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**ORDINANCE OF THE GOVERNING BODY
OF THE SAUK-SUIATTLE INDIAN TRIBE**

Ordinance No. 10/ 12 /08: Retail Sales Tax

THEREFORE BE IT ENACTED BY THE TRIBAL COUNCIL OF THE SAUK-SUIATTLE INDIAN TRIBE, AS FOLLOWS:

WHEREAS, the Sauk-Suiattle Tribal Council is the duly constituted governing body of the Sauk-Suiattle Indian Tribe, by authority of the Constitution and Bylaws, approved by the Secretary of the Interior on September 17, 1975 and in accordance with the Indian Reorganization Act of June 18, 1934 (48 Stat.984); and

WHEREAS, Article VII, Section 1(P) of the Constitution and Bylaws of the Sauk-Suiattle Indian Tribe delegates to the Tribal Council the authority and obligation to promulgate and enforce ordinances governing the conduct of all persons within the Sauk-Suiattle Indian Tribe; and

WHEREAS, Article VII, Section 1(F), of the Constitution and Bylaws of the Sauk-Suiattle Indian Tribe delegates to the Tribal Council the authority to manage all economic affairs and enterprises of the Tribe, and Article VII, Section 1(G) of the Constitution and Bylaws of the Sauk-Suiattle Indian Tribe delegates to the Tribal Council the authority to levy taxes upon non-members subject to the approval of the Secretary of the Interior and to pass ordinances authorizing the levy and collection of taxes from members of the Tribe; and

WHEREAS, the Tribal Council has determined that, in order to fund essential tribal governmental services, including services to retailers and retailer purchasers on the Sauk-Suiattle Reservation, it is necessary and equitable to enact a retail sales tax;

NOW THEREFORE BE IT ENACTED THAT this Ordinance sets forward the laws governing the levying and collection of a retail sales tax on the Sauk-Suiattle Reservation.

BE IT FURTHER ENACTED THAT the Sauk-Suiattle Tribal Council does not waive, alter, or otherwise diminish its sovereign immunity, whether express or implied, by virtue of the enactment of this resolution or any administrative or legal action which may arise directly or indirectly from the same, nor does the Tribal Council waive, alter, or otherwise diminish any rights, privileges, remedies, or services guaranteed by the Point Elliot Treaty.

BE IT FINALLY ENACTED THAT a retail sales tax shall be imposed in accordance with the following:

Retail Sales Tax

- Section 1.010 Title
- Section 1.020 Purpose and Scope
- Section 1.030 Reservation of Right
- Section 1.040 Authority
- Section 1.050 Definitions
- Section 1.060 General Sales Tax Imposed
- Section 1.070 Exempt Sales
- Section 1.080 Collection and Remittance of Taxes
- Section 1.090 Revenue Distribution
- Section 1.100 Enforcement
- Section 1.110 Penalties for Late Filing or Late Payment
- Section 1.120 Repealer
- Section 1.130 Severability
- Section 1.140 Sovereign Immunity
- Section 1.150 Effective Date

Legislative History: None

Section 1.010 Title.

This Ordinance shall be referred to as the "Sauk-Suiattle Retail Sales Tax Ordinance."

Section 1.020 Purpose and Scope.

The Sauk-Suiattle Indian Tribe hereby finds and determines that the imposition of a tax on retail sales at establishments located on the Sauk-Suiattle Reservation is an effective way to regulate commercial activity in this area, and that such regulation is vital to the economic security, political integrity and general welfare of the Sauk-Suiattle Indian Tribe. This tax shall preempt any similar tax based on retail sales imposed by the State of Washington, regardless of whether the incidence of the state tax is on the retail establishment or the retail customer.

The purpose of this Ordinance is to assess and collect a tax upon retail sales occurring within the Sauk-Suiattle Reservation.

Section 1.030 Reservation of Right

The Sauk-Suiattle Indian Tribe reserves the right to amend, alter, increase or decrease taxes imposed herein, or repeal the provisions of this ordinance, and all rights and privileges granted or extended hereunder shall be subject to such reserved right.

Section 1.040 Authority.

This Ordinance is enacted pursuant to the authority set forth in Article VII, Sections 1(F), (G), (H), and (P) of the Sauk-Suiattle Indian Tribe's Constitution and Bylaws.

Section 1.050 Definitions.

Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as set forth in this Section:

- (A) "Tribe" means the Sauk-Suiattle Indian Tribe.
- (B) "Retail Sale," means a sale, for any purpose, other than resale, in the regular course of business.

(C) "Retailer," includes every person engaged in making sales at retail.

(D) "Sale," includes, but is not limited to, each of the following transactions:

- a. Any transfer of title or possession, or both, of tangible personal property for a consideration in money.
- b. The furnishing, preparing or serving for consideration of food, meals or drinks.

Section 1.060 General Sales Tax Imposed.

There is levied and there shall be collected a tax on each non-exempt retail sale within the Sauk-Suiattle Reservation. The rate of the tax shall be the same as the rate that would apply under Washington state law if the sale occurred outside, but immediately adjacent to, the Sauk-Suiattle Reservation.

Section 1.070 Exempt Sales.

The tax levied in Section 1.060 shall not apply to the following items and transactions:

- (A) any item or transaction that would be exempt from the Washington state sales tax if the transaction took place outside, but immediately adjacent to, the Sauk-Suiattle Reservation, except as otherwise expressly provided in this Ordinance;
- (B) food and beverages given to customers or employees without charge as "complimentaries;"
- (C) products sold from vending machines;
- (D) cigarette sales covered under the Tribe's cigarette compact,
- (E) isolated or occasional sales not made in the normal course of business of selling that kind of property are exempt.
- (F) the sale of residential heating fuels, including but not limited to, fuel oil, coal, wood, steam, propane gas, natural gas, and L.P. gas sold to residential customers for residential use.
- (G) any item sold to, or any transaction with, an enrolled member of the Tribe or the spouse of such enrolled member;
- (H) items whose value is primarily generated on the Sauk-Suiattle Reservation.

Section 1.080 Collection and Remittance of Taxes.

Taxes shall be collected by the retailer from the retail purchaser and remitted monthly to the Tribal Treasurer, using tax return forms provided by the Tribe's Comptroller. Monthly returns and taxes are due no later than the 10th day of each month, for all taxable sales in the business entities accounting period(s) ending in the previous calendar month.

Section 1.090 Revenue Distribution

All revenues derived from taxes, penalties and interest from this Ordinance and received by the Sauk-Suiattle Indian Tribe shall be deposited in the General Fund of the Sauk-Suiattle Indian Tribe and shall be expended as the Tribal Council may so direct by Resolution.

Section 1.100 Penalties for Late Filing or Late Payment.

For returns and payments that are not received by the Tribal Treasurer when due, a penalty will be assessed for each month or part of a month the returns or payments are delinquent in an amount equal to two percent (2%) of the taxes due.

Section 1.110 Enforcement

The Tribal Treasurer shall enforce all provisions of this Ordinance. The Treasurer may prescribe rules and regulations not inconsistent with the provisions of this Ordinance.

Section 1.120 Repealer.
[Reserved]

Section 1.130 Severability.

If any section or any part of this ordinance, or the application thereof to any party, person or entity or to any circumstance, shall be held invalid for any reason whatsoever, the remainder of the section or ordinance shall not be affected thereby, and shall remain in full force and effect as though no part thereof had been declared to be invalid.

Section 1.140 Sovereign Immunity.

Nothing in this Ordinance is intended nor shall be construed as waiving the sovereign immunity from suit of the Tribe, any Tribal Entity or any official, employee, or agent while in the performance of his/her official duties.

Section 1.150 Effective Date.

This Ordinance shall be effective upon enactment by the Sauk-Suiattle Tribal Council and shall apply to all transactions that occurred on or after July 28, 2007; provided that a retailer shall not be liable for taxes on sales made between July 28, 2007, and the date of enactment, except to the extent that tax was collected from retail customers but not paid to the Tribe. The remittance of any such taxes collected between July 28, 2007, and the date of enactment, shall be timely if made within thirty days of the date of enactment.

CERTIFICATION

Pursuant to the authority contained in Article VII, Sections 1 (F), (G), and (P) of the Constitution and Bylaws of the Sauk-Suiattle Indian Tribe, the foregoing ordinance was enacted by the Sauk-Suiattle Tribal Council at a regular Council meeting held on October 3, 2008, at which a quorum was present, by a vote of: 3 For, 0 Against, 1 Abstain, and 3 Absent.

Attest:


Cynthia M. Harris, Chairman


Cammie L. Carrigan, Secretary