

UNIFORM TAX ADMINISTRATION STATUTE

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101. **SHORT TITLE.**
This chapter shall be known as Chapter One of the Navajo Tax Code, the Uniform Tax Administration Statute.
102. **PURPOSE.**
The purpose of this chapter is to provide statutory rules applicable to all of the taxes imposed by the Navajo Nation.
103. **ADMINISTRATION.**
(a) The Navajo Tax Commission is empowered to administer, and delegate the administration of, all Navajo taxes and, to that end, shall be empowered to adopt substantive and procedural rules and regulations, orders implementing its decisions and rulings, and instructions such as may be necessary to the proper and efficient administration of these laws.
(b) The Office of the Navajo Tax Commission shall have day-to-day responsibility for the administration of the Navajo Tax Code, and shall have all powers consistent with its plan of operation.
104. **DEFINITIONS.**
Subject to additional definitions (if any) contained in the subsequent sections of this chapter or in subsequent chapters:
(a) "Code" means the Navajo Tax Code, which includes this chapter and any tax statute enacted by the Navajo Nation Council.
(b) "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.
(c) "Commission" means the Navajo Tax Commission.
(d) "Fraud" occurs when any person:
(1) willfully makes and subscribes any return, statement or other document that contains 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.
(e) "Month" means any consecutive thirty calendar day time period for purposes of this chapter.
(f) "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.
(g) "Person" means any organization, whether a sole proprietorship, partnership, joint venture, trust, estate, unincorporated association, company, corporation, or government (other than the government of the Navajo Nation and any wholly owned subdivision or enterprise of the Navajo Nation government), or any part, division, or agency of any of the foregoing, and an individual or group of individuals.
(h) "Received" means
(1) the postmark date, if action is taken by mail;
(2) the date actually received by the Navajo Nation, when documents and/or payments are hand-delivered; or

- (3) the date of receipt by the Navajo Nation, in the case of wire transfer payments.
- (i) "Regulations" means the regulations adopted by the Commission.
- (j) "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.
- (k) "Return" means any document required to be filed when paying any Navajo Nation tax, as contrasted with other documents required to be filed that are not associated with actual payment of taxes. "Return" also includes any attachments, such as schedules or forms, that are associated with any return.
- (l) "Taxes" means any tax, interest, penalties, and costs, imposed or assessed individually or collectively pursuant to the Code.
- (m) "Taxpayer" means the person liable for the taxes or the person responsible for collecting and remitting the taxes.

105. **ASSESSMENT OF TAXES.**

- (a) The taxes imposed by the Code are assessed for a statutory period and are the liability of the taxpayers.
- (b) The Office of the Navajo 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 the Code, the Office of the Navajo 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 rules and regulations.
 - (2) If no return is timely filed as required, the Office of the Navajo 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 the Code, the Office of the Navajo 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 taxpayer unless it is shown that the estimate, on the basis of the best information then available to the Office of the Navajo Tax Commission, was clearly erroneous or unless the Office of the Navajo Tax Commission for other good cause shown relieves the taxpayer from the operation of this section.
- (c) 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 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.
- (d) 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.
- (e) Consistent with §129 of this chapter, the Office of the Navajo Tax Commission shall have the authority to redetermine 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.

106. **WAIVER OF TAXES.**

Any waiver of tax or associated interest requires a two-thirds vote of the entire Navajo Nation Council. The Office of the Navajo Tax Commission has the authority to relieve a taxpayer of penalties and certain administrative fees, as set out in Sections 112 – 116 below.

107. **NONDISCRIMINATION.**

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

108. **DESIGNATION OF INDIVIDUAL.**

On an annual basis, each taxpayer must designate and provide the mailing address of a natural person for the purposes of notice, by filing a Form 100. The forms must be submitted each year to the Office of the Navajo Tax Commission by January 15, even if no changes have occurred since the prior filing. In addition, an updated form must be filed within 30 days of a change in circumstances. The 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 these taxes to be provided with the designation. For purposes of this section only, the term "taxpayers" shall not include persons on whom the Hotel Occupancy Tax is imposed, but shall include persons responsible for collecting and remitting the Hotel Occupancy Tax. In addition, for purposes of this section only, "taxpayers" shall include all persons owning an interest in a lease subject to the Navajo Possessory Interest Tax.

