PUEBLO OF ACOMA LAWS 2003 (2011 REPLACEMENT)

TITLE 14
TAXATION

This Replacement includes laws enacted since the Pueblo of Acoma Laws 2003 pursuant to Tribal Council Resolutions dated January 1, 2010 through December 31, 2010.

PUEBLO OF ACOMA LAWS 2003 (2011 REPLACEMENT)

TITLE 14
TAXATION

These laws may be cited by Title, Chapter, Section and Year
as "Section or § _-_-_ Pueblo of Acoma Laws 2003 (2011 Replacement)"

TITLE 14
TAXATION

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TITLE 14
TAXATION

Origins: Leasehold Tax enacted by Tribal Council Resolution Nos. TC-SEPT-84-01-1 and TC-NOV-20-84-18-5; withdrawn and rescinded by Tribal Council Resolution No. TC-JULY-25-85-3; clarified by Tribal Council Resolution No. TC-JUNE-23-87-1; repealed by Tribal Council Resolution No. TC-DEC-15-88-2; codified at Title 18 of the Pueblo of Acoma Laws in 1988; restated at Title 14 Pueblo of Acoma Laws in 1995; amended by Tribal Council Resolution No. TC-AUG-25-99-2A; amended by Tribal Council resolution No. TC-JAN-10-01-2 in 2001; amended by Tribal Council Resolution No. TC-DEC-05-VI(2) in 2005; amended by Tribal Council Resolution No. TC-DEC-13-05-VIb(1) in 2005; restated by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007; amended by Tribal Council Resolution Nos. TC-JUL-30-08-VIb and TC-JUL-30-08-VIc in 2008; amended by Tribal Council Resolution Nos. TC-AUG-27-09-VIa and TC-SEPT-25-09-VIb; amended by Tribal Council Resolution Nos. TC-MAY-06-10-VIb, TC-JUN-17-10-Ia, and TC-JUL-22-10-VIb.

Annotations:
The 1985 repeal was an act to tax all business activities and enterprises within the Pueblo of Acoma's jurisdiction.

The 1988 repeal became effective January, 1989 and resulted in a new Business Property Tax Code.

The 1995 restatement was a restatement of the entire written law of the Pueblo and resulted in Title 18's relocation to Title 14. The 1995 restatement did not alter any portion of the prior Title 18.

The 1999 amendment included a new chapter, "Gasoline Tax."

The 2001 amendment included a new chapter 7, "Hotel Occupancy Tax."

In 2003, a restatement of the entire Title 14 was issued to include the 1999 and 2001 amendments.

The 2005 amendments 1) replaced chapter 7 with a new Hotel Occupancy Tax and 2) added a new chapter 8, Acoma Pueblo Hospitality tax.

The 2007 restatement amends the entire Title 14 and resulted in the issuance of the 2008 replacement to reflect those amendments. The 2007 restatement separates tax administration into its own chapter 1, renames the Hotel Occupancy Tax as the Lodging Tax, and made other amendments as further described under the respective

origins and annotations to the amended sections. The 2007 restatement renumbers the Title 14 as described herein and more fully explained in the origins and annotations.

The 2008 amendment 1) enacts a new gross receipts tax, 2) repeals the Acoma Pueblo Hospitality Tax, 3) decreases the Lodging Tax rate to 5% and 4) enacts a new Wildlife Habit Improvement Fee. The 2009 Replacement reflects changes made by the 2008 amendment.

The 2009 amendment 1) amends the Gross Receipts Tax exemptions and 2) adds a new chapter entitled, "Acoma Cigarette Tax Act".

The 2010 amendment 1) enacts a new chapter entitled, "Business License and Vendor Permit", and 2) amends the "Acoma Cigarette Tax" as more fully explained in the origins and annotations of that Chapter.

Chapter 1. ADMINISTRATION AND ENFORCEMENT

14-1-1 Establishment of the Acoma Office of Taxation. There is hereby established the Acoma Office of Taxation (sometimes called the Acoma Tax Office) as part of the Executive Branch of the Pueblo of Acoma.

Origins: Enacted by Tribal Council Resolution No. TC-MAY-23-07-VIa.

14-1-2 Powers and Authority. The Acoma Office of Taxation, under the supervision and control of the Governor, shall be responsible for carrying out all administrative authority and responsibilities provided for herein. In addition, the Acoma Office of Taxation shall have the following powers:

A. Review and study all sources of income and value within the Acoma Reservation and all possible taxes thereon.

B. Levy taxes, issue permits and charge fees, authorized by this Code.

C. Adopt such rules and regulations as deemed necessary for the proper functioning of the Acoma Office of Taxation.

D. Possess the authority and responsibility to carry out the directives of the Tribal Council involving taxation.

Origins: Enacted by Tribal Council Resolution No. TC-MAY-23-07-VIa.

14-1-3 Duties and Responsibilities of Tax Administrator. The Administrator of the Acoma Office of Taxation has the following duties and responsibilities:

A. Report and be responsible to the Acoma Tribal Council through the Tribal Governor.

B. Formulate overall administrative and operating policies for the implementation of all Acoma Pueblo taxes, permits and licenses authorized by this Code, and other responsibilities assigned by the Tribal Council or Governor, and take such action as shall be deemed necessary for the accomplishment and enforcement thereof.

C. Prepare annual reports and budgets for the Acoma Office of Taxation and participate in review thereof. Also report monthly on tax assessment and tax revenues.

D. Make any recommended changes in tax rates or fees to the Acoma Tribal Council.

E. Conduct educational programs to inform residents and all businesses within the exterior boundaries of Acoma lands about the Acoma taxes, permits, and license fees and the assessment and collection procedures.

F. Hire staff, subject to the Tax Office's budgetary constraints, to exercise the power and carry out the duties of the Acoma Office of Taxation.

G. Take any and all additional action within the Administrator's authority to implement the power of the Acoma Office of Taxation.

Origins: Enacted by Tribal Council Resolution No. TC-MAY-23-07-VIa.

14-1-4 RESERVED

Origins: Enacted by Tribal Council Resolution No. TC-DEC-88-2.

Annotation: The 1999 Supplement removed this section because the same substantive information was in the Origins and Annotation of §14-1-4 Pueblo of Acoma Laws 1995 (1999 Supplement). Because language in the text of the law may carry more weight than language in the origins and annotations, the Pueblo of Acoma Laws 2003 reinserted the text and added necessary bracketed information as follows: "This Business Property Tax Code replaces the prior Pueblo law on this subject contained in

[Tribal Council] Resolution Nos. TC-JULY-25-85-3 and TC-JUNE-23-87-3." The 2007restatement deletes the entire §14-1-4 and reserves it for future use.

14-1-5 Professional Services - Experts. The Administrator, subject to the Tax Office's budgetary constraints, may employ accountants, auditors, investigators, consultants and other experts as necessary for the efficient administration of the Tax Code and may delegate authority to such individuals, as Tax Office representatives, to perform any duties imposed by the Code.

Origins: Enacted by Tribal Council Resolution No. TC-MAY-23-07-VIa.

14-1-6 Enforcement.

A. The Acoma Office of Taxation, as an agency of the Acoma Pueblo, shall enforce provisions of this Title and any other subsequent tax ordinances enacted and incorporated into this Title by the Acoma Tribal Council. Such enforcement shall be in accordance with administrative procedures provided by this Title and through judicial enforcement in the Acoma Tribal Courts.

B. The Administrator shall enforce the provisions of the Acoma Tax Code and may prescribe, adopt and enforce rules and regulations relating to the administration and enforcement of any provision of this Title or any amendment thereto.

Origins: Enacted by Tribal Council Resolution No. TC-MAY-23-07-VIa.

Annotations: Tribal Council Resolution No. TC-JULY-25-85-3 originally gave tax enforcement powers to the Governor of the Pueblo of Acoma. This power was delegated to the Acoma Tax Office, now Acoma Office of Taxation, since 1988. See Tribal Council Resolution No. TC-DEC-15-88-2.

