

CHAPTER 16 - BUSINESS LICENSE AND TAX LAW

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CHAPTER 16 - BUSINESS LICENSE AND TAX LAW

16.1 SECTION 1: LICENSING

- 16.1.1** All individuals, corporations, or partnerships who are Tribal members currently conducting or prior to conducting any business operations within the Red Cliff Reservation shall apply for and obtain a permit to carry on a Business within the Red Cliff Reservation.
- 16.1.2** Any Tribal member or committee or partnership controlled by Tribal members may conduct a concession to sell cigarettes within the Reservation provided s/he secures a Cigarette Sales License.
- 16.1.3** Any Tribal member or committee or partnership controlled by Tribal members may conduct a concession to sell intoxicating beverages provided that s/he first obtains an Alcohol License.
- 16.1.4** The laws and regulations controlling sale of intoxicating beverages pursuant to a Red Cliff Alcohol License shall be identical to those laws of the State of Wisconsin controlling the sale of intoxicating beverages in the State at large.
- 16.1.5** Application for said Permits shall be made to and issued by the Red Cliff Law Enforcement Office.
- 16.1.6** The fee for said Permits shall be \$2.00. The permits shall be renewed by the applicant on or about January 1 of each year.
- 16.1.7** Any individual, corporation, or partnership in violation of this ordinance shall be subject to a civil forfeiture of not more than \$100.00 per day of violation and/or may be subject to a Court order to cease and desist all business operations until a Permit is obtained.

16.2 **SECTION 2: TAXATION**

- 16.2.1** For the privilege of doing business on the Red Cliff Indian Reservation by means of the operation of a restaurant, bar, liquor store, hotel, motel, campsite, marina, theater, or other enterprise providing recreation, amusement, or entertainment to the public, there is hereby imposed on every non-member engaged in such an operation, a tax on the gross receipts of such an operation.
- 16.2.2** For purpose of computing the tax, gross receipts shall include the receipts from the sale of all goods and services, which are realized as an incident of the operation on an enterprise, described above, whether or not such sales directly involve the vending of food, drink, shelter, or recreational services.
- 16.2.3** Receipts from the lease or rental of hotel or motel accommodations, campsites, marina slips or similar docking facilities shall be taxed at the rate of 5% per annum. Receipts from all other operations subject to tax shall be taxed at the rate of 2%.
- 16.2.4** Sales of food or medicine shall be exempted from the tax herein imposed. The tax herein imposed shall not apply to enterprises directly operated by the United States of an agency thereof.
- 16.2.5** A non-member, as referred to above, shall include any person, natural or corporate, other than enrolled members of the Red Cliff Band of Lake Superior Chippewa Indians. Where a committee or similar entity claims exemption from the tax on the grounds of membership, the burden of proof shall be on the committee to prove that both ownership and control of the committee is predominantly in the hands of members of the Red Cliff Band.

16.3 SECTION 3: APPLICATION AND DEPOSIT

16.3.1 Any person subject to the tax imposed above shall submit an application to the Tribe for a permit to carry on a tax-regulated business. A \$250.00 deposit shall accompany the application, except that where an enterprise has grossed \$50,000 or more in the immediately preceding calendar year, the amount of the deposit shall be \$500.00.

16.3.2 Taxes shall be paid on a quarterly basis, and shall be due on the 20th of the month following the end of the quarter.

16.3.3 Persons subject to tax, shall file a tribally prescribed return by the aforesaid 20th day of the month succeeding each quarter. Said return, shall be accompanied by a copy of any state sales tax return which is to be filed for the similar period. The April return, shall also be accompanied by a copy of the federal tax return, showing receipts from the operation in question. Persons subject to tax, shall file a return in each quarter whether or not the operation has taxable receipts in that quarter. Where an operation suspends doing business, it shall notify the Tribal Treasurer within 30 days of such suspension, and file a final return and payment.

16.3.4 Any tax remaining unpaid after the 20th day following the taxable quarter shall be subject to interest at the rate of 10% per annum.

16.4 SECTION 4: RED CLIFF TRIBAL MEMBERS EXEMPT FROM ALL STATE SALES TAXES

16.4.1 No business within the reservation boundaries shall charge state taxes to tribal members living within the reservation boundaries. This requirement shall operate as a condition of each business licensee's continued privilege to do business within the boundaries of the Red Cliff Reservation. Failure to take necessary measures

to exempt tribal members from state taxes shall constitute grounds for revocation of a licensee's business permit upon appropriate action by the Red Cliff Tribal Council.