109. **EXTENSION OF TIME.**

- (a) Forms 200 and 245: A taxpayer may request an extension of time for filing. The request must be made to the Office of the Navajo Tax Commission by filing the required extension request form on or before the due date. An automatic extension of fifteen days will be granted by the Office of the Navajo Tax Commission.
- (b) Forms other than Forms 200 and 245: A taxpayer may request an extension of time for filing. The request must be made to the Office of the Navajo Tax Commission by filing the required extension request form on or before the due date, and an estimated payment of the tax due must be made at the time of the request. An automatic extension of 60 days will be granted by the Office of the Navajo Tax Commission.

110. **RECORDKEEPING.**

Every taxpayer shall keep full and true records of all taxable activities, in accordance with regulations.

111. **INTEREST IMPOSED.**

Rates of interest shall be established by regulation. Interest shall 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. The Commission is authorized to set different rates of interest for underpayments and overpayments.

112. **PENALTIES FOR FAILURE TO FILE.**

- (a) If any taxpayer fails to timely file any tax return, a penalty shall be assessed for each month or fraction thereof that the return is not filed, in the amount of 5% of the tax due for the period; provided, however, that the minimum amount for the total penalty imposed under this section shall be \$50.
- (b) The total penalty assessed in subsection (a) shall not exceed 25% of the tax due, except where the \$50 minimum applies.

- (c) If a person fails to timely file a Form 100, Fuel Excise Tax Retailer Report, Carrier Report, or Refiner Report, a one-time \$50 penalty shall be assessed for each document that is not timely filed.
- (d) If a person fails to timely file a Possessory Interest Tax Form 200 or 245, a one-time penalty of \$50 shall be assessed for each form that is filed after the due date but within 30 days of that date, and the penalty shall be increased to \$150 if the form is filed more than 30 days after the required date.
- (e) For purposes of this section, a form filed on or before an extended due date for filing is timely filed.
- (f) For good cause shown, the Office of the Navajo Tax Commission may in its discretion relieve the taxpayer from all or part of the penalties imposed under this section.

113. PENALTIES FOR FAILURE TO PAY.

- (a) A taxpayer failing to timely pay an amount of tax by the time due shall be assessed an immediate penalty of 5% of the amount of the underpayment.
- (b) For each month the payment is overdue, an additional penalty shall be assessed of 0.5% of the underpayment.
- (c) The total penalty imposed under this section shall not exceed 10% of the tax due.
- (d) For purposes of this section, a payment received on or before an extended date for payment is timely paid.
- (e) For good cause shown, the Office of the Navajo Tax Commission may in its discretion relieve the taxpayer from all or part of the penalties imposed under this section.

114. PENALTIES FOR ATTEMPT TO EVADE OR DEFEAT TAX.

- (a) Any taxpayer understating the tax imposed by the Code through negligence of the Code and regulations, but without the intent to defraud, may be assessed a penalty of \$250, plus 25% of the underpayment of tax.
- (b) Any taxpayer understating the tax imposed by the Code through reckless disregard of the Code and regulations, but without the intent to defraud, shall be assessed a penalty of \$250, plus 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 50% of the underpayment of tax.
- (d) Any person who willfully assists a taxpayer in the fraudulent understatement of tax due under the Code shall be subject to a penalty of \$500, plus 25% of the underpayment of tax.
- (e) Any liability arising under this section shall be assessed and collected as taxes imposed by the Code.
- (f) For good cause shown, the Office of the Navajo Tax Commission may in its discretion relieve the taxpayer from all or part of the penalties imposed under this section.

115. CHARGES FOR 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 Office of the Navajo Tax Commission may relieve the taxpayer from all or part of the charges imposed under this section.