14-1-7 Regulations, Rulings and Instructions.

A. The Administrator is empowered and directed to issue all regulations, rulings, or instructions necessary to implement and enforce any provision of Title 14.

B. Definitions.

1. "Regulations" are written rules, having legal force, issued by the Administrator that have general application to taxpayers,

which interpret and explain the ordinance to which they relate.

2. "Rulings" are written statements of the Administrator, of limited application to one or a small number of taxpayers, interpreting the ordinances, regulation or policy to which they relate, and are ordinarily issued in response to a request for clarification of tax consequences on a specific set of circumstances.

3. "Instructions" are other written statements or directives of the Administrator not dealing with the merits of any tax liability but which otherwise aid in the accomplishment of the duties of the Administrator.

C. A regulation issued by the Administrator shall first be submitted to the Tribal Council for review, comment and authorization for public inspection and comment. Upon such authorization, the proposed regulation shall then be submitted for public inspection by publication, posting, or distribution to interested persons and provide for comment on the proposed regulation. After the proposed regulation has been subject to public comment for not less than two (2) weeks, the Administrator may revise the regulation based on the public comments or as needed, and submit for final Tribal Council review and comment. Thereafter, the regulation may be issued by the Administrator as a final regulation.

D. The Acoma Office of Taxation shall use its best efforts to develop and maintain a file of names and addresses of individuals, businesses, and business associations having an interest in the promulgation of new, revised or proposed regulations and shall at convenient times distribute to these persons all regulations and rules pertinent to them.

E. The Administrator shall state the extent to which the regulations or rulings will have retroactive effect. If no such statement regarding retroactive effect is made, the regulations or rulings shall be applied prospectively only.

F. All regulations, rulings and instructions issued by the Administrator shall be compiled and subject to public inspection and reference at the Acoma Office of Taxation.

G. All regulations and rulings which have been filed in the records of the Acoma Office of Taxation shall be continued in full force and effect until repealed, replaced, superseded or amended by the Administrator, the Acoma Tribal Courts or the Acoma Tribal Council.

Origins: Enacted by Tribal Council Resolution No. TC-MAY-23-07-VIa.

14-1-8 Tax Payment Date. The taxes due and payable to the Pueblo of Acoma are to be paid: 1) for the Business Property Tax, within thirty (30) days of the issuance of a Notice of Valuation or Notice of Tax Due by the Acoma Office of Taxation or 2) for those taxes requiring monthly payments, by the tenth day of the month following the end of the month for which the tax is due; unless another date or process for payment of a tax is specified in writing by the specific tax ordinance.

Origins: Enacted by Tribal Council Resolution No. TC-DEC-88-2; codified as §18-4-5 Pueblo of Acoma Laws 1988; restated as §14-4-5 Pueblo of Acoma Laws 1995 and 2003; restated and amended as §14-1-8 by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

Annotations: 2007 restatement replaced former §14-4-5 in its entirety with this new section. Former §14-4-5 read: "The taxes imposed on any business property that are due and payable to the Pueblo of Acoma for all or part of any tax year, are to be paid within thirty (30) days of the issuance of a Notice of Valuation and Tax Due by the Acoma Tax Office unless another date is specified."

14-1-9 Payment or Filing Documents on Time.

A. Making Payments. All payments required to be submitted to the Pueblo of Acoma under this Title shall be sent by delivery service, mail or delivered in person to the Acoma Central Accounting Department and a receipt shall be given for such payment.

Origins: Enacted by Tribal Council Resolution No. TC-MAY-23-07-VIa.

B. Timeliness of Payment. Payment will be considered to have been timely paid if it is postmarked before midnight of the date on which it is due or if it is delivered to the Acoma Central Accounting Department by the close of business on the date which it is due and a receipt given.

Origins: Enacted by Tribal Council Resolution No. TC-DEC-88-2; codified as §18-4-6(B) Pueblo of Acoma Laws 1988; restated as §14-4-6(B) Pueblo of Acoma Laws 1995 and 2003; restated and amended as §14-1-9(B) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

Annotations: 2007 restatement replaced former §14-4-6(B) in its entirety with subsection B. Former §14-4-6(B) read: "Payment will be considered to have been timely paid

if it is postmarked before midnight of the date on which it is due or if it is delivered to the Acoma Tax Office by certified service or in person and a receipt given."

C. Filing Documents. All documents, other than payments, required to be submitted to the Pueblo of Acoma under this Title shall be sent by delivery service, mail or delivered in person to the Acoma Office of Taxation.

Origins: Enacted by Tribal Council Resolution No. TC-DEC-88-2; codified as §18-4-6(A) Pueblo of Acoma Laws 1988; restated as §14-4-6(A) Pueblo of Acoma Laws 1995 and 2003; restated and amended as §14-1-9(C) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

Annotations: 2007 restatement replaced former §14-4-6(A) in its entirety with subsection C. Former §14-4-6(A) read: "All documents that are required to be submitted to the Pueblo of Acoma under this Title shall be sent by certified delivery service, certified mail or they may be delivered in person to the Acoma Tax office and a receipt given; and."

D. Timeliness of Filing Documents. Documents will be considered to have been timely filed if postmarked before midnight on the date on which it is due or if delivered to the Acoma Office of Taxation by the close of business on the date which it is due.

Origins: Enacted by Tribal Council Resolution No. TC-MAY-23-07-VIa.

14-1-10 Receipts and Accounting.

A. All money received as a result of tax assessment, permit fee, or penalty shall be paid to the Pueblo of Acoma Central Accounting Department. Any payment made to the Acoma Office of Taxation shall be promptly delivered to Central Accounting.

B. Acoma Central Accounting Department shall provide to the Acoma Office of Taxation timely confirmation of payments made to the Pueblo of Acoma by a taxpayer as a result of a tax assessment, permit fee or penalty. Such confirmation shall include copies of all documents received from the taxpayer, including a copy of the taxpayer's check. Such confirmation shall be provided to the Acoma Office of Taxation within two (2) business days of receipt from the taxpayer.

C. The Acoma Tribal Council directs the Acoma Central Accounting Department to record and maintain the financial activities associated

with the assessment, billing and collection of taxes according to Generally Accepted Accounting Principles (GAAP). The Acoma Central Accounting Department will initiate and maintain sufficient internal controls to ensure that all tax payments are deposited in a timely fashion and recorded in the official books of records of the Pueblo of Acoma. The Acoma Central Accounting Department need not establish separate bank accounts for the deposit of these tax payments; however, the official books of record must clearly identify the tax revenues as being separate from other Tribal revenue. Tax payments made as part of a valid protest shall be separately identified and deposited in an interest-bearing account, after the Tax Administrator confirms in writing that a valid protest has been made.

D. Acoma Central Accounting Department shall provide to the Acoma Office of Taxation, monthly, quarterly and annual reports showing:

1. Revenues collected from assessments, fees and penalties for each tax and in total;

2. All expenditures of taxes for tax administration and other purposes, from each tax and in total;

3. Available balances remaining for each tax and in total; and

4. Amounts held in escrow as part of a valid protest, identified by taxpayer and in total.

Origins: Enacted by Tribal Council Resolution No. TC-MAY-23-07-VIa.

14-1-11 Audit. The Acoma Office of Taxation or its delegate shall have authority at such times as it deems necessary to inspect and audit financial records of any taxpayer.

Origins: Enacted by Tribal Council Resolution No. TC-DEC-88-2; codified as §18-4-7 Pueblo of Acoma Laws 1988; restated as §14-4-7 Pueblo of Acoma Laws 1995 and 2003; restated and amended as §14-1-11 by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

Annotations: 2007 restatement replaced "Acoma Tax Office" with "Acoma Office of Taxation."

14-1-12 Penalties.

