

# HDNA of 2014 - JUNK FOOD TAX

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1001. **SHORT TITLE**

The tax imposed by this Chapter shall be called the "Healthy Dine' Nation Act of 2014."

1002. **PURPOSE**

The Navajo Nation Council hereby enacts this tax for the privilege of engaging in retail business activity within the Navajo Nation, and for purposes of defraying necessary governmental expenses at the national and local level incurred in providing for the public welfare.

1003. **TAX IMPOSED**

A tax is hereby imposed on the gross receipts of a person. The tax due for a period is determined by first calculating applicable gross receipts from all minimal-to-no nutritional value food items for a period, and then multiplying those gross receipts from all minimal-to-no nutritional value food items by the applicable tax rate. This tax shall be reviewed at the end of the calendar year 2020 for extension by the Navajo Nation Council.

1004. **LEGAL INCIDENCE AND RESPONSIBILITY FOR PAYMENT**

The person liable for the payment of the tax imposed by this Chapter is the person receiving the gross receipts from the sale of minimal-to-no nutritional value food item(s).

1005. **RATE OF TAX**

The rate shall be two percent (2%) of all minimal-to-no nutritional value food items(s) sold (.02 x all minimal-to-no nutritional value food items(s) sold).

1006. **ADMINISTRATION**

All provisions of the Uniform Tax Administration Statute apply to this Chapter.

1007. **DEFINITIONS**

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

A. "Community Wellness Projects" means Navajo Nation Chapter community-based, community-owned wellness projects to address improvements to the physical and social environment of the community because of the need to prevent and/or reduce the incidence of obesity and Type 2 Diabetes Mellitus. Projects may include: farming and vegetable gardens; greenhouses; farmers' markets; healthy convenience stores; clean water; clean communities; wellness/exercise equipment and supplies; skate parks; health classes; parks; traditional, intergenerational, and contemporary wellness; traditional and non-traditional healthy food preparation classes; food processing and storage facilities; health food initiatives; community food cooperatives; playgrounds; basketball courts; walking, running, biking trails; picnic grounds, swimming pools; emergency preparedness; agriculture, recreational, health, youth clubs; library; Navajo traditional craft classes, equine therapy, health coaching; and any other community-based wellness projects to address improvements to physical and social environment of the community that are planned, implemented, directed, and reported by members of the Navajo Nation communities.

B. "Minimal-to-no nutritional value food" means sweetened beverages and prepackaged and non-prepackaged snacks stripped of essential nutrients and high in salt, saturated fat, and sugar including sweetened beverages, sweets, chips and crisps.

i. "Sweetened beverage" means a beverage, whether carbonated or noncarbonated in any form sold for human consumption, that contains five grams or more of added sugar or other sweetener including artificial

sweetener per twelve ounces. It shall include: soda, flavored water, sports drinks, energy drinks, colas and flavored drinks: diluted fruit or vegetable drinks containing seventy percent or less of natural fruit juice or natural vegetable juice; frozen, freeze-dried or other concentrates to which water is added to produce a beverage containing less than seventy percent natural fruit juice or natural vegetable juice; a powder or base product; and bottled coffee or tea as a liquid for sale.

- ii. "Sweets" means any preparation that has a high content of sugar, sometimes in combination with flour, milk, butter, shortening, eggs, dried fruits, nuts, tec., such as candy, frozen desserts, pastries, pudding and gelatin based desserts or baked and fried goods.
- iii. "Snack chips and Crisps" (sodium and saturated fat) means crispy type snack foods that are often fried, baked, or toasted, such as potato chips, tortilla chips, pita chips, or cheese puffs that are high in sodium and fat.
- iv. "Sugar" includes sugar confections but not limited to sucrose, dextrose fructose, corn syrup, high-fructose corn syrup, dextrin, galactose, glucose, honey, lactose, fructose, other processed caloric sweeteners, and those derived from fruit juice.
- v. "Corn syrup" means syrup made from cornstarch, consisting of dextrose, maltose and dextrans.
- vi. "Sweetener" includes artificial sweetener, which includes aspartame, saccharin, sucralose, stevia, cyclamate, xylitol, mogrosides, and many others.
- vii. "Natural fruit juice or fruit juice" means the original liquid resulting from the pressing of fruit, the liquid resulting from the reconstitution of fruit juice concentrate or the liquid resulting from the restoration of fruit concentrate or the liquid resulting from the restoration of water to dehydrated fruit juice.
- viii. "Natural vegetable juice or vegetable juice" means the original liquid resulting from the pressing of one or more vegetables. Liquid resulting from the reconstitution of vegetable juice concentrate or the liquid resulting from the restoration of water to dehydrated vegetable juice.
- ix. "Powder or base product" means a solid mixture of basic ingredients, including sugar, used in making, mixing or compounding soft drinks by mixing the powder of other base product with water, ice syrup, simple syrup, fruits, vegetables, fruit juice or any other product suitable to make a sweetened beverage.
- x. "Candy" means snacks prepared of sugar, honey, salt, saturated fat, other natural or artificial sweeteners in combination with chocolate; dried fruits; fudge; marshmallows; nuts; mints; peanut brittle; white flour; other ingredients or flavorings in many forms such as soft, hard, bars, drops, liquid spray, floss, carbonated, crystallized, tape, paper, thread, chewy, jelly, gum, powder or pieces.
- xi. "Frozen desserts" means any sweet item made by freezing liquid or semisolids, based on naturally and/or artificially flavored water, fruit purees, dairy or dairy substitutes, custards; combined with fruits, nuts, candy, sweets, or other ingredients.
- xii. "Pastries" consist of any mixed, baked or fried products made primarily but not exclusively from any form of flour, sugar, artificial sweeteners, dairy, shortening, oil, butter, baking powder, nuts, fruits, eggs, jelly, and other filling ingredients.

