

TITLE VI

TAXATION

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CHAPTER 1. TAX ADMINISTRATION (RESERVED)**CHAPTER 2. POSSESSORY INTEREST TAX****Section 6-2-1. Tax administration division.**

A Tax Administration Division of the Pueblo of Laguna is hereby established to administer this chapter and to keep all records and accounts concerning this tax. The Governor shall from time to time designate an individual to be director of said tax administration division. Any inquiries concerning said tax shall be made through the Tax Administration Division of the Pueblo.

Section 6-2-2. Definitions.

Unless the context otherwise requires in this chapter, the following definitions shall apply:

Division means the Tax Administration Division of the Pueblo.

Governor shall mean the Governor of the Pueblo of Laguna.

Laguna Indian Reservation or *Reservation* means all lands subject to the jurisdiction of the Pueblo, including all land held by the United States in trust for Laguna Pueblo and all lands within the exterior boundaries of the Pueblo of Laguna Reservation or Pueblo grant, regardless of whether the lands are owned in fee, held in trust by the United States for the Pueblo, or otherwise held.

Possessory interest shall mean any nonexempt interest in real property within the Laguna Indian Reservation, including, but not limited to:

- (1) Interests held in fee simple;
- (2) Interests held under lease or sublease; and
- (3) Interests held under an easement or right-of-way.

Pueblo shall mean the Pueblo of Laguna.

Pueblo Court shall mean the Pueblo Court of the Pueblo of Laguna and does not include the court of appeals.

Taxable person shall mean any person or entity, including any individual, partnership, corporation or other legal entity, having ownership rights in any possessory interest within the Laguna Indian Reservation.

Section 6-2-3. Rate of tax.

The possessory interest tax set forth herein shall be assessed at the rate of five (5) percent of the value of a taxpayer's possessory interests as determined and computed in accordance with this chapter. Said rate of tax shall be and remain the same as herein established unless modified by an ordinance of the Pueblo Council.

Section 6-2-4. Computation of value of possessory interest.

The value of a possessory interest shall be computed as provided in this chapter or by any other method adopted by the Tax Administration Division of the Pueblo which accurately reflects the fair market value of the possessory interest which is subject to taxation.

- A. *Date of valuation.* All property that is subject to valuation under this chapter for all or any part of any tax year, shall be valued as of October 1 of each year, on which tax assessments for the following year shall be made.
- B. *Method of valuation.* The value of a possessory interest shall include the value of the taxpayer's possessory interest in Reservation land and the value of all improvements, equipment, fixtures and other tangible personal property affixed to or used by the taxpayer on the Reservation land without regard to whether classified as personalty or realty and equal to the value for property tax purposes shall be determined under the New Mexico Property Tax Code, as amended, currently Sections 7-36-15 to 33, NMSA 1978 and regulations adopted pursuant thereto, unless the division establishes a different method of valuation by regulation.

Section 6-2-5. Reporting requirements.

Each owner of a possessory interest shall comply with the following reporting requirements and such other requirements as are by rule or regulation adopted by the Tax Administration Division of the Pueblo:

- A. *Forms.* The tax administration division shall provide forms for the reporting on all possessory interests which must be used in reporting to the Pueblo for determination of the valuation of said possessory interests and assessment of tax due.
- B. *Reporting date.* Each taxpayer shall report the value of its possessory interests by November 15 of each year, and notice of taxation, tax assessment and tax due shall be mailed by the tax administration division by December 1 of each year, which shall be paid within thirty (30) days of the date of said notice, unless another date is specified by the tax administration division. Taxes shall be due in advance based on the assessed valuation.
- C. *Administrative reports.* The tax administration division shall report all activities collections to the Governor of the Pueblo and the Pueblo Council at least annually.

Section 6-2-6. Payment of taxes due.

Any taxes assessed shall be paid to the Pueblo Treasurer with reports being filed with the tax administration division, as set forth herein. Payment will be considered to have been timely paid if it is postmarked before midnight on the date on which it is due or if it is delivered to the Office of the Pueblo Treasurer by certified mail or in person and a receipt is given before the due date.

Section 6-2-7. Tax declaration.

Every nonexempt taxable entity or person within the Reservation boundaries shall designate some natural person as its individual empowered by the taxable entity to serve on behalf of the taxable person with respect to all matters involving this tax on the form distributed by the tax administration division and provide the information required therein.

Section 6-2-8. Penalty for late payment.

Any taxable entity or person failing to pay the amount of tax assessed by the due date shall pay interest on the outstanding balance in the amount of two (2) percent per month of delay in making payment.

Section 6-2-9. Exemptions.

A. No possessory interest which consists of a service line of a utility which exclusively serves the Reservation or a delivery or distribution facility of a utility which exclusively serves the Reservation shall be subject to this tax.

B. No possessory interest owned and used by the United States, the Pueblo, the State of New Mexico, or a subdivision of any such governmental entity shall be subject to this tax.

C. All possessory interests used for residential or agricultural purposes shall be exempt from taxation.

Section 6-2-10. Method of claiming exemption.