A. Delinquent Taxpayer - Any taxpayer who has been assessed taxes by the Acoma Office of Taxation or who is required to remit taxes

pursuant to this Title and does not make timely payment therefore shall be considered to be a delinquent taxpayer. Each delinquent taxpayer shall be assessed:

1. A penalty of One Hundred Dollars ($100.00) per day for each day the taxpayer is delinquent.

Origins: Enacted by Tribal Council Resolution No. TC-SEPT-27-84-01-1; restated by Tribal Council Resolution No. TC-DEC-88-2; codified as §18-4-8(A)(1) Pueblo of Acoma Laws 1988; restated as §14-4-8(A)(1) Pueblo of Acoma Laws 1995 and 2003; restated and amended as §14-1-12(A)(1) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

Annotations: 2007 restatement replaced the first sentence with the current. Former sentence read: "Any business to whom taxes have been assessed by the Acoma Tax Office pursuant to this Title which does not make timely payment therefore shall be considered to be a delinquent taxpayer."

2. Interest at an annual rate of Twelve percent (12%) simple interest which shall accrue against the amount of delinquent taxes due and it shall be applied on a daily basis until the date the taxes due are paid.

Origins: Enacted by Tribal Council Resolution No. TC-SEPT-27-84-01-1; restated by Tribal Council Resolution No. TC-DEC-88-2; codified as §18-4-8(A)(2) Pueblo of Acoma Laws 1988; restated as §14-4-8(A)(2) Pueblo of Acoma Laws 1995 and 2003; restated and amended as §14-1-12(A)(2) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

Annotations: 2007 restatement reduced the interest rate from 20% to 12%. 2007 restatement added "due" immediately before "are paid" in the last line.

3. 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 incurred within or outside the jurisdiction of the Pueblo of Acoma. These charges shall be assessed unless the Governor for good cause shown relieves the taxpayer from the operation of this section.

Origins: Enacted by Tribal Council Resolution No. TC-DEC-88-2; codified as §18-4-8(A)(3) Pueblo of Acoma Laws 1988; restated as §14-4-8(A)(3) Pueblo of Acoma Laws 1995 and 2003; restated and amended as §14-1-12(A)(3) by Tribal Council Resolution No. TC-MAY-23-07-

VIa in 2007.

Annotations: 2007 restatement added "but not limited to" immediately after "including" and replaced the phrase, "including but not limited to those incurred outside the jurisdiction of the Pueblo of Acoma," with "incurred within or outside the jurisdiction of the Pueblo of Acoma" in the first sentence.

B. Other Violations. Any taxpayer who files or furnishes any false information, or who otherwise violates any other section of this Title shall forfeit a civil penalty of not more than $500 for each violation in addition to any other penalties prescribed by law. Any taxpayer subject to this civil penalty may be further required by the Governor of the Pueblo to pay all costs of enforcement incurred by the Pueblo in enforcing this Title, including attorney fees, court costs, and administrative expenses directly related to the violation.

Origins: Enacted by Tribal Council Resolution No. TC-DEC-88-2; codified as §18-4-8(B) Pueblo of Acoma Laws 1988; restated as §14-4-8(B) Pueblo of Acoma Laws 1995 and 2003; restated and amended as §14-1-12(B) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

Annotations: 2007 restatement replaced "business" with "taxpayer" in the first sentence.

14-1-13 Protest Permitted. A taxpayer may dispute the valuation placed on property or the assessment of a tax or fee stated to be due or the imposition of a tax by filing a protest action with the Acoma Office of Taxation no later than thirty (30) days after the date of mailing to the taxpayer of the Notice of Valuation or the Notice of Tax Due or the date the tax would otherwise be due. If the protest action is not filed within the time allowable, the Acoma Office of Taxation may proceed to enforce the collection of the tax.

Origins: Enacted by Tribal Council Resolution No. TC-DEC-88-2; codified as §18-4-9 Pueblo of Acoma Laws 1988; restated as §14-4-9 Pueblo of Acoma Laws 1995 and 2003; restated and amended as §14-1-13 by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

Annotations: 2007 restatement replaced the entire first sentence with the current. Former sentence read: "A business may dispute the assessment of valuation placed on the capital investment property or the amount of tax stated to be due for the tax year by filing a protest action with the Acoma Tax Office no later than thirty (30) days after the date of mailing to him of the Notice of valuation and the Tax Due." 2007 restatement replaced the term "Acoma Tax Office" with "Acoma Office of Taxation."

14-1-14 Protest Filing Requirements. A valid protest requires the taxpayer's written fulfillment of the following:

A. States: 1) why the taxpayer believes the assessment of a tax or fee, value, classification, the allocation of value, or denial of an exemption is incorrect; 2) what he believes the correct assessment, value, classification, allocation of value, or exemption to be; and 3) provides sufficient documentation of legal and factual authority in support of the taxpayer's position;

B. States the portion, if any, of the assessment, value, classification, allocation of value or exemption that is not in controversy;

C. Contains such other information as the Acoma Office of Taxation may by regulation require;

D. Pays the amount of tax or fee assessed; and

E. Requests a hearing (if taxpayer desires one).

Origins: Enacted by Tribal Council Resolution No. TC-DEC-88-2; codified as §18-4-10 Pueblo of Acoma Laws 1988; restated as §14-4-10 Pueblo of Acoma Laws 1995 and 2003; restated and amended as §14-1-14 by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

Annotations: 2007 restatement replaced the entire introductory phrase up to the colon. Former introductory phrase read: "Certain specific procedures available under the protest action to the Pueblo of Acoma in reference to valuation and taxation are as follows:" In addition, the phrase, "the assessment of a tax or fee, value" was inserted immediately before "classification in subsection A(1) and the term "assessment" was added immediately before the term "value" in subsection A(2). 2007 restatement added the phrase, "portion, if any, of the assessment" immediately before "value" in subsection B. Also, 2007 restatement replaced "Acoma Tax Office" with "Acoma Office of Taxation" at subsection C. Finally, 2007 restatement added subsections D and E.

14-1-15 Payment Due with Protest. The full amount of tax or fee assessed by the Acoma Office of Taxation must be paid over to the Pueblo of Acoma through the Acoma Central Accounting Department to be placed in an interest bearing or escrow account with a bank pending final determination of the protest action.

Origins: Enacted by Tribal Council Resolution No. TC-DEC-88-2; codified as §18-4-11 Pueblo of Acoma Laws 1988; restated as §14-4-11 Pueblo of Acoma Laws 1995

and 2003; restated and amended as §14-1-15 by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

Annotations: 2007 restatement replaced the phrase, "In the event of a protest action being filed by a business, the full amount of tax stated to be due" with "The full amount of tax or fee assessed by the Acoma Office of Taxation" and replaced the term "through the Acoma Tax Office" with "through the Acoma Central Accounting Department."

14-1-16 Protest Procedure. Certain specific procedures available under the protest action to the Pueblo of Acoma in reference to valuation and taxation are as follows:

A. Time for Filing Protest. Any protest by a taxpayer shall be filed within thirty (30) days of: 1) the date of mailing, to him, by the Acoma Office of Taxation of the Notice of Valuation or Notice of Tax Due or 2) the date the tax is due.

Origins: Enacted by Tribal Council Resolution No. TC-July-25-85-3, as amended by Tribal Council Resolution No. TC-DEC-88-2; codified as §18-4-12(A) Pueblo of Acoma Laws 1988; restated as §14-4-12(A) Pueblo of Acoma Laws 1995 and 2003; restated and amended as §14-1-16(A) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

Annotations: 1988 amendment inserted "Acoma Tax Office" in lieu of "Governor." 2007 restatement changed subsection heading from "Time" to "Time for Filing Protest." 2007 restatement replaced "Acoma Tax Office" with "Acoma Office of Taxation" and added "or 2) the date the tax is due."

B. Informal Conference. Prior to the Governor's referral of the protest to the Tribal Court, the Tax Administrator shall hold an informal conference within thirty (30) days of the date the protest is filed, with the taxpayer and the Governor, or his designee, in an effort to resolve the protest matter. If the parties are unable to resolve the matter through the informal conference, the Tax Administrator shall inform the Governor that the matter remains unresolved and should be referred to Tribal Court.