116. FAILURE TO COMPLY WITH CODE.

- (a) Any taxpayer who fails to comply with a requirement: to designate an individual, to file a return, to provide information or documents, to allow access to equipment within its possession or control, to furnish a surety bond or other security, to comply with a duly issued subpoena, or to comply with a lawful order of the Office of the Navajo Tax Commission, may have all or some of its rights to engage in productive activity within the

Navajo Nation suspended, until compliance is made or for such shorter time as the Office of the Navajo Tax Commission may provide.

- (b) Upon receipt of a notice of non-compliance issued by the Office of the Navajo Tax Commission, a taxpayer has 30 days in which to come into compliance. If the taxpayer fails to do so, the Office of the Navajo Tax Commission shall issue a notice of intent to suspend. The taxpayer shall have 30 days in which to come into compliance or to appeal only the notice of intent to suspend pursuant to §131. This right of appeal is the sole remedy. Failure on the taxpayer's part to act within the 30 days shall result in the Office of the Navajo Tax Commission issuing a final order of suspension. In addition, if an appeal is decided adverse to a taxpayer, the Office of the Navajo Tax Commission shall issue a final order of suspension.
- (c) The Navajo Nation Division of Public Safety shall enforce the final order of suspension, which shall remain in effect until the taxpayer comes into compliance.

117. **INTERFERENCE WITH ADMINISTRATION.**

Information concerning criminal interference with administration of the Code shall be provided to the Office of the Prosecutor or appropriate authorities for appropriate action.

118. **COLLECTION POWERS.**

- (a) In accordance with the provisions of the Code, the Office of the Navajo 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 Office of the Navajo Tax Commission has all other powers available to the Navajo Nation for collection of debts owed it.
- (b) The Office of the Navajo Tax Commission may request the Attorney General of the Navajo Nation 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 Office of the Navajo Tax Commission shall never be compelled to assert a claim for taxes in litigation by way of counterclaim or otherwise.

119. **SECURITY FOR PAYMENT.**

Whenever necessary to secure the payment of any taxes due or reasonably expected to become due, the Office of the Navajo Tax Commission is authorized to require the taxpayer to furnish an acceptable surety bond in an appropriate amount. The Commission shall prescribe by regulation the terms and conditions for requiring such security. For purposes of §131, the requirement of security for payment shall be considered an adverse action.

120. **LIEN FOR TAXES.**

- (a) If a taxpayer fails to pay any taxes after demand or assessment by the Office of the Navajo Tax Commission, or fails to provide security as set out in §119, the amount shall be a lien in favor of the Navajo Nation upon all property or rights to property of those liable under §105.
- (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.
- (c) 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.
- (d) 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.

- (e) A lien shall be effective as against other parties upon notice being recorded in the offices of the Office of the Navajo Tax Commission and the Business Regulatory Department in a form available for inspection by the public.
- (f) The Commission may by regulation exempt certain property from the operation of the lien created by this section.

121. **PRIORITY OF LIEN.**

A lien arising pursuant to §120 shall have priority over all other liens imposed by any government other than the Navajo Nation, regardless of the date of perfection.

122. **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 Office of the Navajo Tax Commission thereafter receives all or part of the taxes giving rise to the lien, the Office of the Navajo Tax Commission will cause a notation of the complete or partial release of the lien to be made in the record.
- (d) The Office of the Navajo 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 Navajo Nation are adequately protected by other security.

123. **FORECLOSURE OF LIEN.**

- (a) The Office of the Navajo 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 Office of the Navajo 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 Office of the Navajo Tax Commission at any time prior to the sale thereof, and upon payment or furnishing of security, the Office of the Navajo Tax Commission shall restore the property to him, 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 §131 under the following conditions:
 - (A) The seized property shall not be removed from the jurisdiction of the Navajo Nation;
 - (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 Navajo Nation.
 - (4) The effect of a seizure upon any person for obligations due or payable to a taxpayer or persons liable under §105 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 Office of the Navajo Tax Commission, surrenders such property or rights to property (or discharges said obligation) to the Office of the Navajo Tax Commission, shall be discharged from

any obligation or liability to the taxpayer or persons liable under §105 whose property or rights to property were seized.