A claim for exemption from taxation of a service line of a utility, or a delivery or distribution facility or line of a utility exclusively serving the Reservation shall be made at the time of the filing of valuation information with the tax administration division and shall be accompanied by a map indicating the utility distribution facility or line which exclusively services residences or businesses located within the Reservation boundaries, for which exemption is claimed.

Section 6-2-11. Appeal procedures for protested taxes.

Any taxpayer may pay its tax under protest by filing a notice of protest with the Tax Administration Division of the Pueblo at the time of payment, which shall be handled as follows:

- A. Any protest received shall be referred to a three-member tax protest panel to be appointed by the Governor, which shall make a determination as to whether or not the protested tax shall be refunded and shall report its decision in writing to the protesting party, the Governor, the Treasurer and the Tax Administration Division of the Pueblo within five (5) working days of the date of determination of said protest. The tax protest panel may seek any additional information or hold such hearings or meetings as it determines are necessary in such a manner (either formal or informal) as it determines is necessary. Additionally, said tax protest panel may issue rules and

regulations for the conduct of tax protest hearings. The decision of the tax protest panel shall be final unless appealed to the Pueblo Court in accordance with the provisions of this chapter.

- B. Appeal from a determination of the tax protest panel may be made to the Pueblo Court, as defined herein, of the Pueblo by filing a notice of appeal with the Clerk of the Pueblo Court with copies to the Governor, to the tax administration division and the tax protest panel within fifteen (15) days of the date of the decision of the tax protest panel. Upon receipt of an appeal from the tax protest panel, the court clerk shall schedule a hearing before the Pueblo Court at which time the protesting taxpayer shall be allowed to state the basis for the protest and be represented by counsel, at his or her own expense. The decision of the Pueblo Court as to whether or not a protest shall be allowed shall be made in writing, and distributed to the protesting taxpayer or his or her counsel, the tax administration division, the Pueblo Treasurer, the Governor and the tax protest panel within five (5) working days of the date of the decision. The decision of the Pueblo Court shall be final.
- C. No protest shall be heard unless the assessed taxes have first been paid by the taxpayer to the Pueblo Treasurer. The Treasurer shall hold any contested amounts without expenditure in an interest bearing account, if possible, until a determination is made on the protest filed.
- D. If any tax is found to be erroneously or illegally collected, interest at the rate of four (4) percent per annum shall be allowed on the amount erroneously or illegally collected.
- E. The taxpayer has the burden of proof to establish that the protested tax was erroneously or illegally collected.

Section 6-2-12. Extension of time for paying tax.

Upon the filing with the tax administration division of a timely request for an extension of time within which to pay assessed taxes, and upon a showing of good cause, the tax administration division may extend, for a period not to exceed sixty (60) days, the due date for taxes assessed, but no further extension shall be allowed. Such a request for extension to be timely must be filed on or before the date the assessed taxes are due. The penalty for late payment as provided for in section 6-2-8 of this chapter shall apply to any payment for which an extension has been granted as well as other late payments.

Section 6-2-13. Collection powers.

The tax administration division, in the name of the Pueblo, shall have full power to collect taxes and penalties assessed, including the power to file suit in Pueblo, state or federal court, and to execute on any judgment including attachment and seizure of the assets of any taxpayer.

Section 6-2-14. No waiver of sovereign immunity.

The Pueblo does not in any way waive its sovereign immunity from suit to contest the validity of this chapter. The determination to refund all or part of a protested tax payment shall be made in accordance with terms of this chapter. Any decision of the Pueblo Court on a protested tax payment or protested assessment made in accordance with section 6-2-11 hereof shall be final.

Section 6-2-15. Use of tax proceeds.

All monies received shall be deposited by the Pueblo Treasurer in the general fund to be budgeted by the Pueblo Council and expended to defray the costs of providing governmental services. The Treasurer of the Pueblo may execute vouchers against this fund to make refund adjustments, payments of interest or payments for any purpose for which this chapter may require. The Treasurer shall refund any taxes paid on which protests have been allowed, with interest as allowed by this chapter within thirty (30) days of the date of final decision.

CHAPTER 3. GROSS RECEIPTS TAX**Section 6-3-1. Short title; purpose.**

It is in the best interest of the Pueblo to levy a gross receipts tax for the purpose of raising public money to aid in defraying the necessary and ordinary expenses of the Pueblo for the provision of governmental services to all persons within the Reservation.

Section 6-3-2. Definitions.

For purposes of this chapter:

Authentic Pueblo arts and crafts means any product which is; (1) handcrafted by a Pueblo of Laguna artist; (2) not made by machine or from unnatural products; and (3) sold by or on behalf of such artist.

Division means the Tax Administration Division of the Pueblo of Laguna.

Governor means the Governor of the Pueblo of Laguna.

Gross receipts means the total amount of money or the value of other consideration received from performing services or selling goods or property within the Reservation and includes receipts from sales, leases or rentals of tangible personal property, the performance of services, admission to any place of recreation or entertainment, but excludes cash discounts allowed and taken and excludes any gross receipts or sales tax imposed by the State of New Mexico or its political subdivisions, provided that such entity provides for a reciprocal exclusion for gross receipts of sales tax imposed by the Pueblo.

