

TOBACCO PRODUCTS TAX

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800. **SHORT TITLE.**

This Chapter shall be called the "Tobacco Products Tax."

801. **ADMINISTRATION.**

The provisions of Chapter 1, the Uniform Tax Administration Statute, shall apply to this chapter.

802. **DEFINITIONS.**

Subject to additional definitions (if any) contained in the subsequent sections of this Chapter, and unless the context otherwise requires, in this Chapter:

1. "Tobacco" means commercially cultivated tobacco, the leaves of which are processed chiefly for use in cigarettes, cigars, snuff, plug or chewing tobacco, or for smoking in pipes.
2. "Tobacco product" means any commercially processed and/or manufactured product for human consumption which contains tobacco, including cigarettes.
3. "Distributor" means any person within the Navajo Nation who manufactures, produces, ships, transports, or imports tobacco products into the Navajo Nation or in any manner acquires or possesses tobacco products for the purpose of making the first sale.
4. "First sale" means the first sale or distribution within the Navajo Nation or the first use or consumption of tobacco products within the Navajo Nation.
5. "Retailer" means any person engaged in the sale or resale of tobacco products within the Navajo Nation.
6. "Sale" means a transfer of possession or ownership between buyer and seller for a consideration.
7. "Consumer" means any person who comes into possession or ownership of a tobacco product by purchasing or otherwise acquiring it for the purpose of using, consuming, or giving away such product.
8. "Period" means one calendar month.

803. **TAX IMPOSED - RATES.**

There is hereby levied and imposed by this Chapter for each period a tax upon the first sale by any retailer or distributor of tobacco products. The tax rates shall be established in regulations. Until other rates are established, the following rates shall apply:

1. On each cigarette, five cents (5¢);
2. On smoking tobacco, snuff, chewing tobacco, cut and granulated tobacco, shorts and refuse of fine cut tobacco, refuse, scraps, clippings, cuttings and sweepings of tobacco, excluding tobacco powder or tobacco products used exclusively for agricultural or horticultural purposes and unfit for human consumption, eleven and three tenths cents (11.3¢) per ounce or major fraction thereof;
3. On all cavendish, plug or twist tobacco, two and eight-tenths cents (2.8¢) per ounce or fractional part thereof;
4. On each twenty small cigars or fractional part thereof weighing not more than three pounds per thousand, twenty-two and three-tenths cents (22.3¢);
5. On cigars of all descriptions except those included in paragraph 4 of this Subsection, made of tobacco or any substitute therefore, if manufactured to retail at not more than five cents (5¢) each, eleven cents (11¢) on each cigar.

804. **LEGAL INCIDENCE.**

The tax imposed by this Chapter is presumed to be a direct tax on retailers and distributors of commercially processed and/or manufactured tobacco products.

805. **LIABILITY FOR REMITTANCE AND PAYMENT OF TAX.**

Distributors and retailers are responsible for the collection and remittance of the tax imposed under this Chapter. Distributors and retailers are liable for taxes regardless of whether the taxes are collected from the consumer.

806. **LICENSING.**

All distributors and retailers licensed by Arizona, Utah, or New Mexico shall provide the Office of the Navajo Tax Commission with a copy of their state license.

807. **RESERVED.**

808. **USE OF FUNDS.**

Tax, interest, and penalties collected by the Office of the Navajo Tax Commission pursuant to this Chapter shall be deposited in the General Fund of the Navajo Nation.

809. **EFFECTIVE DATE.**

The tax imposed by this Chapter shall be effective as of the date of adoption by the Navajo Nation Council and in accordance with 2 N.N.C. §1005.

810. **SEVERABILITY.**

If any provision of this Chapter, as amended, or its application to any person or circumstance, is held invalid by a final judgment of a court of competent jurisdiction, the invalidity shall not affect other provisions or applications of this Chapter which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are severable.