(c) Sale of Seized Property:

- (1) The Office of the Navajo Tax Commission shall publish a notice of sale, setting forth the time and place of the sale.
 - (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 designee.
- (d) The Office of the Navajo Tax Commission may delegate and empower persons to carry out the procedures of this section, including officers of the Navajo Division of Public Safety, who shall render assistance in this regard on request by the Office of the Navajo Tax Commission.

124. **APPLICATION OF PROCEEDS.**

- (a) Money seized by the Office of the Navajo 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 Office of the Navajo Tax Commission may set time limits or other reasonable conditions on the making and proving of such claims.

125. **INTERFERENCE WITH FORECLOSURE.**

- (a) No person shall remove from the jurisdiction of the Navajo Nation any property on which there is a lien for taxes pursuant to §120.
- (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 Office of the Navajo 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 the Code.

126. **TRANSFER OF BUSINESS.**

- (a) If a person buys substantially all of the assets of a taxpayer within the Navajo Nation, that person shall withhold from the purchase price and pay to the Office of the Navajo 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 Office of the Navajo 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, 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 the Code.

- (d) No consent to the assignment or transfer of any lease or other rights to engage in productive activity within the Navajo Nation shall be granted by the Navajo Nation unless the Office of the Navajo Tax Commission first certifies that all applicable taxes have been paid, or that payment has been adequately secured.

127. **MUTUAL ASSISTANCE AGREEMENTS.**

The Office of the Navajo Tax Commission is authorized to negotiate mutual assessment and collection assistance agreements with any other tax jurisdiction. The agreements so negotiated will come into force only upon ratification by the Navajo Tax Commission and the Intergovernmental Relations Committee of the Navajo Nation Council; no other committee approval is required.

128. **PROHIBITION OF SUITS.**

No suits for the purpose of restraining the assessment or collection of the taxes imposed under the Code 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 Code shall be brought pursuant to §131.

129. **STATUTE OF LIMITATIONS.**

- (a) Except for the Business Activity Tax and the Hotel Occupancy Tax, taxes imposed and required to be collected by the Code shall be assessed within four years after the return is filed, or the Possessory Interest Tax notice of assessment is issued, except as provided in subsection (b) of this section. Taxes imposed and required to be collected by the Business Activity Tax and the Hotel Occupancy Tax shall be assessed within six years after the return is filed, 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 Office of the Navajo 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 Office of the Navajo Tax Commission.
- (c) Except for the Business Activity Tax and the Hotel Occupancy Tax, any action in a court or by seizure for collection of taxes imposed by the Code must be commenced within four years of the date of assessment, except as provided in subsection (d). Any action in a court or by levy for collection of taxes imposed by the Business Activity Tax and the Hotel Occupancy Tax must be commenced within six 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 Office of the Navajo Tax Commission is prohibited by any court from commencing collection proceedings and during any period of appeal under §131.
 - (2) The running of the period of limitations on collections may be suspended for any period agreed upon between the taxpayer and the Office of the Navajo Tax Commission.

130. **PROCEDURE FOR REFUNDS.**

Any taxpayer believing it has made an overpayment of taxes may file a written claim for refund with the Office of the Navajo 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.

131. **PROCEDURE FOR APPEAL.**

- (a) Appeals from assessments, denials of refund, or other adverse action shall be made first to the Office of the Navajo Tax Commission according to procedures established in regulations; these procedures shall also apply to any challenges to the validity of the Code. The Commission may permit or require one or more levels of review by the Office of the Navajo Tax Commission or its designees and may provide for hearings before the Commission as a body. The failure to duly proceed to a next required level of review under this subsection shall constitute a waiver of any further appeal pursuant to this subsection or subsection (b).
- (b) Appeals from final actions of the highest level of administrative review shall be made only to the Supreme Court of the Navajo Nation, according to procedures established in regulations, but in no case may an appeal of an assessment be taken to the Supreme Court until payment of the taxes assessed has first been made.
- (c) Actions before the Supreme Court:
 - (1) Review of administrative actions in the Supreme 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 Navajo or federal law. However, where affirmation of an administrative action taken pursuant to §116 would suspend a right of an appellant to engage in productive activity within the Navajo Nation, the appellant shall on request be entitled to a hearing *de novo* on any material question of fact.
 - (2) The Supreme Court shall be empowered to affirm, reverse, or modify any administrative action, or to remand the matter for further action.
- (d) Procedures for staying the payment of taxes which are being appealed under subsection (a) of this section may be established in regulations. The Office of the Navajo Tax Commission in its discretion may condition the grant of a stay on the posting of a bond or provision of other security.