Itinerant vendor means a vendor that does not have a fixed business or retail space, either on or off the Pueblo and has sales of less than twenty thousand dollars (\$20,000.00) per year (either on or off the Pueblo). Itinerant vendor includes vendors licensed to operate booths or concessions at feast days.

Person means any individual, firm, partnership, joint venture, association, corporation, estate, trust, entity of state or federal government, political entity or other identifiable entity.

Pueblo means the Pueblo of Laguna.

Pueblo Council means the Governing Body of the Pueblo.

Pueblo Court means the Pueblo Court of the Pueblo.

Pueblo-owned business means a business or joint venture that is at least fifty-one (51) percent owned by the Pueblo of Laguna.

Purchase price means the amount paid or charged for tangible personal property or other taxable items or service.

Reservation means all lands subject to the jurisdiction of the Pueblo, including all land held by the United States in trust for Laguna Pueblo and all lands within the exterior boundaries of the Pueblo of Laguna Reservation or Pueblo grant, regardless of whether the lands are owned in fee, held in trust by the United States for the Pueblo, or otherwise held.

Tangible personal property means all goods, wares, merchandise, produce, commodities and all tangible things and substances which are capable of being possessed or exchanged.

Taxpayer means any taxable person or entity, including any individual, partnership, corporation or other legal entity engaging in a taxable transaction on the Reservation.

Vendor means any person receiving any payment or consideration subject to the gross receipts tax imposed by section 6-3-4.

Section 6-3-3. Pueblo tax districts.

There is hereby established within the Reservation four (4) tax districts: Cibola, Valencia, Sandoval and Bernalillo tax districts. These tax districts shall correspond to the boundaries of the Reservation located within each of these four (4) counties.

Section 6-3-4. Imposition and rate of tax.

A. Except as otherwise provided in this chapter, for the privilege of engaging in business on the Reservation, an excise tax on gross receipts, to be known as the Pueblo Gross Receipts Tax, is hereby imposed on any person engaging in business within the exterior boundaries of the Reservation at the following rates:

Cibola Tax District	6.5625 percent
Valencia Tax District	6.0 percent

Bernalillo Tax District	5.8125 percent
Sandoval Tax District	6.0 percent

B. These rates shall be adjusted automatically to reflect the rates in effect for each of the corresponding counties.

Section 6-3-5. Gross receipts tax credit.

A. If a gross receipts, sales or similar tax has been levied by the State of New Mexico or a political subdivision thereof on a taxable transaction taking place on the Reservation, the amount of the state tax may be credited against any gross receipts tax due the Pueblo in the amount equal to the lesser of twenty-five (25) percent of the Pueblo gross receipts tax or twenty-five (25) percent of tax revenue produced by the sum of the rate of tax imposed under the New Mexico Gross Receipts and Compensating Tax Act and the total of the rates of the local option gross receipts taxes imposed on the receipts from the same transaction; provided that the New Mexico Gross Receipts and Compensating Tax Act allows a credit of the lesser of seventy-five (75) percent of the tax imposed on the Pueblo on the receipts from the transaction or seventy-five (75) percent of the tax revenue produced by the sum of the rate of tax imposed pursuant to the Gross Receipts and Compensating Tax Act and the total of the rates of local option gross receipts taxes imposed on the receipts from the same transaction.

B. The division may enter into a cooperative agreement with the Secretary of the New Mexico Department of Taxation and Revenue to carry out the provisions of this chapter. Such cooperative agreement shall be signed by the Governor.

Section 6-3-6. Exemptions.

The following sales are exempt from the taxes imposed by this chapter:

- A. Sales of livestock or agricultural goods;
- B. Sales of tobacco products;
- C. Sales to or by the Pueblo, its governmental entities and political subdivisions, and Pueblo-owned enterprises or businesses;
- D. Sales of natural gas, electricity, heat, coal, fuel oil or other fuels sold or furnished for residential or commercial use;
- E. Leasing or rental of real property for residential purposes, including mobile home lots;
- F. Sales of water;
- G. Sales of authentic Pueblo arts and crafts;
- H. Sales of groceries and food stuff at grocery stores dedicated primarily to selling food stuffs; this does not include the sale of prepared meals in a restaurant or eating facility, or the sales of groceries and other items at convenience stores associated with gas stations;
- I. Sale of goods at wholesale for later resale;

- J. Sales by itinerant vendors; and
- K. Sales of goods or services for incorporation into residences, including sales of residential construction services.

Section 6-3-7. Vending machine sales and installment sales.

A. The division shall require a vendor to pay the tax imposed by this chapter upon sales made through vending machines and similar devices.

B. In the case of installment sales of tangible personal property, the vendor shall collect and remit the tax imposed by this chapter upon the principal amount of each installment of the purchase price at the time the installment is paid.

Section 6-3-8. Assessments; penalties.