Origins: Enacted by Tribal Council Resolution No. TC-MAY-23-07-VIa.

C. Tribal Court. Upon timely receipt of a protest concerning the valuation of property or assessment of a tax or fee, the Governor shall refer the matter to the Pueblo of Acoma Tribal Court. The Tribal Court shall hold a hearing if requested either in the protest or by the Acoma

Office of Taxation.

Origins: Enacted by Tribal Council Resolution No. TC-July-25-85-3; restated by Tribal Council Resolution No. TC-DEC-88-2; codified as §18-4-12(B) Pueblo of Acoma Laws 1988; restated as §14-4-12(B) Pueblo of Acoma Laws 1995 and 2003; restated and amended as §14-1-16(C) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

Annotations: 2007 restatement changed subsection heading from "Hearing in Tribal Court" to "Tribal Court". 2007 restatement deleted the phrase, "or a request for a hearing" immediately after "protest" in the first sentence and added "or assessment of a tax or fee" immediately after "property" in the first sentence. 2007 restatement added the second sentence.

D. Presiding Officer of the Court. The Governor or the Acoma Tribal Council may designate a special Tribal Court Judge to conduct formal hearings arising under the provisions of this Title.

Origins: Enacted by Tribal Council Resolution No. TC-July-25-85-3; restated by Tribal Council Resolution No. TC-DEC-88-2; codified as §18-4-12(C) Pueblo of Acoma Laws 1988; restated as §14-4-12(C) Pueblo of Acoma Laws 1995 and 2003; restated and amended as §14-1-16(D) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

Annotations: 2007 restatement replaced the term "code" with "title."

E. Appearance. Taxpayers may appear at a hearing for themselves or be represented by:

1. An Acoma Tribal Member;

2. A bona fide employee of the taxpayer;

3. A certified public accountant;

4. A registered public accountant;

5. A licensed attorney, to the extent permitted by Acoma Law.

Origins: Enacted by Tribal Council Resolution No. TC-July-25-85-3; restated by Tribal Council Resolution No. TC-DEC-88-2; codified as §18-4-12(D) Pueblo of Acoma Laws 1988; restated as §14-4-12(D) Pueblo of Acoma Laws 1995 and 2003; restated and amended as §14-1-16(E) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

Annotation: Cross-reference to section on professional attorneys at §3-3-2 Pueblo of Acoma Laws 2003. Tribal Council Resolution No. TC-July-25-85-3 first allowed licensed attorneys to appear in tribal court as part of the tax protest procedure. Revised in 1999 to conform to amendments to Title III concerning professional attorneys. Amended to comply with current Title 3, and Tribal Council Resolution No. TC-OCT-30-96-3. 2007 restatement added "of the taxpayer" immediately after "employee" at subsection E(2).

F. Closed Hearing. Hearings shall not be open to the public except upon the request of the taxpayer, or by permission of the Tribal Court.

Origins: Enacted by Tribal Council Resolution No. TC-DEC-88-2; codified as §18-4-12(E) Pueblo of Acoma Laws 1988; restated as §14-4-12(E) Pueblo of Acoma Laws 1995 and 2003; restated and amended as §14-1-16(F) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

Annotations: 2007 restatement changed subsection heading from "Hearing Status" to "Closed Hearing."

G. Hearing Delays. Hearings may be postponed or continued at the discretion of the Tribal Court.

Origins: Enacted by Tribal Council Resolution No. TC-DEC-88-2; codified as §18-4-12(F) Pueblo of Acoma Laws 1988; restated as §14-4-12(F) Pueblo of Acoma Laws 1995 and 2003; restated and amended as §14-1-16(G) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

H. Record. The Tribal Court shall make a complete record of the hearing, using either a tape recording or stenographic means.

Origins: Enacted by Tribal Council Resolution No. TC-July-25-85-3; restated by Tribal Council Resolution No. TC-DEC-88-2; codified as §18-4-12(G) Pueblo of Acoma Laws 1988; restated as §14-4-12(G) Pueblo of Acoma Laws 1995 and 2003; restated and amended as §14-1-16(H) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

I. Hearing Procedure. In formal protest hearings, the technical rules of evidence and the rules of civil procedure shall not apply, but the hearing shall be conducted so that each side may present evidence and argument in support of its position.

Origins: 1971 Law and Order Code as amended by 1985 Law and Order Code; restated by Tribal Council Resolution No. TC-July-25-85-3; restated by Tribal Council Resolution No. TC-DEC-88-2; codified as §18-4-12(H) Pueblo of Acoma Laws 1988; restated as §14-4-12(H) Pueblo of

Acoma Laws 1995 and 2003; restated and amended as §14-1-16(I) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

Annotation: Tribal Court Administrative Order No. 98-MS-04, entered February 8, 1998, provides that the Rules of Civil Procedure of the State of New Mexico are hereby adopted by this Court until such time as other rules are adopted by the Tribal Council.

J. Appeal from Tribal Court Decision. If the taxpayer or the Governor is dissatisfied with the action and order of the Tribal Court after the formal hearing, the dissatisfied party may appeal to the Acoma Tribal Council, sitting as Appellate Court, for further relief.

Origins: Enacted by Tribal Council Resolution No. TC-July-25-85-3; restated by Tribal Council Resolution No. TC-DEC-88-2; codified as §18-4-12(I) Pueblo of Acoma Laws 1988; restated as §14-4-12(I) Pueblo of Acoma Laws 1995 and 2003; restated and amended as §14-1-16(J) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

Annotation: Prior codifications set out an appellate process. See for example, Tribal Council Resolution No. TC-JULY-25-85-3. With the Restatement of Title I in 1996, the Tribal Council approved one appellate process. Cross-reference to §1-5-5 Pueblo of Acoma Laws 2003. 2007 restatement replaced "he" with "the dissatisfied party."

K. Pueblo Presumed Correct. In protest proceedings before the Tribal Court and on appeal to the Acoma Tribal Council, sitting as Appellate Court, any assessment of taxes or demand for payment made by the Pueblo of Acoma is presumed to be correct.

Origins: Enacted by Tribal Council Resolution No. TC-DEC-88-2; codified as §18-4-12(J) Pueblo of Acoma Laws 1988; restated as §14-4-12(J) Pueblo of Acoma Laws 1995 and 2003; restated as §14-1-16(K) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

L. Standard for Review. The Tribal Court or the Tribal Council shall set aside a tax determination of the Acoma Office of Taxation only if it is found to be:

1. Arbitrary, capricious or an abuse of discretion; or

2. Not otherwise in accordance with the laws of the Acoma Pueblo, or the United States of America.

Origins: Enacted by Tribal Council Resolution No. TC-July-25-85-3; restated by Tribal Council Resolution No. TC-DEC-88-2; codified as §18-4-12(K) Pueblo of Acoma Laws 1988; restated as §14-4-12(K) Pueblo of Acoma Laws 1995 and 2003; restated and amended as §14-1-16(L) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

Annotations: 1988 restatement deleted text that permitted reversal of a decision based on lack of substantial evidence in the record. 2007 restatement deleted "Governor or" immediately before "Acoma Office of Taxation" and replaced "Acoma Tax Office" with "Acoma Office of Taxation."

14-1-17 Payments after Protest Settled.

A. If the Tribal Court or Appellate Court finds that all or some portion of the protested value and tax due is correct and payable by the taxpayer, that amount of the tax and any interest that may have accrued thereon shall be paid over to the Pueblo of Acoma through the Acoma Central Accounting Department.

Origins: Enacted by Tribal Council Resolution No. TC-DEC-15-88-2; codified as §18-4-13 Pueblo of Acoma Laws 1988; restated as §14-4-13(A) Pueblo of Acoma Laws 1995 and 2003; restated and amended as §14-1-17(A) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

Annotations: 2007 restatement replaced the first clause, "In the event that all or some portion of the protested value and tax due, determined by the Acoma Tax Office, is found to be due and payable by the taxpayer," with "If the Tribal Court or Appellate Court finds that all or some portion of the protested value and tax due is correct and payable by the taxpayer,". 2007 restatement also replaced reference to "Acoma Tax Office" with "Acoma Central Accounting Department."

