

# THE NAVAJO NATION

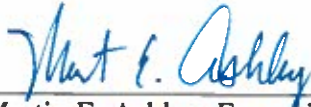
JONATHAN NEZ | PRESIDENT

MYRON LIZER | VICE PRESIDENT



**TO:** Navajo Nation Retail Sales Taxpayers

**FROM:**

  
Martin E. Ashley, Executive Director  
Office of the Navajo Tax Commission

**DATE:** March 16, 2021

**RE:** Healthy Diné Nation Act of 2014 as amended through CD-96-20

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This memorandum is to inform all retail businesses located on the Navajo Nation that the Navajo Nation Council amended the Healthy Diné Nation Act of 2014 (“HDNA”) through resolution CD-96-20. The amendments to the HDNA are effective as of January 1, 2021, and the ONTC began administering amendments to the HDNA on January 1, 2021. The resolution amends HDNA, as follows:

1. Extends the HDNA beyond December 2020.
2. Removes “Minimal-to-no nutritional value food” and replaces with “Unhealthy Food and Beverages,” which includes:
  - a. Candy;
  - b. Chips;
  - c. Sweetened Baked Goods;
  - d. Frozen Desserts;
  - e. Sweetened Beverages; and
  - f. Such other foods and beverages as the Navajo Tax Commission may designate as unhealthy from time to time in the Tax Regulations.
3. Authorizes the Office of Navajo Tax Commission to charge a tax of two percent (2%) on “Unhealthy Food and Beverages.”

Amendments to the HDNA will be posted on the ONTC website at [www.tax.navajo-nsn.gov](http://www.tax.navajo-nsn.gov) and are attached hereto. If you have questions, please call the Office of the Navajo Tax Commission at (928) 871-6681 and ask to speak to a Tax Compliance Officer. You may also email your questions to [nnontc@navajo-nsn.gov](mailto:nnontc@navajo-nsn.gov).

Attachment: CD-96-20 pages 4 - 8

CC: Taxpayer file  
Chrono

**§1003 1103. 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~~ "Unhealthy Foods and Beverages" sold for a period (the "Unhealthy Gross Receipts"), and then multiplying the Unhealthy Gross Receipts ~~these gross receipts from all minimal to no nutritional value food items sold 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 1104. 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~~ Consideration from the sale of ~~minimal to no nutritional value food items~~ Unhealthy Foods and Beverages.

**§1005 1105. Rate of Tax**

The tax rate shall be two percent (2%) of a Person's Unhealthy Gross Receipts ~~all minimal to no nutritional value food item(s) sold~~ (.02 x Unhealthy Gross Receipts ~~all minimal to no nutritional value food item(s) sold~~).

**§1006 1106. Administration**

All provisions of the Uniform Tax Administration Statute apply to this Chapter. The Office of the Navajo Tax Commission is charged with the administration of this tax. The Office of Navajo Tax Commission shall retain five percent (5%) of all tax revenue collected under this Chapter as a fee to offset the costs of administration.

**§1007 1107. 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. "Candy" means a preparation of sugar, honey, molasses, fructose, syrup, or other natural or artificial sweeteners and flavorings, including in combination with chocolate, fruits, nuts, popcorn, or other ingredients or flavorings in the form of bars, drops, or pieces. "Candy" includes but is not limited to the following sweetened confectionery

snack items: rock candy, powdered candy (e.g. pixie sticks), gel candies, chewing gum (excluding nicotine gum); chocolates; candy bars; bonbons; gum drops; jellies and gummies; jelly beans; imperials; caramels; lollipops; stick candy; hard candy and lozenges (excluding cough drops and nicotine lozenges); taffies; candy wafers; fudges; Italian creams; nougats; nut brittle; chocolate or sugar covered fruits and nuts; glazed or candied fruits and nuts; fruit roll-ups; sweetened popcorn; marshmallows; licorice; cereals and cereal products mixed with or covered with molasses, sugar or other sweetening agent; and all similar sweets however designated. "Candy" shall not include any preparation requiring refrigeration.

B. "Chips" means any type of prepackaged snack food high in sodium and saturated fat, that is fried, baked, toasted, or dried. "Chips" are typically crispy, savory, and salty, and include but are not limited to: potato chips; tortilla chips; corn chips; vegetable or root chips; pita chips; cheese puffs or curls; pretzels; and all similar crispy snack foods however designated.

AC. "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; agricultural, 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.