Any vendor who fails to pay the tax to the division, whether such failure is the result of the vendor's acts or the result of acts or conditions beyond the vendor's control, shall be personally liable to the Pueblo upon assessment by the division for the amount of the tax, plus interest at the rate of ten (10) percent and a penalty imposed by the division of an amount not to exceed fifty (50) percent of the taxes due.

Section 6-3-9. Tax return; payment of tax; records.

A. Except as provided in subsection F. of this section, every vendor who has taxable gross receipts during a calendar month shall, on or before the 25th day of the month following the end of the month in which the taxable receipts are received, file with the division a return setting forth the amount of gross receipts from engaging in business on Reservation Land, the amount of exempt gross receipts, the amount of taxable gross receipts, the amount of gross receipts tax due thereon, and such other information as the division may require. The vendor shall sign the return and shall affirm the accuracy of the information in the return. A vendor who has no taxable gross receipts during a calendar month shall not be required to file any gross receipts tax report as to that month.

B. The gross receipts tax as computed in the return shall be based upon the total taxable receipts received during the month, less any amounts refunded to the purchaser upon cancellation of a sale. The return shall compute the gross receipts tax on the purchase price, excluding gross receipts taxes imposed by the State of New Mexico for which a reciprocal exclusion has been granted by the state.

C. Except as provided in subsection F. of this section, every vendor shall pay the gross receipts tax due on or before the 25th day of the month following the end of the month in which the taxable receipts are received, and such payment shall accompany the return for that reporting period.

D. Each vendor engaging in any taxable transaction under this chapter shall:

- (1) Keep and preserve for three (3) years, records of all taxable sales and leases made by the vendor and other books or accounts necessary to determine the amount of tax due under this chapter; and
- (2) Open all such records for examination at any time by the director or its duly authorized representative or agent.

E. The division is authorized to establish alternative procedures for the collection and distribution of taxes that are subject to the tax credit specified in section 6-3-5 of this chapter.

F. The division may authorize a vendor to file tax returns and pay taxes on a quarterly or semi-annual basis, upon written request of the vendor, if the vendor's monthly taxable gross receipts are less than one thousand dollars (\$1,000.00).

Section 6-3-10. Administration.

A. The administration of this chapter shall be vested in and exercised by the division which may establish reasonable rules and regulations to carry out the intent of this chapter.

B. The division may exercise all powers designated by Pueblo law, including, but not limited to, this chapter and any other authority that is necessary and proper in the administration and enforcement of any Pueblo tax laws.

Section 6-3-11. Tax lien.

The tax imposed by this chapter shall be a first and prior lien upon the goods and business fixtures of or used by any vendor and shall take precedence on all such property over other liens or claims of whatsoever kind or nature but only to the extent of the taxes due.

Section 6-3-12. Tax protest.

Any person having made a return and paid the sales tax may protest the payment of the tax pursuant to procedures set forth in section 6-2-11.

Section 6-3-13. Use of tax proceeds.

All unprotested taxes and other monies received by the division shall be deposited by the Pueblo Treasurer in the general fund to be budgeted by the Pueblo Council and expended for the purpose of defraying the necessary and ordinary governmental expenses of the Pueblo.

Section 6-3-14. No waiver of sovereign immunity.

The Pueblo does not in any way waive its sovereign immunity from suit except as provided in this chapter. Any decision of the Pueblo Court on the protested tax payment or protested assessment made in accordance with this chapter shall be final.

CHAPTER 4. GASOLINE AND GASOLINE INVENTORY TAX**Section 6-4-1. Definitions.**

Distributor means a person who refines gasoline within the Reservation, or imports gasoline into the Reservation other than in the fuel supply tank of a motor vehicle for sale or use within the Reservation. The person who owns the gasoline at the time of refining or importation is the distributor. A person may be both a distributor and a retailer as to the same quantities of gasoline.

Division means the Tax Administration Division of the Pueblo.

Gasoline means any flammable liquid hydrocarbon used primarily as fuel for the propulsion of motor vehicles, motorboats or aircraft, except for diesel engine fuel, kerosene, liquified petroleum gas, compressed or liquified natural gas, and products specially prepared and sold for use in aircraft propelled by turbo-prop or jet-type engines.

Person means an individual or any other legal entity, including any federal, tribal, state or other governmental entity, department, agency, instrumentality or political subdivision, and includes any corporation, partnership, joint venture, limited liability company or other organization existing under federal, tribal, state or foreign law.

Reservation means all lands subject to the jurisdiction of the Pueblo, including all land held by the United States in trust for the Pueblo and all lands within the exterior boundaries of the Pueblo of Laguna Reservation or Pueblo grant, regardless of whether the lands are owned in fee, held in trust by the United States for the Pueblo, or otherwise held.

Retailer means a person who sells or gives away gasoline for any purpose other than resale and delivers the gasoline sold into fuel supply tanks of motor vehicles or into portable fuel storage containers. A person may be both a distributor and a retailer as to the same quantities of gasoline.

Wholesaler means any person other than a distributor who sells gasoline for resale.

Section 6-4-2. Imposition of gasoline tax.

