.\_\_\_\_\_].

### **8.25.020 Definitions.**

For purposes of this chapter, whenever any of the following words, terms or definitions are used herein, they shall have the meanings ascribed to them in this section.

“Complimentary” means free of any charge or compensation of any kind or nature.

“Prepared food item for immediate consumption” means and includes any and all food, whether solid, semisolid or liquid, used or intended to be used for human consumption and for nourishment of the human body. The term defined herein includes any and all alcoholic and nonalcoholic beverages. The term shall include and be limited to:

A. Food items purchased at establishments where facilities are provided for on-premises consumption, including but not limited to restaurants, bars, cafes, cafeterias and other similar establishments, whether or not consumed on-premises or off-premises;

B. Food items purchased from delicatessens, concession stands, snack shops and other similar establishments which sell food items primarily in individual-sized servings, such as ice cream cones, candy bars and individually served sandwiches, for immediate on-premises or off-premises consumption; and

C. Food items that are purchased for immediate on-premises and off-premises consumption from catering establishments and restaurants with delivery services.

“Restaurant” means and includes any public place kept, used, maintained, advertised and held out to the public as a place at which prepared food items for immediate consumption are served and/or prepared, whether or not consumed or intended to be consumed on the premises, but shall not include coin-operated automatic food dispensing machines.

“Retailer” means any person or persons, including entities owned or operated by the Chehalis Tribe, conducting a business within Indian country that sells prepared food items for immediate consumption so as to entitle such person or persons to all or a portion of the net receipts from the sale thereof, and includes a restaurant as defined in this section. [Res. \_\_\_\_\_].

### **8.25.030 Restaurant privilege tax – Levy.**

There is hereby levied and imposed a tax upon the privilege of selling, within Indian country,

prepared food items for immediate consumption. [Res. \_\_\_\_].

#### **8.25.040 Rate of tax.**

The tax rate imposed under this chapter shall be established by the Business Committee and shall be no less than two percent (2%) nor more than ten percent (10%) of the purchase price of any prepared food item for immediate consumption. Until the tax rate is changed by resolution of the Business Committee, the tax rate imposed under this chapter shall be levied, imposed and collected at the rate of eight and one-half percent (8.5%) of the purchase price of the prepared food items for immediate consumption. [Res. \_\_\_\_].

#### **8.25.050 Exemptions and exclusions.**

Prepared food items for immediate consumption provided on a complimentary basis or purchased at establishments primarily engaged in an activity or business other than the sale of prepared food items within Indian country are exempt from the provisions of this chapter. By way of illustration, these exempted establishments include: churches and schools; institutional living establishments such as dormitories, senior citizen centers, residential care facilities and hospitals; and organizations that may occasionally, from time to time but not on a regular basis, provide prepared food items for immediate consumption without holding themselves out as retailers of such items. [Res. \_\_\_\_].

#### **8.25.060 Liability for payment.**

- A. The legal incidence of and liability for payment of said tax shall be on the retailer.
- B. Each retailer within Indian country shall have the duty to collect and account for the tax imposed herein, and shall remit all due and

owing taxes from the sale of prepared food items for immediate consumption to consumers, whether such payment is by cash or credit, to the Tribe at the time such payment is due. [Res. \_\_\_\_].

#### **8.25.070 Collection of tax.**

Each retailer is required to remit the tax imposed by this chapter for the sale of prepared food items for immediate consumption, whether such payment is by cash or credit. The invoice, receipt or other statement of payment given to the consumer at the time of payment shall show the amount due under the tax provided herein which shall be stated separately on said invoice, receipt or statement. The retailer shall be liable for the payment of the tax to the Chehalis Tribe, whether or not an additional fee is actually collected from the consumer. [Res. \_\_\_\_].

#### **8.25.080 Filing of applications.**

All retailers conducting business within Indian country shall complete and file with the Chehalis Tribal Tax Commission an application for tax registration on a form prescribed by the Tax Commission within 30 days of conducting business. Retailers conducting business within the Reservation on the effective date of this chapter shall complete and file the applications referenced in this section within 60 days of the effective date of this chapter. [Res. \_\_\_\_].