16.4.2 No licensee shall be subject to revocation or to fine or forfeiture under this Chapter where a tribal member has failed to provide adequate proof of tribal membership or residence within the boundaries of the Red Cliff Reservation. Presentation of a valid, current tribal membership card issued by the Red Cliff Enrollment Department shall constitute adequate proof of tribal membership for purposes of this section. Presentation of Wisconsin Department of Revenue Form MF-209 or the following form shall constitute adequate proof of residence within the boundaries of the Red Cliff Reservation for purposes of this section:

"I hereby certify that I am a member of the Red Cliff Band of Lake Superior Chippewa and my residence is located within the boundaries of the Red Cliff Reservation."

"I hereby acknowledge and agree that it is my responsibility to inform the retailer of any change in residence that may affect my eligibility to purchase goods without the application of Wisconsin taxes."

Signed:

(Signature)

(Print Name)

16.4.3 The provision of false information shall entitle the retailer to initiate an action in the Red Cliff Tribal Court against a person providing such false information to recover any and all expenses incurred in connection with determining the retailer's tax for the sale.

16.4.4 The provision of false information for the purposes of obtaining goods or services free from

Wisconsin taxes is strictly prohibited. The penalty for violation of this section shall be no less than \$50.00 and no more than \$5,000.00.

16.4.5 In addition to revocation of a licensee's business permit by the Red Cliff Tribal Council, violations of section 16.4.1 shall subject the business owner to a civil remedial forfeiture of not less than \$100.00 and not more than \$5,000.00. Each business transaction, specifically including, but not limited to, each separate sale of goods shall constitute a separate offense for purposes of this section.

16.4.6 Failure to immediately cease business activity after revocation of a licensee's business license by order of the Red Cliff Tribal Council shall subject the business owner to a civil remedial forfeiture of not less than \$100.00 and not more than \$5,000.00. Each business transaction, specifically including, but not necessarily limited to, each separate sale of goods shall constitute a separate offense for purposes of this section.

16.4.7 All business licensees, including licensees whose business license has been revoked by order of the Red Cliff Tribal Council, shall comply with all requests for business records in connection with investigations and prosecutions under this Chapter. Failure to respond in a timely manner to such requests for information shall subject the business owner to a civil remedial forfeiture of not less than \$250.00 and not more than \$5,000.00. Each request for information shall constitute a separate offense for purposes of this section. **(08-04-03-B)**

16.5 **SECTION 5: PENALTIES**

16.5.1 Failure to file a return when due, or the filing of a fraudulent return with intent to evade the tax, shall result in a civil penalty equal to half the amount of the tax due, but in any case not less than \$50.00. Where no return has been filed, the Tribal Treasurer shall estimate the amount of taxable receipts on the basis of

whatever information is then available, and assesses the tax due and the penalty and interest thereon, on the basis of the foregoing estimate.

The penalty may be waived upon a showing that a failure to file was due to excusable neglect, provided that a proper return, together with payment, is made within thirty (30) days of the due date.

16.5.2 When a person subject to tax has failed to file a return, has filed a fraudulent return, or has failed to pay the tax within 30 days of the date due, the Tribal Treasurer shall formally notify the Tribal Council, which may revoke the permit to carry on a tax regulated business as well as other tribal permits held by the taxpayer. After revocation no new permit shall be issued for at least six months, and only after all taxes, penalties and interest due have been paid in full, and a deposit in the amount of \$1,000.00 has been made.

16.5.3 After notification by the Tribal Treasurer of the failure to file a return, of the filing of a fraudulent return, or the failure to pay a tax within 30 days of the due date, the Tribal Court may order the seizure and sale of such of the taxpayer's property located within the Red Cliff Reservation as may be necessary to satisfy the delinquent tax, together with penalty and interest.

16.5.4 Nothing in the sections above shall operate to prevent the Tribal Council from employing remedies, through courts of competent jurisdiction and otherwise, to recover any taxes, penalties and interest which may be due pursuant to this Article, or to take such steps as may be necessary to prevent a non-permittee, or a revoked permittee, from doing business on the reservation.

16.6 **SECTION 6: DUTIES OF THE TRIBAL TREASURER**

It shall be the duty of the Tribal Treasurer:

- 16.6.1 To make tax permit applications available, to receive completed applications and deposits, and to transmit them to the Tribal Council for action.
- 16.6.2 To make tax returns available, to receive completed returns, and to deposit and account for all tax monies received.
- 16.6.3 To request investigation or tax audits from appropriate tribal officials, and to notify the Tribal Council of any delinquencies of whatever sort.

16.7 **SECTION 7: RIGHT OF AUDIT**

- 16.7.1 Upon request of the tribal treasurer, a person subject to tax shall make his books and records available for audit by appropriate tribal officials, and supply such information as may be necessary to assess the tax due under § 16.2.1 above. Failure to comply with such a request shall be treated as a failure to file a return for purposes of assessing a penalty.
- 16.7.2 Any persons assessed a tax, interest or penalties under this Article, or who is subjected to enforcement procedures, shall have the right to be heard before the Tribal Court.