A. For the privilege of engaging in business as a gasoline retailer within the Reservation, there is imposed an excise tax at the rate of seventeen cents (\$0.17) per gallon, on each gallon of gasoline sold within the Reservation by the retailer.

B. The tax imposed by this chapter may be called the "gasoline tax".

Section 6-4-3. Deductions.

In computing the gasoline tax due, the retailer may deduct from the total amount of gasoline sold within the Reservation.

A. Gasoline exported from the Reservation other than in the fuel supply tank of a motor vehicle.

- B. Gasoline sold to the Pueblo or any political subdivision, agency or instrumentality of the Pueblo for the exclusive use of the Pueblo, or its political subdivision, agency or instrumentality, including all gasoline delivered into the fuel supply tank of a motor vehicle registered in the name of the Pueblo or its political subdivision, agency or instrumentality. For purposes of this subsection, a business enterprise of the Pueblo shall not be considered an agency or instrumentality of the Pueblo.
- C. Gasoline lost or destroyed by fire or unavoidable accident while in the possession of retailer.
- D. Gasoline sold to the United States or any agency or instrumentality thereof for the exclusive use of the United States or any agency or instrumentality thereof, including gasoline delivered into the fuel supply tank of a vehicle registered in the name of the United States or any agency or instrumentality thereof.
- E. The retailer claiming any deduction has the burden of proving to the reasonable satisfaction of the division that the gasoline is deductible under this chapter.

Section 6-4-4. Retailer returns and tax payments.

A. Every retailer shall file gasoline tax returns in the form prescribed by the division on or before the 25th day of the month following the month in which it sells gasoline at retail within the Reservation.

B. The return shall report the number of gallons of gasoline sold, the identity of the distributor or wholesaler from whom the retailer obtained the gasoline, the number of deductible gallons, and any other information required by the division.

C. The return shall be accompanied by payment of the amount of gasoline tax due.

Section 6-4-5. Distributor returns.

A. Every distributor shall file informational returns in the form prescribed by the division on or before the 25th day of the month following the month in which it refines gasoline within the Reservation or imports gasoline into the Reservation.

B. The return shall report the number of gallons of gasoline refined or imported, the date refined or imported, the disposition of all gallons refined or imported, and any other information required by the division.

Section 6-4-6. Wholesaler returns.

A. Every wholesaler shall file informational returns in the form prescribed by the division on or before the 25th day of the month following the month in which it sells gasoline at wholesale within the Reservation.

B. The return shall report the number of gallons of gasoline sold, the identity of the distributor from whom the wholesaler obtained the gasoline, the identity of the person to whom the gasoline was sold, and any other information required by the division.

Section 6-4-7. Registration of distributors, wholesalers and retailers.

A. Every person engaged in the business of distributing gasoline within the Reservation, and every person engaged in business as a retailer or wholesaler of gasoline within the Reservation shall register with the division.

B. The registration shall include name, address, telephone number, federal Social Security Number, federal taxpayer identification number, all state taxpayer identification numbers of the person registering and of all other persons owning more than ten (10) percent of the voting and nonvoting interests in the person registering, and such other information required by the division.

Section 6-4-8. Bonds.

A. Every distributor, wholesaler and retailer of gasoline shall file with the division a bond or other security acceptable to the division, unless the person is exempt from the bond or other security under subsection D. of this section.

B. Any bond shall name the Pueblo as obligee and shall be conditioned upon the prompt filing of true reports and the prompt payment of all taxes imposed by this chapter, together with all applicable penalties and interest.

C. The amount of the bond or other security shall be the greater of one thousand dollars (\$1,000.00) or an amount equal to twice the estimated monthly gasoline tax obligation of the person filing the bond.

D. Any person required to file a bond or other security under this chapter who timely and fully files all returns required by this chapter and pays all tax due under this chapter for a period of twelve (12) consecutive months shall not be required to post a bond or other security. The division may require any person who is exempt from the requirement to post a bond or other security under this subsection and who becomes delinquent in any obligation to file a return or pay a tax required by this chapter to post a bond or other security under this chapter within ten (10) days after written notice from the division.

Section 6-4-9. Fuel manifests.

A. Every person transporting gasoline from a refinery, other production facility or pipeline terminal within the Reservation, importing gasoline into the Reservation, or exporting gasoline out of the Reservation, other than by pipeline or in the fuel supply tank of a motor vehicle shall carry a manifest or bill of lading in a form prescribed by or acceptable to the division.

B. The manifest or bill of lading shall be signed by the person who delivered possession of the gasoline to the transporter and by every person accepting delivery of any part of the gasoline from the transporter, indicating the amount accepted.

C. Any other person transporting thirty-five (35) gallons or more of gasoline within the Reservation, other than in the fuel supply tank of a motor vehicle, shall upon demand furnish proof acceptable to the division that the gasoline so transported was legally acquired and that the gasoline tax has been paid on the gasoline.

Section 6-4-10. Gasoline tax account.

All gasoline tax revenues collected by the division shall be deposited in the gasoline tax account and shall be expended as provided by enactment of the Pueblo Council.

Section 6-4-11. Imposition of gasoline inventory tax.