132. **ABATEMENT AUTHORITY.**

- (a) In response to a written request for abatement, or when an assessment is found to be incorrect, the Office of the Navajo 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 Office of the Navajo Tax Commission shall abate the appropriate amount of the assessment.

133. **CLOSING AGREEMENTS.**

- (a) If in good faith the Office of the Navajo 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 Navajo Nation, provided that such agreement shall be subject to approval by the Attorney General of the Navajo Nation.
- (b) If entered into after an appeal has been filed pursuant to §131, 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 Office of the Navajo 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 nonliability 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.

134. **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 Office of the Navajo Tax Commission to reveal to any person, other than another employee or legal counsel for the Office of the Navajo 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 Office of the Navajo 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 government of the Navajo Nation for use in connection with the governmental function of said employee, provided that it shall be unlawful for the Navajo Nation 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 Office of the Navajo 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;
 - (6) To the taxpayer, in any administrative or judicial proceeding in which that taxpayer has put its own liability for compliance with the Navajo tax laws 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 Office of the Navajo Tax Commission" shall include members of the Navajo Tax Commission and any person for whose services the Office of the Navajo 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 Navajo Nation employee or former employee who violates any of the provisions of this section shall be subject to a civil fine not to exceed \$500. The District Courts of the Navajo Nation 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 Office of the Navajo Tax Commission may in its discretion further restrict the disclosure of information, and such restriction shall be considered an adverse action for purposes of §131.

135. **NOTICE.**

The Office of the Navajo 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 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.

136. **INVESTIGATIVE AUTHORITY.**

- (a) For the purpose of enforcing the provisions of the Code, the Office of the Navajo 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 Office of the Navajo Tax Commission is hereby vested with the power to issue subpoenas and summonses, pursuant to regulations.
- (c) The Courts of the Navajo Nation shall have the power to enforce administrative subpoenas and summonses issued by the Office of the Navajo Tax Commission.

137. **OATHS AND AFFIRMATIONS.**

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

138. **RECEIPTS; DISBURSEMENTS.**

- (a) There is hereby created in the treasury of the government of the Navajo Nation the Tax Administration Suspense Fund.
- (b) Except as otherwise provided in the Hotel Occupancy Tax, all money received by the Office of the Navajo Tax Commission as taxes shall be deposited forthwith to the credit of said Fund.
- (c) Payment of claims for refund shall be disbursed from this Fund, except to the extent that there is a pertinent escrow established pursuant to subsection (e) of this section.
- (d) At the end of each month, the balance remaining in the Fund, after the payment of refunds under subsection (c) of this section, shall be transferred to the general fund or to such other funds or the credit of such accounts, as may be provided by Navajo Nation law.
- (e) Notwithstanding the foregoing, the Commission may in its discretion hold certain contested amounts in escrow, or direct some balance or a percentage of receipts to be maintained in the Tax Administration Suspense Fund from month-to-month in anticipation of disbursements which may have to be made therefrom.
- (f) Balances maintained pursuant to paragraph (e) may only be reappropriated by a two-thirds vote of the full Navajo Nation Council.

139. **SEVERABILITY.**

If any provision of this Code, 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 Code which can be given effect without the invalid provision or application, and to this end the provisions of this Code are severable.

140. **EFFECTIVE DATE.**

This chapter shall take effect upon approval by the Navajo Nation Council and in accordance with 2 N.N.C. §1005.

141. **REPEALS.**

All laws or parts of laws 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.