B. If the Tribal Court or Appellate Court finds that all or some portion of the valuation and tax due is found to be incorrect, that amount of tax and any interest that may have accrued thereon shall be paid over by the Acoma Central Accounting Department to the protestant at the time of the final determination of valuation and tax due.

Origins: Enacted by Tribal Council Resolution No. TC-DEC-15-88-2; codified as §18-4-14(A) Pueblo of Acoma Laws 1988; restated as §14-4-13(B) Pueblo of Acoma Laws 1995 and 2003; restated and amended as §14-1-17(B) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

Annotations: 2007 restatement replaced the first clause, "In the event that all or some portion of the valuation and tax due is found to be incorrect," with "If the Tribal Court or Appellate Court finds that all or some portion of the valuation and tax due is found to be incorrect,". 2007 restatement also replaced reference to "Acoma Tax Office" with "Acoma Central Accounting Department." Finally, the 2007 restatement replaced the final word "taxation" with "tax due".

14-1-18 Confidentiality Required.

A. Information about a specific property, property owner or taxpayer shall be considered confidential. Confidentiality extends to information gained by an employee or an official of the Pueblo of Acoma as a result of any report, return or information furnished to the Acoma Office of Taxation by a taxpayer or as a result of an examination of property or records of a taxpayer.

Origins: Enacted by Tribal Council Resolution No. TC-DEC-15-88-2; codified as §18-4-14(A) Pueblo of Acoma Laws 1988; restated as §14-4-14(A) Pueblo of Acoma Laws 1995 and 2003; restated and amended as §14-1-18(A) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

Annotations: 2007 restatement replaced the phrase "or property owner," with "property owner or taxpayer" in line one, added "return" immediately after "any report" in line 4, and replaced "Tax Office" with "Office of Taxation" in line 5.

B. Information contained in the tax returns, valuation records, or the identity of the owner or person responsible for the tax or in possession of the property may be released:

1. To an authorized representative of the State of New Mexico, another state, or another Indian taxing jurisdiction, [provided] that the receiving jurisdiction has agreed in writing to use the information for tax purposes only and agrees to share information useful to this tax program with the Pueblo of Acoma;

2. To the Pueblo of Acoma Tribal Court system in an action relating to taxation in which the Pueblo is a party and in which the information is material to the inquiry;

3. To the taxpayer or a representative authorized in writing by the owner to obtain the information; provided that the release is limited to information pertaining to the taxpayer's property or

taxable activities;

4. If used for statistical purposes in a way that the information revealed is not identified or identifiable as applicable to any taxpayer, property owner or person in possession of the property.

Origins: Enacted by Tribal Council Resolution No. TC-DEC-15-88-2; codified as §18-4-14(B) Pueblo of Acoma Laws 1988; restated as §14-4-14(B) Pueblo of Acoma Laws 1995 and 2003; restated and amended as §14-1-18(B) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

Annotations: 2007 restatement inserted "tax returns" in the first line immediately before "valuation records," changed the word "and" to "or" in the first line immediately after "valuation records," and added the phrase, "responsible for the tax or in" immediately after the word "person" in the second line. 2008 replacement adds the necessary information in brackets. 2007restatement also added the concluding phrase "or taxable activities" at subsection B(3) and added "taxpayer," immediately before "property owner" at subsection B(4).

C. Information gathered by the Governor or the Acoma Office of Taxation may be used in a manner appropriate for the efficient and effective operation of the Acoma Office of Taxation and this tax program.

Origins: Enacted by Tribal Council Resolution No. TC-DEC-15-88-2; codified as §18-4-14(C) Pueblo of Acoma Laws 1988; restated as §14-4-14(C) Pueblo of Acoma Laws 1995 and 2003; restated as §14-1-18(C) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

Annotations: 2007 restatement replaced "Tax Office" with "Office of Taxation."

14-1-19 Appropriation of Tax Revenues. The Acoma Tribal Council will determine on an as needed basis the amounts of tax revenues that are to be used for appropriations. The Tribal Council will indicate their approval of appropriations by executing a formal Tribal Council Resolution that, at a minimum, will indicate the total amount of tax revenues approved to be expended on specified Tribal Council initiatives. The Acoma Central Accounting Department will be directed to process the transfer of funds, inform the Acoma Office of Taxation of such authorized fund transfers, and establish an operating budget for the Tribal Council approved expenditures of tax revenues.

Origins: Enacted by Tribal Council Resolution No. TC-MAY-23-07-VIa; repeals §14-5-1 et al. Pueblo of Acoma Laws 2003.

Annotations: 2007 restatement repeals sections that established three accounts to administer the Acoma Pueblo Tax Program: The Tax Revenue Account, the Tax Escrow Account, and the Tax Administration Account. Those accounts were established by Tribal Council Resolution No. TC-NOV-21-85-1, and were not previously repealed with the adoption of the 1988 Acoma Tax Law.

14-1-20 Funding Office of Taxation. The Acoma Office of Taxation shall have its annual budget approved by the Tribal Council.

Origins: Enacted by Tribal Council Resolution No. TC-MAY-23-07-VIa.

Chapter 2. BUSINESS PROPERTY TAX

14-2-1 Purpose. The following provisions of the Acoma Pueblo Business Property Tax Code have been enacted to enable the Pueblo of Acoma to:

A. Generate sufficient revenues to support its government;

B. Provide funding for industrial and/or business development; and

C. Provide such other essential public services as the Acoma Tribal Council deems appropriate.

Origins: Enacted by Tribal Council Resolution No. TC-DEC-15-88-2; codified as §18-1-1 Pueblo of Acoma Laws 1988; restated as §14-1-1 Pueblo of Acoma Laws 1995 and 2003; restated as §14-2-1 by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

14-2-2 Intent. The intent of the Acoma Tribal Council in enacting the Acoma Business Property Tax is to respect traditional Pueblo livelihoods, customs, and their contributions to tribal government, preserve and protect the health and welfare of Pueblo members, and require modern business to pay a fair share for Pueblo government services provided within the Acoma tax jurisdiction.

Origins: Enacted by Tribal Council Resolution No. TC-DEC-15-88-2; codified as §18-1-2 Pueblo of Acoma Laws 1988; restated as §14-1-2 Pueblo of Acoma Laws 1995 and 2003; restated as §14-2-2 by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

14-2-3 Ad Valorem Tax

A. The Acoma Business Property Tax is an ad valorem property tax levied on property of each taxpayer as an expense of operating its entire business.

B. The tax should be paid by taxpayer and collected pro-rata from each and every customer of the operating unit based on the customer's usage of taxpayer's service or commodity. This tax may not be "passed through" directly or exclusively to taxpayer's customers residing within the Acoma Pueblo taxing jurisdiction].

Origins: Tribal Council Resolution No. TC-July-25-85-3, as clarified by Tribal Council Resolution No. TC-June-23-87-1; amended by Tribal Council Resolution No. TC-DEC-88-2; codified as §18-1-3 Pueblo of Acoma Laws 1988; restated as §14-1-3 Pueblo of Acoma Laws 1995 and 2003; restated as §14-2-3 by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

Annotations: 2007 restatement unintentionally deleted the text in brackets at subsection B. 2008 replacement supplies the necessary information in brackets.

14-2-4 Definitions. For the purpose of this Chapter, the following terms shall be defined as:

A. "Business" is any person conducting business on or across the Pueblo of Acoma who is not specifically exempt from taxation by the Acoma Tribal Council; also, a taxpayer.

Origins: Enacted by Tribal Council Resolution No. TC-DEC-15-88-2; codified as §18-1-5(A) Pueblo of Acoma Laws 1988; restated as §14-1-5(A) Pueblo of Acoma Laws 1995 and 2003; restated and amended as §14-2-4(A) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

Annotations: 2007 restatement changed the term "Title" to "Chapter.

