

**NAVAJO NATION CODE
TITLE 24. TAXATION
CHAPTER 12 ALCOHOL TAX**

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§ 1201. Short title

The tax imposed by this Chapter shall be called the “Alcohol Tax”.

§ 1202. Purpose

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

§ 1203. 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 Alcoholic Beverages sold for a Period, and then multiplying those Gross Receipts from all Alcoholic Beverages sold by the applicable tax rate.

§ 1204. Legal Incidence and Responsibility for Payment

There is hereby levied and imposed by this Chapter for each Period a tax upon the first Sale by any retailers or distributor of Alcohol products.

§ 1205. Rate of Tax

- A. The tax imposed by this Chapter is imposed at a rate of not less than two percent (2%), nor more than six percent (6%), which shall be specifically established by Regulations promulgated by the Navajo Tax Commission. Until a rate is established, the rate shall be three and a quarter percent (3.25%) of all Alcoholic Beverages sold (.0325 x Alcoholic Beverages sold).
- B. This section imposes an additional tax rate over and above the tax rate approved by the Navajo Tax Commission in accordance with 24 N.N.C. § 605 (A).
- C. Alcohol Tax shall be administered in accordance with the Junk Food Tax.

§ 1206. Administration

All provisions of the Uniform Tax Administration Statute apply to this Chapter, the Navajo Nation Council charges the Office of the Navajo Tax Commission with the administration of this tax, the Office of the Navajo Tax Commission shall retain one quarter (.025%) percent of all gross Sales for administrative expenses.

§ 1207. 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. “Alcoholic Beverages” shall mean distilled or rectified spirits, potable alcohol, brandy, whisky, rum, gin, aromatic bitters, or any similar beverage, including blended or fermented beverages, dilutions or mixtures of one or more of the foregoing containing more than one-half of one percent alcohol by volume, but “alcoholic beverages” does not include medicinal bitters;
- B. “Beer” shall mean an alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt and hops or other cereals in water and includes porter, beer, ale and stout;
- C. “Cider” shall mean an alcoholic beverage made from the normal alcoholic fermentation of the juice of sound, ripe apples that contain not less than one-half of one percent of alcohol by volume and not more than seven percent of alcohol by volume;
- D. “The Office of the Navajo Tax Commission” is located within the Navajo Nation Executive Branch and is responsible for the administration of the Navajo Tax code. “Commission” means the Navajo Tax Commission.
- E. “Person” as defined in the Uniform Tax Administration Statute, shall include any organization, whether a sole proprietorship, partnership, joint venture, trust, estate, unincorporated association, company, corporation, or government (other than the Navajo Nation government), or any part, division, or agency of any of the foregoing, and an individual or group of individuals. In accordance with §1208 of this Chapter, “person” for purposes of the Alcohol Tax shall include the government of the Navajo nation, or political subdivision or Enterprise thereof.
- F. “Spirituous liquor” shall mean an alcoholic beverage, except fermented beverage such as wine, beer, cider and ale;
- G. “Wine” shall mean an alcoholic beverage other than cider that is obtained by the fermentation of the natural sugar contained in fruit or other agricultural products, with or without the addition of sugar or other products, and that does not contain more than twenty-one percent alcohol by volume.

§ 1208. Navajo Nation Government

- A. Sales by corporation 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 subdivision or Enterprises thereof, shall be subject to the tax imposed by this Chapter.

§ 1209. Exemptions and Exclusions

- A. 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 agriculture, farming, or livestock activities conducted within the Navajo Nation,
 - 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 non-profit 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 hospital and health-care organization or facility such as nursing care institutions 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.
- B. Nothing in this Chapter shall be construed as imposing directly upon the United States a tax which is prohibited by Federal Law.

§ 1210. Filing of Return

- A. Each person must file a Return indicating all Sales from applicable Gross Receipts and the tax due under the is 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 Regulations 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 signed by a specific person.

§ 1211. 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.

§ 1212. Recordkeeping

- A. Each person shall keep all records which pertain to or relate in any manner to all alcohol 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 for which the records relate.

§ 1213. 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 dedicated to the Division of Public Safety's use. The alcoholic beverage tax revenues shall be retained in a special fund entitled "Division of Public Safety Alcohol Tax Fund" and shall be administered by the Division of Public Safety Executive Director, with the Navajo Nation laws and utilize the prudent person rule, be applied for the appropriate expenditure of the Division, the Division of Public Safety is authorized to develop and recommend to the Navajo Nation Budget and Finance Committee the fund management plan.

§ 1214. No Conflict with Local Governance Act

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

§ 1215. Severability

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

§ 1216. Repeals

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

§ 1217. Reserved

§ 1218. Reserved

§ 1219. Reserved

§ 1220. Reserved

§ 1221. Reserved

§ 1222. Reserved

§ 1223. Reserved

§ 1224. Reserved