- xiii. "Pudding and gelatin based desserts" means any soft, colorful or colorless, sweet preparation based, which could include dairy, eggs, sugar, or other sweeteners, collagen, cornstarch, or any other flavorings.
- xiv. "Baked Goods" means baked or fried dough/batter products such as cakes, cookies, and pastries that are high in fat and or sugar; 35 percent of calories from sugar and/or fat per serving.

1008. **NAVAJO NATION GOVERNMENT**

- A. Sales by corporations owned by the Navajo Nation government or any political subdivision thereof shall be fully subject to the tax imposed by this Chapter.
- B. Sales by the government of the Navajo Nation, or political subdivisions or enterprises thereof, shall be subject to the tax imposed by this Chapter.

1009. **RESERVED**

1010. **RESERVED**

1011. **RESERVED**

1012. **FILING OF RETURN**

- A. Each person must file a return indicating all sales from applicable gross receipts and the tax due under this Chapter for each period by the fifteenth day of the second month after the end of each calendar quarter. Returns are due on February 15, May 15, August 15, and November 15 of each calendar year.
- B. The Commission may by form or regulation require that other information, records or relevant documents which it deems necessary for the proper and efficient administration of this Chapter be included with the return, and that the return be signed by a specified person.
- C. No return need be filed by any person who is exempt under § 609, provided that the Office of the Navajo Tax Commission may require such person to file the information necessary to establish its exempt status.
- D. In the case of the exemption provided for in § 609(A), the filing by a person of a proper certificate of exemption with the Office of the Navajo Tax Commission shall constitute a claim for exemption.

1013. **PAYMENT OF TAX**

Payment in full of the taxes owed for a particular period is due on the same date that the completed return for that same period is due. The Office of the Navajo Tax Commission, however, may require payment of any taxes due on a monthly basis.

1014. **RECORDKEEPING**

- A. Each person shall keep all records which pertain to or relate in any manner to all sales from any business activity engaged in at any time by such person. Such records shall be maintained separately for each reporting period during which a person is engaged in business activity.
- B. Records required to be kept must be preserved for four years beyond the end of the period to which the records relate.

1015. **RESERVED**

1016. **RESERVED**

1017. **RESERVED**

1018. **RESERVED**

1019. **RESERVED**

1020. **ALLOCATION OF REVENUE**

After allocation to permanent or special revenue funds as required by Navajo Nation law, and allocation to the Tax Administration Suspense Fund as required by the fiscal policy adopted by the Navajo Tax Commission for such Fund, the net revenue from this Chapter shall be disbursed as follows:

- A. One hundred percent (100%) of the Healthy Dine' Nation Act of 2014 revenue collected from retail establishments located in the Navajo Nation shall be deposited into the Community Wellness Development Projects Fund to be appropriated pursuant to a fund management plan approved by the Budget and Finance Committee and administered by the Division of Community Development; and
- B. The Division shall disburse the funds to the chapters as seed money for leverage to initiate, match, and/or improve community wellness projects.

1021. **NO CONFLICT WITH LOCAL GOVERNANCE ACT**

The provisions of this Chapter and corresponding regulations shall not be construed inconsistently with the Local Governance Act, 26 N.N.C. §§1 – 2008.

1022. **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 the Chapter which can be given effect without the invalid provision or application, and to this end, the provisions of this Chapter are severable.

1023. **RESERVED**

1024. **REPEALS**

All laws or parts of laws (or attachments thereto) which are inconsistent with the provisions of this Chapter are hereby repealed, including, without limitation, any law purporting to waive any right of taxation by the Navajo Nation.