B. "Exempt Business" is any of the following property that is exempt from the Acoma Business Property Tax:

1. Property owned or leased by the government of the Pueblo of Acoma, its subdivisions or businesses wholly owned by the Pueblo.

Origins: Enacted by Tribal Council Resolution No. TC-DEC-15-88-2; codified as §18-1-5(B)(1) Pueblo of Acoma

Laws 1988; restated as §14-1-5(B)(1) Pueblo of Acoma Laws 1995 and 2003; restated and amended as §14-2-4(B)(1) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

Annotations: 2007 restatement added the phrase "or leased" immediately after "owned" and added the concluding phrase, "its subdivisions or businesses wholly owned by the Pueblo."

2. Property which is the total amount of property (a) in the ownership or lease of the business operating unit; (b) used within the jurisdiction of the Pueblo of Acoma (c) and has a net book value of less than $50,000 excluding value of interests in real estate within the Pueblo of Acoma.

Origins: Enacted by Tribal Council Resolution No. TC-DEC-15-88-2; codified as §18-1-5(B)(2) Pueblo of Acoma Laws 1988; restated as §14-1-5(B)(2) Pueblo of Acoma Laws 1995 and 2003; restated and amended as §14-2-4(B)(2) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

Annotations: 2007 restatement made grammatical changes and increased the valuation threshold for taxation from $30,000 to $50,000.

3. Property used in traditional Acoma livelihoods, including but not limited to, farming, livestock raising, bread making, and pottery making.

Origins: Enacted by Tribal Council Resolution No. TC-DEC-15-88-2; codified as §18-1-5(B)(3) Pueblo of Acoma Laws 1988; restated as §14-1-5(B)(3) Pueblo of Acoma Laws 1995 and 2003; restated and amended as §14-2-4(B)(3) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

4. Property of the Pueblo of Acoma Housing Authority (PAHA) and PAHA projects, as specified in Title 16.

Origins: See Origins at Section 16-1-1; Pueblo of Acoma Laws 2003; codified as § 14-2-4(B) by Tribal Council Resolution No. TC-MAY-23-07-VIa.

Annotations: In 2003, Title 16, concerning the Acoma Pueblo Housing Authority, contained the Tribal Council's approval of an exemption from all Pueblo taxes and assessments for any property of the Authority or in any Authority project. See Pueblo of Acoma Laws 2003 Section 16-7-1(A); 2007 Restatement now recognizes the exemption at subsection B(4).

C. "Net Book Value" is the cost of property as carried in the accounting records of the owner, less the accrued depreciation reserve for that property, provided that:

1. This cost shall include all amounts expended for the purchase and installation of the property and including labor, freight and taxes paid; and

2. Net Book Value shall be no less than forty percent (40%) of the original cost of the property.

Origins: Enacted by Tribal Council Resolution No. TC-JULY-25-85-3, restated by Tribal Council Resolution No. TC-DEC-15-88-2; codified as §18-1-5(C) Pueblo of Acoma Laws 1988; restated as §14-1-5(C) Pueblo of Acoma Laws 1995 and 2003; restated and amended as §14-2-4(C) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

Annotations: 1988 restatement changed the net book value from 33 1/3% to 40%.

D. "Real Property" is the real property, held in fee simple, which is located within the exterior boundary limits of the Pueblo of Acoma, its grant, its Reservations, or lands owned by the Pueblo of Acoma or held by the United States of America for the benefit or use of Acoma Pueblo.

Origins: Enacted by Tribal Council Resolution No. TC-DEC-15-88-2; codified as §18-1-5(D) Pueblo of Acoma Laws 1988; restated as §14-1-5(D) Pueblo of Acoma Laws 1995 and 2003; restated as §14-2-4(D) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

E. "Real Property Value" is the:

1. Appraised value as prepared by a qualified fee appraiser, submitted by the owner of the property; or

2. Appraised value as prepared by a qualified fee appraiser at the order of the Acoma Office of Taxation; or

3. Value as determined by a person with knowledge and experience based on reasonable and reliable information; or

4. [Combination] of any of the above.

Origins: Enacted by Tribal Council Resolution No. TC-JULY-25-85-3, restated by Tribal Council Resolution No. TC-DEC-15-88-2; codified as §18-1-5(E) Pueblo of Acoma Laws 1988; restated as §14-1-5(E) Pueblo of Acoma Laws 1995 and 2003; restated and amended as §14-2-4(E) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

Annotations: 2007 restatement added subsection E(3), and replaced "both" with the term "any of the above" at subsection E(4). 2008 replacement provides the necessary information in brackets.

F. "Unit Method of Valuation" is the technique of valuing a group of property items as "one thing."

Origins: Enacted by Tribal Council Resolution No. TC-JULY-25-85-3, restated by Tribal Council Resolution No. TC-DEC-15-88-2; codified as §18-1-5(F) Pueblo of Acoma Laws 1988; restated as §14-1-5(F) Pueblo of Acoma Laws 1995 and 2003; restated and amended as §14-2-4(F) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

G. "Personal Property" is:

1. Chattels or chattel interests in land and improvements to land that are immoveable and which remain in the same title as the land; or

2. Tangible Personal Property that may be owned or possessed and which occupies space and is perceptible to the senses in some way (for example, software for use in electronic computation and activation).

Origins: Enacted by Tribal Council Resolution No. TC-JULY-25-85-3, restated by Tribal Council Resolution No. TC-DEC-15-88-2; codified as §18-1-5(G) Pueblo of Acoma Laws 1988; restated as §14-1-5(G) Pueblo of Acoma Laws 1995 and 2003; restated as §14-2-4(G) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

H. "Lease" is an agreement, reduced to writing, between the Pueblo of Acoma and/or the United States as a Trustee for the Pueblo of Acoma that grants a right to the use of or ingress to and egress from specified real property belonging to or held in trust for the benefit of the Pueblo of Acoma whether such right is for a period of years or in perpetuity and whether denominated "Lease," "Grant of Right-of-Way" or any other "Grant" or "Permit" or otherwise.

Origins: Enacted by Tribal Council Resolution No. TC-SEPT-27-84-01-1, restated by Tribal Council Resolution

No. TC-DEC-15-88-2; codified as §18-1-5(H) Pueblo of Acoma Laws 1988; restated as §14-1-5(H) Pueblo of Acoma Laws 1995 and 2003; restated as §14-2-4(H) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

I. "Leasehold" is the real property to which a lease relates.

Origins: Enacted by Tribal Council Resolution No. TC-SEPT-27-84-01-1, restated by Tribal Council Resolution No. TC-DEC-15-88-2; codified as §18-1-5(I) Pueblo of Acoma Laws 1988; restated as §14-1-5(I) Pueblo of Acoma Laws 1995 and 2003; restated as §14-2-4(I) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

J. "Software" is the physical accumulation or fixed arrangement of a specific group of molecular impulses which is stored for retrieval, upon command, and which is capable of repetitive activation of one or more electronic signals.

Origins: Enacted by Tribal Council Resolution No. TC-JULY-25-85-3, restated by Tribal Council Resolution No. TC-DEC-15-88-2; codified as §18-1-5(J) Pueblo of Acoma Laws 1988; restated as §14-1-5(J) Pueblo of Acoma Laws 1995 and 2003; restated as §14-2-4(J) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

K. "Person" is an individual or any other legal entity.

Origins: Enacted by Tribal Council Resolution No. TC-SEPT-27-84-01-1, restated by Tribal Council Resolution No. TC-DEC-15-88-2; codified as §18-1-5(K) Pueblo of Acoma Laws 1988; restated as §14-1-5(K) Pueblo of Acoma Laws 1995 and 2003; restated as §14-2-4(K) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

L. "Chattel" is any species of property not amounting to a free hold or fee in land; an article of personal property.

Origins: Enacted by Tribal Council Resolution No. TC-DEC-15-88-2; codified as §18-1-5(L) Pueblo of Acoma Laws 1988; restated as §14-1-5(L) Pueblo of Acoma Laws 1995 and 2003; restated as §14-2-4(L) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

14-2-5 Tax Levy. A tax is levied on the net book value of the allocated portion of the business operating unit property within the jurisdiction of the Pueblo of Acoma and the scope of this title. Net book value is defined in this title and determined under the unit method of valuation.