#### **8.25.090 Filing of return.**

All retailers shall pay to the Chehalis Tribe, through the Tax Commission, all taxes due under this chapter. Each retailer that sells prepared food items for immediate consumption within Indian country shall file monthly tax returns showing tax receipts received during each monthly period on forms prescribed by the Tax Commission. The tax return shall be filed before the last day of the calendar month next



succeeding the month for which the tax return is made and shall be accompanied by payment of all taxes due and owing for the month covered by said tax return. [Res. \_\_\_\_].

**8.25.100 Effective date.**

This chapter shall take effect upon the adoption of its provisions by the Business Committee.

The tax imposed under this chapter shall apply to all assessment dates and periods beginning on or after the effective date. [Res. \_\_\_\_].

## Chapter 8.30 POSSESSORY INTEREST TAX

### Sections:

- 8.30.010 Purpose.
- 8.30.020 Definitions.
- 8.30.030 Possessory interest tax – Levy.
- 8.30.040 Rate of tax.
- 8.30.050 Exemptions and exclusions.
- 8.30.060 Valuation.
- 8.30.070 Assessment.
- 8.30.080 New construction.
- 8.30.090 Payment of tax.
- 8.30.100 Tax liens.

### **8.30.010 Purpose.**

The Chehalis Tribe has been able to obtain numerous grants, low interest loans, and other resources that have, in part, financed the provision of public services and benefits to the Reservation community. The full cost of these needed and beneficial programs and services is not covered by such resources, however, and it is necessary for the Tribe to raise supplemental revenues locally to continue to provide these essential public services. The Business Committee finds that the entire Chehalis tribal community, both Indian and non-Indian, whether residing, employed, visiting, doing business in Indian country, or occupying or using buildings constructed on, or improvements affixed to, Indian lands, benefits from these Tribal governmental services and programs and because the Tribal services and programs supplement or replace other governmental programs and relieve other units of government from the full burden of these programs. It is appropriate, therefore, that a portion of the costs of these services be borne by persons occupying or using buildings constructed on, or improvements affixed to, Indian lands or within the jurisdiction of the Chehalis Tribe who

thereby benefit from governmental services provided by the Tribe. [Res. \_\_\_\_].

### **8.30.020 Definitions.**

Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be set forth in this section:

“Building” or “buildings” means any structure attached to, located on, or placed on Indian trust or restricted land.

“Class one possessory interest” means any lease used to extract, sever, transport or process natural resources.

“Class two possessory interest” means any lease used for the generation of electricity, or used for the transportation of electricity upon lines greater than 14.5 kV.

“Class three possessory interest” means any lease used for commercial, industrial, manufacturing, assembling or fabricating purposes.

“Class four possessory interest” means any lease used for residential purposes.

“Class five possessory interest” means any lease used for other purposes.

“Improvements” means any valuable change in or addition to real property, commonly referring to any building or infrastructure on or physical alteration of real property.

“Personal property” means, and shall be construed to embrace and include without especially defining and enumerating it, all buildings and improvements of whatever kind, name, nature and description.

Subject to additional definitions (if any) contained in this chapter, and unless the context otherwise requires, in this chapter:

"Assessment date" means each January 1st.

"Lease" means any agreement conferring rights to use or possess tribal lands or to sever products therefrom, including, but not limited to, a lease, right-of-way, use permit, or a joint venture or operating agreement.

"Owner" means any person who owns an interest in a lease, or part thereof, as grantee, lessee, permittee, assignee, sublessee, or transferee, whether of the whole interest or less than the whole. In the case of parties to a joint venture or operating agreement, owners and their interests shall be determined under regulations.

"Possessory interest" means the property rights under a lease approved, consented to, or granted by the Chehalis Tribe or its enterprises, including the rights to the leased premises and underlying natural resources. [Res. \_\_\_\_].

### **8.30.030 Possessory interest tax – Levy.**

Pursuant to Section 162.017 of the United States Federal Regulations governing the leasing of Indian trust or restricted land, and other applicable law, the Chehalis Tribe is empowered to levy a tax on the privilege of occupying or using buildings and improvements constructed on, affixed to, or utilized on, Indian trust or restricted land lying within the jurisdiction of the Chehalis Tribe. A possessory interest tax, as defined by this chapter, is hereby imposed upon the privilege of occupying or using buildings or improvements by persons or entities holding an interest by lease, easement, or license on Indian trust or restricted land within

Indian country, at a rate provided in CTC 8.30.040. [Res. \_\_\_\_].