A. A gasoline inventory tax is imposed on the gallons of gasoline within the Reservation and in the possession of a distributor, wholesaler or retailer on the day the gasoline tax is imposed or on the day on which an increase in the rate of the gasoline tax becomes effective.

B. The rate of the gasoline inventory tax shall be the difference between the gasoline tax rate in effect on the day on which the gasoline inventory tax is imposed, less the gasoline tax rate in effect on the day prior to the day on which the gasoline inventory tax is imposed, expressed in cents per gallon.

C. The tax imposed by this chapter may be called the "gasoline inventory tax".

D. The gasoline inventory tax shall be paid on or before the 25th day of the month following the month in which the gasoline inventory tax is imposed.

E. On the day prior to the day that the gasoline inventory tax is imposed, each distributor, wholesaler and retailer shall take inventory of the gallons of gasoline in its possession.

F. Distributors, wholesalers and retailers shall report to the division the total number of gallons of gasoline in inventory on the day prior to the day that the gasoline inventory tax is imposed and shall pay any gasoline inventory tax due.

CHAPTER 5. CORPORATE GROSS REVENUE TAX

Section 6-5-1. Purpose.

The Pueblo Council finds that it is in the best interest of the Pueblo to impose a tax for the purpose of raising money to pay the necessary and ordinary costs and expenses of the Pueblo for the acquisition of land by the Pueblo for business and other purposes and to establish a land acquisition fund.

Section 6-5-2. Definitions.

For purposes of this chapter:

Entity means any Pueblo-owned corporation.

Governor means the Governor of the Pueblo of Laguna.

Gross revenue means the total amount of receipts of a for-profit Pueblo-owned corporation before deductions for any purpose, except those items specifically exempted herein. For revenue received from wagers placed at gaming enterprises owned by the Pueblo, gross revenue shall mean "net win", as that term is defined in the Tribal/State Class III Gaming Compact dated October 3, 2001, between the Pueblo of Laguna and the State of New Mexico, as amended.

Land acquisition fund means the fund established by subsection 6-4-8A. of this chapter.

Pueblo means the Pueblo of Laguna.

Pueblo Council means the Governing Body of the Pueblo.

Pueblo-owned corporation means a federally chartered, for-profit business corporation that is wholly owned by the Pueblo of Laguna. Nonprofit corporations owned by the Pueblo are excluded from this chapter.

Reservation means all lands subject to the jurisdiction of the Pueblo, including all land held by the United States in trust for Laguna Pueblo and all lands within the exterior boundaries of the Pueblo of Laguna Reservation or Pueblo grant, regardless of whether the lands are owned in fee, held in trust by the United States for the Pueblo, or otherwise held.

Treasurer means the Treasurer of the Pueblo of Laguna.

Section 6-5-3. Imposition and rate of tax.

For the privilege of engaging in business on the Reservation as a Pueblo-owned corporation, a tax on gross revenue from all sources is hereby imposed on any entity at the rate of one (1) percent of gross revenue per annum.

Section 6-5-4. Exemptions.

The following are exempt from the tax imposed by this chapter:

- A. Any amount actually provided to the Pueblo to pay revenue sharing payments to the State of New Mexico under the Tribal/State Class III Gaming Compact between the Pueblo of Laguna and the State of New Mexico.
- B. Any exemption, waiver or limitation on such tax on an entity approved by the Pueblo Council, until such restrictions expire.

Section 6-5-5. Payment in lieu of tax.

For any entity requesting a payment in lieu of tax, the Treasurer is authorized to negotiate and, subject to Pueblo Council approval, enter into an agreement for a payment in lieu of tax.

Section 6-5-6. Payment of tax; records.

A. Every entity governed by this chapter shall, within sixty (60) days following the end of each calendar quarter, prepare a report for the preceding quarterly period, setting forth the amount of all gross revenue, exempt amounts, the amount of tax due thereon, and such other information as the Treasurer may require, and sign and file the return with the Treasurer. The Treasurer may, upon the request of an entity and in the discretion of the Treasurer, allow an entity to file its returns within sixty (60) days of its fiscal quarters, if different from the calendar quarter.

B. Every entity shall pay the tax due for the preceding quarterly period to the Treasurer at the same time the report for the preceding quarterly period is submitted.

C. Each entity governed by this chapter shall:

- (1) Keep and preserve records of all books or accounts necessary to determine the amount of tax due under this chapter;
- (2) Keep and preserve for a period of three (3) years all such records; and
- (3) Open all such records for examination at any time by the Treasurer or his or her duly authorized representative or agent.

Section 6-5-7. Administration.

A. The administration of this chapter shall be vested in and exercised by the Treasurer who may establish reasonable rules and regulations and provide forms to carry out the intent of this chapter.

B. The Treasurer may exercise all powers designated by Pueblo law, including, but not limited to, this chapter, and any other authority that is necessary and proper in the administration and enforcement of this chapter.

Section 6-5-8. Establishment of Pueblo of Laguna Land Acquisition Fund; use of tax proceeds.