D. "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.

- E. "Energy Drinks" means both carbonated and non-carbonated pre-packaged beverages containing stimulant drugs, including but not limited to stimulants such as caffeine, which are marketed to provide an extra boost in energy, promote wakefulness, maintain alertness, and provide cognitive and mood enhancement; and all similar articles however designated.
- F. ~~B. xi.~~ "Frozen dDesserts" means any sweet food or beverage item made by freezing liquid or semisolids, based on naturally and/or artificially flavored water, fruit purees, dairy or dairy substitutes, or custards, which may be combined with fruits, nuts, candy, sweets, or other ingredients. "Frozen Desserts" shall include, but not be limited to prepackaged and non-prepackaged: ice cream (and novelties containing ice cream such as ice cream sandwiches, popsicles, cones, cakes, and milkshakes); frozen custard; frozen yogurt; gelato; sherbet; sorbet; slushies; Italian ices; snow-cones; shakes; pudding popsicles; fruit popsicles containing less than 100% Natural Fruit Juice; and all similar articles however designated. "Frozen Desserts" shall not include all natural fruit and/or vegetable smoothies provided they are comprised solely of fruits and/or vegetables, and may contain healthy additives such as: yogurt, milk; vitamins and minerals; or protein powder.
- G. "Unhealthy 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 of Unhealthy Food and Beverages, whether for profit or not, conducted wholly or partially within the Navajo Nation.
- H. "Navajo Nation" means all areas within the territorial jurisdiction of the Navajo Nation government as defined by 7 N.N.C. § 254.
- I. "Non-Prepackaged" means goods produced at the retail location or eating establishment.
- J. "Prepackaged" means commercially produced and packaged/wrapped/sealed food goods ready for retail sale and consumption.

- K. "Sweetened Baked Goods" means baked or fried food products that are high in saturated fat and/or sugar, may contain flour, eggs, dairy, shortening, oil, butter, baking powder, sugar or other sweeteners, natural or artificial flavorings, and which are prepackaged and non-prepackaged. These include but are not limited to: baked or fried dough; sweet breads; sweet rolls and buns; biscuits; bagels; croissants; cakes; pies; muffins; cookies; brownies; donuts; tarts; flans; tortes; bars; scones; danish; pastries; and all similar sweetened baked foods however designated; and mixes for the above items. This shall not include the following items if unsweetened: breads; rolls; buns; English muffins; bagels; biscuits; croissants; tortillas; and all similar unsweetened baked breads however designated.
- L B. ~~i.~~ "Sweetened ~~B~~everages" means a ~~beverage~~ nonalcoholic drinks that are sweetened with sugar or other natural and artificial sweeteners, including calorie free/diet sweeteners, whether carbonated or noncarbonated, in any form, sold for human consumption. It shall include beverages in bottles or cans or served from a fountain dispenser or other source, such as: soda; sweetened flavored water; sports drinks; ~~e~~Energy ~~d~~Drinks; ~~f~~ountain drinks; ~~iced~~ pre-sweetened coffee; ~~iced~~ and tea; ~~flavored drinks~~; sweetened flavored milk drinks (such as chocolate milk); milkshakes, slushies, and other beverages made of Frozen Desserts; juice drinks containing ~~sugar with less than 100 percent (100%)~~ ~~n~~Natural ~~f~~Fruit ~~j~~Juice, ~~n~~atural and/or ~~v~~Vegetable ~~j~~Juice, ~~f~~ruit juice, or vegetable juice; a ~~p~~Powder, or ~~b~~Base ~~p~~Product as a liquid for sale. It shall not include: alcohol; baby formula; plain milk without sweeteners or flavoring; yogurt based drinks; soy milk; rice milk; almond milk; flavored and unflavored water without sweetener; protein drinks and powders, and other formulated food intended as a meal replacement;
- M B. "Minimal to no nutritional value food ~~Unhealthy Foods and Beverages~~" means Candy, Chips, Sweetened Baked Goods, Frozen Desserts, and ~~S~~sweetened ~~B~~everages, and such other foods and beverages as the Navajo Tax Commission may designate as unhealthy from time to time in the Tax Regulations 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.~~

- ~~ii. "Sweets" means any preparation that has a high content of sugar, sometimes in combination with flour, milk, butter, shortening, eggs, dried fruits, nuts, etc., 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.~~
- N B. vi. "Sweetener" includes natural sweeteners such as sugar, syrups, honey, and agave, as well as artificial sweeteners, which includes such as aspartame, saccharin, sucralose, stevia, cyclamate, xylitol, mogrosides, and many others.
- O B. vii. "Natural ~~f~~Fruit ~~j~~Juice or ~~f~~Fruit ~~j~~Juice" means the original liquid resulting from the pressing of fruit, the liquid resulting from the reconstitution of fruit juice concentrate of the liquid resulting from the restoration of fruit concentrate or the liquid resulting from the restoration of water to dehydrated fruit juice.
- P B. viii. "Natural ~~v~~Vegetable ~~j~~Juice or ~~v~~Vegetable ~~j~~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.
- Q B. ix. "Powder or ~~b~~Base ~~p~~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.