### **8.30.040 Rate of tax.**

A. The rate of the possessory interest tax imposed by CTC 8.30.030 shall be established by regulation adopted by the Business Committee. The tax rate shall not be less than one percent (1%) or more than ten percent (10%) of the taxable value of the possessory interest. Until established by regulation, the initial rate is three percent (3%). A change in the rate must be announced by July 1<sup>st</sup> following the assessment date for which it is effective.

B. The tax assessed under this chapter is computed by multiplying the taxable value of a possessory interest on the assessment date by the tax rate.

C. All possessory interests shall be uniformly classified into only one of the five possessory interest classifications defined in section CTC 8.30.020. [Res. \_\_\_\_].

### **8.30.050 Exemptions and exclusions.**

A. Possessory interests in buildings or improvements by the following are exempt from the tax imposed by this chapter:

1. Enrolled members of the Chehalis Tribe;
2. The State of Washington or any of its agencies;
3. The United States or its instrumentalities.

B. No possessory interest with a taxable value of less than \$10,000 shall be subject to this tax; provided, however, that all possessory interests of a person and of related persons shall be combined to determine the eligibility of said

possessory interests for this exemption. [Res. \_\_\_\_].

#### **8.30.060 Valuation.**

A. The value of a possessory interest shall be determined as provided in this section, or by any method adopted by the Chehalis Tribal Tax Commission which accurately reflects fair market value; provided, that the value of a possessory interest shall exclude the value of tenant improvements.

B. Fair market value method: The value of a possessory interest may be determined on the basis of the selling prices of comparable leases (whether within or without Indian country) which are sold by willing sellers to willing buyers, neither of whom are under a compulsion to act.

C. Present value of income method: The value of a possessory interest may be determined by computing the capitalized value of the gross income to be received from the lease less the reasonable expenses to be incurred in producing the income. The allowable expenses shall be set forth in regulations. Such capitalization shall be done for the remaining life of the lease. If the lease term is indefinite, for the purpose of this method the life of the lease shall be presumed to be twenty-five (25) years.

D. The Tax Commission may engage private appraisal firms for the valuation of possessory interests and determination of valuation factors.

E. The taxable value of possessory interests shall be as follows:

1. Class one: 100% of its value;
2. Class two: 100% of its value;
3. Class three: 10% of its value;

4. Class four: 10% of its value;

5. Class five: 10% of its value. [Res. \_\_\_\_].

#### **8.30.070 Assessment.**

A. Possessory interests shall be assessed annually as of the assessment date.

B. Taxes assessed shall be a lien against the lease and any leasehold improvements in favor of the Chehalis Tribe. Such lien shall arise as of the assessment date, without notice or demand, and shall be prior and superior to all other liens and encumbrances upon the property.

C. Owners of possessory interests shall be liable for the taxes assessed. [Res. \_\_\_\_]

#### **8.30.080 New construction.**

All buildings or improvements with an occupancy permit issued or construction completed on or before July 1st shall be assessed and owe the complete tax for the year in which the occupancy permit was issued or construction was completed. Buildings or improvements receiving an occupancy permit or completed after July 1st shall be assessed taxes under this chapter beginning in the following year. The Chehalis Planning Department shall provide notice to the Tax Commission of any new construction and occupancy permits issued. [Res. \_\_\_\_].

#### **8.30.090 Payment of tax.**

The tax imposed by this chapter shall be paid in two installments, one-half being due by November 1st of each year and the other one-half being due by May 1st of the following year. Provided, that no payment of tax shall be due less than three (3) months after the time an assessment is made and notice thereof given

and that the Tax Commission shall extend the time for payment accordingly. [Res. \_\_\_\_].

**8.30.100 Tax liens.**

All taxes imposed or assessed pursuant to this chapter are declared to be a lien respectively upon the personal property upon which they may hereafter be imposed or assessed. The lien shall include all charges and expenses of and concerning the taxes which, by the provisions of these regulations, are directed to be made. [Res. \_\_\_\_].