A. The Pueblo of Laguna Land Acquisition Fund is hereby established under the administration and investment authority of the Treasurer, subject to the Pueblo of Laguna Investment Policy Ordinance. The Pueblo Council may appropriate funds at any time for deposit into the land acquisition fund.

B. All taxes and other payments in lieu of tax received by the Treasurer under this chapter shall be deposited by the Treasurer into the land acquisition fund of the Pueblo and expended for the purpose of paying the necessary and ordinary costs and expenses of the Pueblo to acquire real property from time to time as approved by the Pueblo Council, in its sole discretion, including principal and interest, on any loans made by the Pueblo to acquire the land.

Section 6-5-9. No waiver of sovereign immunity.

The Pueblo does not in anyway waive its sovereign immunity from suit and nothing herein shall be interpreted or construed as a waiver of the Pueblo's sovereign immunity.

Section 6-5-10. Appeals, protests and disputes.

Any appeal, protest or dispute concerning the corporate gross revenue tax or the meaning of this chapter shall be filed with the Treasurer and decided promptly by the Pueblo Council which decision shall be final and not subject to further appeal.

Section 6-5-11. Confidentiality.

All information provided by any entity shall be held confidential by the Treasurer and Pueblo Council and shall be used only for Pueblo governmental purposes.

TAXATION

TITLE VI HISTORY

Title VI, Chapter 2, Possessory Interest Tax, was enacted by Ordinance No. 400-86 on September 9, 1986, and amended by Ordinance 200-91 on December 3, 1991.

Ordinance 400-86 reads as follows:

WHEREAS, the Pueblo of Laguna is an Indian Tribe recognized by the United States of America organized under the Indian Reorganization Act of 1934 pursuant to a revised Constitution effective June 6, 1984 exercising all inherent governmental powers and Tribal sovereignty; and

WHEREAS, an exercise of such inherent governmental power and Tribal sovereignty is the taxation of possessory interests within the Reservation boundaries which is authorized by Article IV, Section 2(f) of the Constitution of the Pueblo of Laguna; and

WHEREAS, the Pueblo Council recognizes a need to raise revenues to continue providing Tribal services within the Reservation boundaries which benefit all individuals and businesses on the Reservation; and

WHEREAS, a possessory interest tax with revenues dedicated to offset Pueblo governmental budgetary expenditures appears to be the most equitable form of raising revenues for governmental services to residents and businesses on the Reservation; and

WHEREAS, a tax study commissioned by the Pueblo indicates that a reasonable percentage tax on the assessed value of said possessory interests would generate the revenues needed by the Tribe and still not have substantial impact on the businesses owning said possessory interests; and

WHEREAS, it appears that the service lines of utilities providing services to residents and businesses on the Reservation and commercial leases should be exempt from taxation; and

WHEREAS, the Supreme Court of the United States has specifically upheld the sovereign authority of Indian Tribes to levy and collect taxes on businesses within the Reservation boundaries and has indicated that the Department of the Interior approval of said tax ordinances is unnecessary unless the internal laws of the Tribe require such approval; and

WHEREAS, there are no internal laws of the Pueblo requiring such approval nor does the Pueblo have a Constitution which requires BIA approval of ordinances of the Pueblo Council.

NOW, THEREFORE, BE IT ORDAINED by the Pueblo Council of the Pueblo of Laguna that effective on the date set forth hereinafter, a possessory interest tax is hereby imposed on all possessory interest within the Reservation boundaries as follows: [TEXT OF ORDINANCE]

Ordinance 200-91 reads as follows:

WHEREAS, the Pueblo Council is the governing body of the Pueblo of Laguna that exercises all Pueblo governmental powers; and

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WHEREAS, the Pueblo Council enacted the Pueblo of Laguna Possessory Interest Tax Ordinance No. 400-86, on September 9, 1986, which levied a five (5) percent tax on the value of all possessory interests, as defined in the Ordinance, owned within the Laguna Indian Reservation; and

WHEREAS, the Pueblo provides police and fire protection, and other governmental services to all people and businesses residing, doing business, or owning property within the Laguna Indian Reservation, including those people and businesses who own lands in fee simple within the Laguna Indian Reservation; and

WHEREAS, the activities of the people and businesses who reside, do business or own property within the Laguna Indian Reservation impact the health and welfare of the Pueblo and its members; and

WHEREAS, the Pueblo Council finds that it is in the best interest of the Pueblo to amend the Possessory Interest Tax Ordinance No. 400-86, to provide for the extension of the Ordinance to all possessory interests within the Laguna Indian Reservation.

NOW, THEREFORE, BE IT ORDAINED that the Pueblo of Laguna Possessory Interest Tax Ordinance is hereby amended as follows: [TEXT OF ORDINANCE]

BE IT FURTHER ORDAINED that the Laguna Tax Administration Division is hereby directed to notify all taxpayers of this amendment and do all things necessary and proper to implement this Ordinance.