Origins: Enacted by Tribal Council Resolution No. TC-DEC-15-88-2; codified as §18-3-1 Pueblo of Acoma Laws

1988; restated as §14-3-1 Pueblo of Acoma Laws 1995 and 2003; restated as §14-2-5 by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

14-2-6 Based on Need. The Governor and Tribal Council shall consider the revenue needs of the Pueblo and the tax base, and then set the tax rate accordingly.

Origins: Enacted by Tribal Council Resolution No. TC-DEC-15-88-2; codified as §18-3-2 Pueblo of Acoma Laws 1988; restated as §14-3-2 Pueblo of Acoma Laws 1995 and 2003; restated as §14-2-6 by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

14-2-7 Tax Rate Limits. The annual tax rate shall not be less than 2% or more than 6.5% of the net book value, as defined, of the property subject to this Title.

Origins: Enacted by Tribal Council Resolution No. TC-DEC-15-88-2; codified as §18-3-3 Pueblo of Acoma Laws 1988; restated as §14-3-3 Pueblo of Acoma Laws 1995 and 2003; restated and amended as §14-2-7 by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

Annotations: 2007 restatement increased the cap on the tax rate from 5% to 6.5% of the net book value. 2008 amendment increased the business property tax rate from 5 to 6.5%, effective January 1, 2009, See Tribal Council Resolution No. TC-NOV-05-08-VIa.

14-2-8 Payment in Lieu of Taxes. The Acoma Office of Taxation may accept payments in lieu of the Acoma Business Property Tax in the following circumstances:

A. Leased Gaming Machines. The Acoma Office of Taxation develops a schedule in consultation with Acoma Business Enterprises, for payments in lieu of taxes on gaming machines leased by Acoma Business Enterprises from vendors.

B. Construction Projects. For Construction projects with a contract value over $250,000 within the Pueblo of Acoma, the Acoma Tax Office may accept payments in lieu of the Acoma Business Property Tax. Payments in lieu of taxes shall be calculated on the basis of up to 5% of the project construction costs and paid at the start of the project.

C. Other. When specifically approved by Tribal Council to resolve disputes over tribal tax jurisdiction.

Origins: Enacted by Tribal Council Resolution No. TC-MAY-23-07-VIa.

14-2-9 No Discrimination. No provision of this law shall be construed as imposing a tax which discriminates on the basis of whether a business is owned or controlled by members of Acoma Pueblo.

Origins: Enacted by Tribal Council Resolution No. TC-DEC-15-88-2; codified as §18-1-6 Pueblo of Acoma Laws 1988; restated as §14-1-6 Pueblo of Acoma Laws 1995 and 2003; restated and amended as §14-2-9 by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

14-2-10 Valuation of Property for Business Property Tax; Penalties.

A. Responsibility. The Acoma Tax Office is responsible for the valuation of all property to which this title applies, and for the assessment and collection of the Acoma Business Property tax.

Origins: Enacted by Tribal Council Resolution Nos. TC-SEPT-27-84-01-1; TC-NOV-84-18-5; and TC-JULY-25-85-3. Restated by Tribal Council Resolution No. TC-DEC-15-88-2; codified as §18-2-1 Pueblo of Acoma Laws 1988; restated as §14-2-1 Pueblo of Acoma Laws 1995 and 2003; restated as §14-2-10(A) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

B. Reporting Required. The Acoma Tax Office shall require the reporting of the net book value of the property of the affected business operating unit and the value of the real property of the business operating unit, within the Acoma tax jurisdiction.

Origins: Enacted by Tribal Council Resolution No. TC-DEC-15-88-2; codified as §18-2-2 Pueblo of Acoma Laws 1988; restated as §14-2-2 Pueblo of Acoma Laws 1995 and 2003; restated as §14-2-10(B) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

C. Failure to Respond to Request for Property Valuation. Any person who fails to respond within 30 days to a request by the Acoma Tax Office to provide a valuation of property subject to property tax pursuant to this Title shall be assessed:

1. A penalty of One Hundred Dollars ($100.00) per day for each day the valuation report is delinquent.

2. A person failing to provide a valuation of property at the time due may be charged for administrative costs incurred in valuing the taxable property, including but not limited to attorney fees, valuation determination and other costs, incurred within or outside the jurisdiction of the Pueblo of Acoma. These charges shall be assessed

unless the Governor for good cause shown relieves the person from the operation of this section.

Origins: Enacted by Tribal Council Resolution No. TC-MAY-23-07-VIa.

14-2-11 Sources of Information. The Acoma Tax Office may resort to any public or other document relevant to the question of value and any person with knowledge and experience in the event that the business fails or refuses to submit a report of its property for taxation purposes. In the absence of a timely filed appraisal and statement of value from the taxpayer, the Acoma Tax Office may obtain an appraisal or otherwise determine the value of real or personal property and statement of value and the fee for such appraisal and valuation shall be added to amount of tax due.

Origins: Enacted by Tribal Council Resolution No. TC-DEC-15-88-2; codified as §18-2-3 Pueblo of Acoma Laws 1988; restated as §14-2-3 Pueblo of Acoma Laws 1995 and 2003; restated and amended as §14-2-11 by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

Annotations: 2007 restatement added the phrase "or personal" immediately after "real" in the second sentence

14-2-12 Jurisdiction. The Business Property Tax applies to all business property located within the Pueblo of Acoma, including the Acoma Pueblo Grant and Indian Reservations and lands owned by the Pueblo of Acoma or held by the United States of America for the benefit or use of the Acoma Pueblo which are contiguous to or in close proximity to the Acoma Grant or Reservation lands.

Origins: Enacted by Tribal Council Resolution No. TC-DEC-15-88-2; codified as §18-2-4 Pueblo of Acoma Laws 1988; restated as §14-2-4 Pueblo of Acoma Laws 1995 and 2003; restated as §14-2-12 by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

14-2-13 Property to Be Valued. The property to be valued shall be that part of Taxpayer's personal property of the entire operating unit of Taxpayer that is owned or leased by that business operating unit which contributes to the operation of the business within the taxing jurisdiction of Pueblo of Acoma and the appraised value of the real property of the business operating unit that is located within the Pueblo of Acoma tax jurisdiction.

Origins: Enacted by Tribal Council Resolution No. TC-DEC-15-88-2; codified as §18-2-5 Pueblo of Acoma Laws 1988; restated as §14-2-5 Pueblo of Acoma Laws 1995 and 2003; restated as §14-2-13 by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

14-2-14 Allocation of Value. The assessed value of all property of the operating unit of a business that is located within the Pueblo of Acoma for less than the full three hundred and sixty five days of the calendar year is to be determined pursuant to this Acoma Business Property Tax and that portion that is subject to this tax shall be allocated to the jurisdiction of the Pueblo of Acoma by regulation.

Origins: Enacted by Tribal Council Resolution No. TC-DEC-15-88-2; codified as §18-2-6 Pueblo of Acoma Laws 1988; restated as §14-2-6 Pueblo of Acoma Laws 1995 and 2003; restated as §14-2-14 by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

14-2-15 Valuation Date. All property is subject to valuation under this resolution, for all or any part of any tax year, shall be valued as of January 1 of that year if it is owned or operated as a part of the operating unit of the business, except that newly acquired property that is included in the operating unit used for valuation may be valued as of the initial date of acquisition if it occurs after the first day of January of the tax year.

