

SISSETON-WAHPETON SIOUX TRIBE

CHAPTER 10

RETAIL BUSINESS TANGIBLE PERSONAL
PROPERTY SALES TAX ACT

S.W.S.T. CODE
 Amendment
 New Adoption
Judicial Approved
02-05-86
Council Adopted
02-05-86

BE IT ENACTED BY THE SISSETON-WAHPETON SIOUX TRIBAL COUNCIL to provide revenue for social and economic advancement of its members, by exercising its inherent authority to tax under Section 1 (G) and Section 1 (h) of the Constitution.

10-01-01 TITLE

This law shall be known as the RETAIL BUSINESS TANGIBLE PERSONAL PROPERTY SALES TAX ACT.

10-02-01 PURPOSES

The purposes of this Chapter are:

1. To enhance the general well-being of the members of the Sisseton-Wahpeton Sioux Tribe;
2. To promote the economic growth of the Sisseton-Wahpeton Sioux Tribe;
3. To provide operating capital for the Tribal Government;
4. To expand the governmental capacity of the Sisseton-Wahpeton Sioux Tribe to meet the needs of its members and others for municipal and other governmental services;
5. To provide increased consumer services to the members of the Sisseton-Wahpeton Sioux Tribe and others;
6. To support capital improvements of the Tribal facilities; and
7. To educate members of the Sisseton-Wahpeton Sioux Tribe.

10-03-01 DEFINITIONS

Words used in this Chapter, unless the context, otherwise plainly requires shall mean:

10-03-02 Tribe - the Sisseton-Wahpeton Sioux Tribe.

10-03-03 Gross Receipts - the amount received in money, credits, property, or other money's worth in consideration of sales at retail transacted upon trust or restricted lands within the original exterior boundaries of the Lake Traverse Indian Reservation or transacted within any dependent Indian community under the jurisdiction of the Sisseton-Wahpeton Sioux Tribe, (as defined in 18 U.S.C., 1151) without any deduction on account of the cost of materials used, the cost of labor or services purchased, amounts paid for

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interest or discounts, or any other expenses whatsoever, nor shall any deductions be allowed for losses. Discounts for any purpose allowed and taken on sales shall not be included as gross receipts, nor shall the sale price of property returned by customers when the full sale price thereof is refunded in cash or credit. On all sales of a retail business, valued in money, when such sales are made under conditional sales contract, or under other forms of sales wherein the payment of the principal sum thereunder be extended over a period longer than sixty (60) days from the date of sale thereof that only such portion of the sale amount thereof shall be accounted, for the purpose of imposing of tax under this Chapter, as has actually been received in cash by the retail business during each calendar quarter.

- 10-03-04 **Manager** - a person employed to manage a retail business.
- 10-03-05 **Person** - any individual, firm, co-partnership, joint venture, association, corporation, municipal corporation, estate, trust, business trust, receiver, or any group or combination acting as a unit, and the plural as well as the singular in number.
- 10-03-06 **Retail Business** - any activity wherein tangible goods, wares, merchandise, propane, fuel, electrical power and telephone are sold at retail with the object of gain, benefit or advantage, either direct or indirect.
- 10-03-07 **Retail Sale** - the sale of tangible personal property to the consumer or user thereof, or to any person for any purpose other than for resale.
- 10-03-08 **Sale** - any transfer, exchange, or barter, conditional or otherwise, in any manner whatsoever, for a consideration.
- 10-04-01 **TAX ON SALE OF TANGIBLE PERSONAL PROPERTY**
There is hereby imposed a tax of five percent (5%) upon the gross receipts of a retail business from all sales of tangible personal property consisting of goods, wares, merchandise, propane, fuel, electrical power and telephone, except as otherwise provided in this Chapter, sold at retail to consumers or users within the Lake Traverse Reservation and within Indian Country subject to the jurisdiction of the Tribe.
- 10-05-01 **CONSTITUTIONAL AND STATUTORY EXEMPTIONS FROM TAXATION**
There are hereby specifically exempted from the provisions of this Chapter, and from the computation of the amount of tax imposed by it, the gross receipts from the sales of tangible personal property which this Tribe is prohibited from taxing under the Constitution and the laws of the United States or under the Constitution and by-laws of the Tribe.

S.W.S.T. CODE
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 New Adoption
Judicial Approved
06-05-90
Council Adopted
06-05

10-06-01 EXEMPTION OF SALES TO PUBLIC AGENCIES

There are hereby exempted from the provisions of this Chapter and from the computation of the amount of tax imposed by it, the gross receipts from sales to the United States, to the Tribe, or one of its political subdivisions, to the State of South Dakota, to any relief agency engaged in actual relief work, or to any Indian Tribe.

10-07-01 EXEMPTIONS OF SALES OTHERWISE TAXED

There are hereby specifically exempted from the provisions of this Chapter and from the computation of tax imposed by it, gross receipts from the sale of cigarettes and tobacco products already taxed under the laws of this Tribe.

10-08-01 ADDITION OF TAX TO PRICE OF SALE

A manager of a retail business shall add the tax imposed by this Chapter, as provided by law; and where no provision is made, the average equivalent may be added to the retail sale of tangible personal property subject to the tax imposed by this Chapter.