Ordinance No. 400-86, as amended by Ordinance No. 200-91 reads as follows:

WHEREAS, the Pueblo of Laguna is an Indian Tribe recognized by the United States of America organized under the Indian Reorganization Act of 1934 pursuant to a revised Constitution effective June 6, 1984 exercising all inherent governmental powers and Tribal sovereignty; and

WHEREAS, an exercise of such inherent governmental power and Tribal sovereignty is the taxation of possessory interests within the Reservation boundaries which is authorized by Article IV, Section 2(f) of the Constitution of the Pueblo of Laguna; and

WHEREAS, the Pueblo Council recognizes a need to raise revenues to continue providing Tribal services within the Reservation boundaries which benefit all individuals and businesses on the Reservation; and

WHEREAS, a possessory interest tax with revenues dedicated to offset Pueblo governmental budgetary expenditures appears to be the most equitable form of raising revenues for governmental services to residents and businesses on the Reservation; and

WHEREAS, a tax study commissioned by the Pueblo indicates that a reasonable percentage tax on the assessed value of said possessory interests would generate the revenues needed by the Tribe and still not have substantial impact on the businesses owning said possessory interests; and

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WHEREAS, it appears that the service lines of utilities providing services to residents and businesses on the Reservation and commercial leases should be exempt from taxation; and

WHEREAS, the Supreme Court of the United States has specifically upheld the sovereign authority of Indian Tribes to levy and collect taxes on businesses within the Reservation boundaries and has indicated that the Department of the Interior approval of said tax ordinances is unnecessary unless the internal laws of the Tribe require such approval; and

WHEREAS, there are no internal laws of the Pueblo requiring such approval nor does the Pueblo have a Constitution which requires BIA approval of ordinances of the Pueblo Council.

NOW, THEREFORE, BE IT ORDAINED by the Pueblo Council of the Pueblo of Laguna that effective on the date set forth hereinafter, a possessory interest tax is hereby imposed on all possessory interest within the Reservation boundaries as follows: [TEXT OF ORDINANCE]

Title VI, Chapter 3, Gross Receipts Tax, was enacted by Ordinance No. 200-99 on June 29, 1999. Ordinance 200-99 was adopted by Resolution No. 33-99 on June 29, 1999, effective July 1, 1999.

Resolution No. 33-99 reads as follows:

WHEREAS, the Laguna Pueblo Council is the governing body of the Pueblo of Laguna and exercises all governmental powers; and

WHEREAS, an exercise of such inherent governmental power and tribal sovereignty is the taxation of gross receipts for the sales of services or goods within Reservation boundaries;

WHEREAS, Article 4, Section 2(f) of the Constitution of the Pueblo of Laguna vests the authority to impose such taxes on the Pueblo Council; and

WHEREAS, the Pueblo provides police and fire protection, and other governmental services to all people and businesses residing or doing business within the Reservation boundaries; and

WHEREAS, the Pueblo Council recognizes the need to raise tax revenues to continue providing tribal services within the exterior boundaries of the Reservation which benefit all individuals and businesses; and

WHEREAS, the Supreme Court of the United States has specifically upheld the sovereign authority of Indian Tribes to levy and collect taxes on businesses within the Reservation boundaries and has indicated Secretarial approval of said tax ordinances is unnecessary unless the internal laws of the Tribe require such approval: and

WHEREAS, there are not internal laws of the Pueblo requiring such approval nor does the Pueblo's Constitution require Secretarial approval of an ordinance of the Pueblo Council; and

WHEREAS, the State of New Mexico enactment Chapter Law 223 (H.B. 530), on April 6, 1999, allowing a credit of seventy-five (75) percent of state taxes on non-Indian businesses that pay a Pueblo tax if a cooperative agreement exists between the State and the Pueblo.

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NOW, THEREFORE, BE IT RESOLVED that the Pueblo Council of the Pueblo of Laguna hereby adopts the Pueblo of Laguna Gross Receipts Tax Ordinance to be effective July 1, 1999, imposing a gross receipts tax on the sale of all services and tangible personal property within the Reservation boundaries as set forth in the attached Ordinance.

BE IT FURTHER RESOLVED that the Governor and the Tax Administration Division are hereby authorized to negotiate and enter into a cooperative agreement with the Secretary of Taxation and Revenue to administer the tax credit. [TEXT OF ORDINANCE]

Title VI, Chapter 4, Gasoline and Gasoline Inventory Tax, was enacted by Ordinance No. 100-99 on June 18, 1999, effective July 1, 1999.

Ordinance No. 100-99 reads as follows:

WHEREAS, the State of New Mexico has changed its tax laws to allow tribal businesses to sell gasoline at retail within tribal lands without the state gasoline tax, if the Tribe imposes its own tax on the gasoline; and

WHEREAS, the Tribal Council finds that it would be in the best interest of Laguna Pueblo to impose a tribal tax on gasoline sold at retail within Pueblo Lands.

NOW THEREFORE BE IT ORDAINED, by the Tribal Council of the Pueblo of Laguna that the following ordinance be and it hereby is enacted as follows: [TEXT OF ORDINANCE]

Title VI, Chapter 5, Land Acquisition Fund, was enacted by Ordinance No. 100-04 on February 17, 2004.

Ordinance No. 100-04 reads as follows: [TEXT OF ORDINANCE]