10-09-01 SCHEDULE FOR COLLECTION OF TAX FROM CUSTOMER

The following schedule is hereby adopted as the basis for collection of the tax imposed by this Chapter from the public where the same is applicable:

\$.01 - .09	.00	3.30 - 3.49	.17	6.70 - 6.89	.34
.10 - .20	.01	3.50 - 3.69	.18	6.90 - 7.09	.35
.30 - .49	.02	3.70 - 3.89	.19	7.10 - 7.29	.36
.50 - .60	.03	3.90 - 4.09	.20	7.30 - 7.49	.37
.70 - .89	.04	4.10 - 4.29	.21	7.50 - 7.69	.38
.90 - 1.09	.05	4.30 - 4.49	.22	7.70 - 7.89	.39
1.10 - 1.29	.06	4.50 - 4.69	.23	7.90 - 8.09	.40
1.30 - 1.49	.07	4.70 - 4.89	.24	8.10 - 8.29	.41
1.50 - 1.69	.08	4.90 - 5.09	.25	8.30 - 8.49	.42
1.70 - 1.89	.09	5.10 - 5.29	.26	8.50 - 8.69	.43
1.90 - 2.09	.10	5.30 - 5.49	.27	8.70 - 8.89	.44
2.10 - 2.29	.11	5.50 - 5.69	.28	8.90 - 9.09	.45
2.30 - 2.49	.12	5.70 - 5.89	.29	9.10 - 9.29	.46
2.50 - 2.69	.13	5.90 - 6.09	.30	9.30 - 9.49	.47
2.70 - 2.89	.14	6.10 - 6.29	.31	9.50 - 9.69	.48
2.90 - 3.09	.15	6.30 - 6.49	.32	9.70 - 9.89	.49
3.10 - 3.29	.16	6.50 - 6.69	.33	9.90 - 10.09	.50

S.W.S.T. CODE
 Amendment
 New Adoption
Judicial Approved
08-28-91
Council Adopted
09-11-91

10-09-02 And on each additional dollar or fraction thereof an increment in tax according to this Schedule.

10-10-01 MANAGER RESPONSIBLE FOR COLLECTION AND REMITTANCE OF TAX
The manager shall be responsible for the collection of the tax imposed by this Chapter from every customer of a retail business who makes a purchase of tangible personal property. The taxes collected pursuant to this Chapter shall be remitted by the manager to the Tribal Treasurer in a manner and at intervals prescribed by the Treasurer or the Tribal Council.

10-11-01 MONTHLY REPORT BY MANAGER

On or before the fifteenth (15th) day of each month, each manager shall render to the Tribal Treasurer a verified report of all gross receipts for the preceding calendar month of the retail business managed by him. The report shall include the amount of tax imposed by this Chapter collected by the retail business during the reporting period.

10-12-01 FALSE REPORT WITH INTENT TO EVADE TAX

Any manager required to make a report under this Chapter who makes any false or fraudulent report in attempting to defeat or evade the tax imposed by this Chapter shall be guilty of a Class I Misdemeanor, upon conviction, be fined in amount not to exceed five thousand dollars (\$5000.00), or imprisoned not to exceed one (1) year, or both, such fine and imprisonment at the discretion of the Court.

10-13-01 CIVIL ACTIONS

The Tribe may bring a civil action against any manager or other person to enforce compliance with this Chapter. Such action shall be brought in accordance with Tribal or other applicable laws.

10-14-01 VIOLATION - PENALTIES

Any person violating the provisions of this Act shall be guilty of a Class I Misdemeanor offense and subject to a fine not to exceed five thousand dollars (\$5000.00) or imprisonment not to exceed one (1) year, or both, such fine and imprisonment, in the discretion of the Court.

10-15-01 ADOPTION OF REGULATIONS

The Tribal Treasurer is authorized to promulgate regulations consistent with the provisions of this Chapter which are necessary to the efficient administration of the Retail Business Tangible Personal Property Sales Tax Laws, subject to approval of the Tribal Council.

10-16-01 SOVEREIGN IMMUNITY OF THE TRIBE

Without the express consent of the Tribe pursuant to appropriate action of the Tribal Council, a manager employed by the Tribe or one of its political subdivisions shall not be authorized to waive the sovereign immunity of the Tribe from suit; nor shall such a manager be authorized to create any liability on behalf of the Tribe or to utilize Tribal credit. Any such written consent and action by the Council shall specify in detail the scope of a manager's authority. Such authority shall be limited by the Tribal Council in duration and scope. Any action taken by a manager pursuant to authority vested in him/her by the Council under this section shall be in writing, shall be related to a specific and expressly identified transaction, and shall be limited to the particular transaction. Any written statement of a manager relating to the sovereign immunity shall be approved by the Council before it shall have any binding effect on the Tribe.

10-17-01 DISPOSITION OF PROCEED OF TAX

The money received by the Tribal Treasurer from the tax imposed by this Chapter shall be credited to the tax revenue account of the Tribe to be used in the provision of Tribal governmental services, including but not limited to, any district government services which shall be limited to:

1. Police and fire protection;
2. Road construction, repair and maintenance;
3. Operation of the Tribal Court;
4. Water, sewage, and garbage disposal;
5. Education;
6. Public health;
7. Development of Tribal or other district enterprises;
and
8. Recreation.

10-18-01 EFFECTIVE DATE

This Act shall become effective on November 1, 1978.

10-19-01 SEVERABILITY

If any clause, sentence, paragraph, section, or part of this code shall, for any reason be adjudicate by any Court of competent jurisdiction, to be invalid or unconstitutional, such judgement shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which the judgement shall have been rendered.

W. S. T. CODE
Amendment
Adoption
Council Approved
2-24-88
Council Adopted
3-01-88