Origins: Enacted by Tribal Council Resolution No. TC-DEC-15-88-2; codified as §18-2-7 Pueblo of Acoma Laws 1988; restated as §14-2-7 Pueblo of Acoma Laws 1995 and 2003; restated as §14-2-15 by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

14-2-16 Mobile Property. The reporting date for each business operating within the Pueblo of Acoma whose only property subject to this tax is determined to be transient machinery, equipment, or railroad equipment and which is present within the confines of the Pueblo of Acoma only on an occasional basis during the tax year shall be the same as that for all other businesses subject to the tax.

Origins: Enacted by Tribal Council Resolution No. TC-DEC-15-88-2; codified as §18-4-2 Pueblo of Acoma Laws 1988; restated as §14-4-2 Pueblo of Acoma Laws 1995 and 2003; restated as §14-2-16 by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

14-2-17 Report Forms. The Acoma Tax Office may provide forms for the reporting of all business property to each of the businesses whose property is present within the Pueblo of Acoma at any time during the calendar year. Forms provided by the Acoma Tax Office must be used in the reporting of business property.

Origins: Enacted by Tribal Council Resolution No. TC-DEC-15-88-2; codified as §18-4-3 Pueblo of Acoma Laws 1988; restated as §14-4-3 Pueblo of Acoma Laws 1995

and 2003; restated and amended as §14-2-17 by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

Annotations: 2007 restatement deleted the phrase "capital investment property" in each of the two sentences and replaced them with "business property."

Chapter 3. GASOLINE TAX

14-3-1 Enactment of Pueblo of Acoma Gasoline Tax. The Pueblo of Acoma hereby enacts a tax of seventeen cents (17¢) per gallon on all gasoline received within the Pueblo of Acoma. The Acoma Tax Department shall be responsible for administering the Pueblo of Acoma Gasoline Tax.

Origins: Enacted by Tribal Council Resolution No. TC-AUG-25-99-2A.

14-3-2 Effective Date of Acoma Gasoline Tax. The effective date of the Pueblo of Acoma Gasoline Tax is July 1, 1999, and all gasoline transactions after the effective date are subject to the tribal gasoline tax.

Origins: Enacted by Tribal Council Resolution No. TC-SEP-8-99-2A.

14-3-3 Remittance of Taxes by Vendor.

A. Each vendor shall make a report by the 10th day of each month on forms provided by the Acoma Tax Office showing the receipts for gasoline received within the Pueblo in the preceding calendar month. At the time the report is filed with the Acoma Tax Office, the full amount of the tax due by virtue of this ordinance shall be remitted to the Acoma Central Accounting Office.

B. Payment will be considered as timely paid if postmarked before midnight of the date on which it is due or if it is delivered to the Acoma Tax Office by certified service or in person and a receipt given by close of business on the date due.

Origins: Enacted by Tribal Council Resolution No. TC-MAY-23-07-VIa.

Chapter 4. LODGING TAX

14-4-1 Title and Purpose.

A. Title. This Chapter may be cited as the "Acoma Lodging Tax."

B. Purpose. The purpose of the Acoma Pueblo Lodging Tax is to generate revenue for the Pueblo of Acoma by imposing an occupancy tax on persons using commercial lodging within the Pueblo's lands.

Origins: Enacted by Tribal Council Resolution No. TC-JAN-10-01-2; amended in 2005 by Tribal Council Resolution No. TC-DEC-13-05-VI(2); codified as §14-7-1 Pueblo of Acoma Laws 2003; restated as §14-4-1 by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

Annotations: 2007 restatement changed the title of this tax from "Acoma Hotel Occupancy Tax" to "Acoma Lodging Tax."

14-4-2 Definitions. As used in the Acoma Lodging Tax, the following definitions shall apply:

A. "Gross Taxable Rent" is the total amount of rent paid to a vendor for lodging.

Origins: Enacted by Tribal Council Resolution No. TC-JAN-10-01-2; codified as §14-7-2(A) Pueblo of Acoma Laws 2003; restated as §14-4-2(A) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

B. "Lodging" is the transaction of furnishing space, including rooms or sleeping accommodations by a vendor to a person who for payment of rent, uses, possesses, or has the right to use or posses any room or rooms or other units of accommodations in or at a taxable premises.

Origins: Enacted by Tribal Council Resolution No. TC-JAN-10-01-2; codified as §14-7-2(B) Pueblo of Acoma Laws 2003; restated and amended as §14-4-2(B) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

Annotations: 2007restatement replaced "furnishing rooms" with "furnishing space, including rooms" in the first line.

C. "Rent" is the compensation for the use or possession of lodging for a period of time that is subject to the imposition of the Acoma [Lodging] Tax.

Origins: Enacted by Tribal Council Resolution No. TC-JAN-10-01-2; codified as §14-7-2(C) Pueblo of Acoma Laws 2003; restated as §14-4-2(C) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

Annotations: Pueblo of Acoma Laws 2003 (2009 Replacement) supplies the necessary information.

D. "Taxable Premises" is a hotel or motel or other space used for commercial lodging and includes spaces rented for overnight use at any recreational vehicle park.

Origins: Enacted by Tribal Council Resolution No. TC-JAN-10-01-2; codified as §14-7-2(D) Pueblo of Acoma Laws 2003; restated and amended as §14-4-2(D) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

Annotations: 2007 restatement adds "or other space" after "motel," and the concluding phrase, "and includes spaces rented for overnight use at any recreational vehicle park" was added.

E. "Vendor" is a person, company or organization which furnishes commercial lodging.

Origins: Enacted by Tribal Council Resolution No. TC-JAN-10-01-2; codified as §14-7-2(E) Pueblo of Acoma Laws 2003; restated as §14-4-2(E) Pueblo of Acoma Laws (2008 Replacement) by Tribal Council Resolution No. TC-MAY-23-07-VIa.

14-4-3 Rate of Tax. There is hereby imposed a lodging tax of five percent (5%) of the gross taxable rent for lodging paid to vendors.

Origins: Enacted by Tribal Council Resolution No. TC-JAN-10-01-2; codified as §14-7-3 Pueblo of Acoma Laws 2003; amended in 2005 by Tribal Council Resolution No. TC-DEC-05-VI(2); restated as §14-4-3 by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007, amended by Tribal Council Resolution No. TC-JUL-30-08-VIc in 2008.

Annotations: 2005 amendment changed the tax rate from 5 to 7 percent. 2007 Restatement replaced the term "occupancy tax" with "lodging tax." 2008 amendment decreased the tax rate from 7 to 5 percent. Effective date of new tax rate is September 1, 2008.

14-4-4 Exemptions. The Acoma Lodging Tax shall not apply:

A. If a person has been a permanent resident of the taxable premises for a period of at least 30 consecutive days.

B. If a person enters into or has entered into a written agreement for lodgings at the taxable premises for a period of at least 30 consecutive days.

Origins: Enacted by Tribal Council Resolution No. TC-JAN-10-01-2; codified as §14-7-4 Pueblo of Acoma Laws

2003; restated as §14-4-4 by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

14-4-5 Collection and Administration of Taxes.

A. Collection of Taxes by Vendor; Reporting.

1. Every vendor who is furnishing any commercial lodgings within the Pueblo of Acoma is exercising a taxable privilege. As a result, the vendor shall collect the tax on behalf of the Pueblo and shall act as the trustee of the tax collected.

2. The tax shall be collected from the person(s) renting the lodging and charged separately from the rent fixed by the vendor for the lodgings.

3. Every vendor shall be liable to the Pueblo for the tax on rent paid for lodging.

4. Each vendor shall maintain adequate records showing the proceeds from the use of the taxable premises for commercial lodging.

5. The Acoma Tax Office may conduct random audits of vendor(s) to verify the amount of gross rent subject to the [lodging] tax and to ensure that the full amount of the tax on that rent is collected.

Origins: Enacted by Tribal Council Resolution No. TC-JAN-10-01-2; codified as §14-7-5(A) Pueblo of Acoma Laws 2003; restated as §14-4-5(A) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

Annotations: 2005 amendment deleted the phrase, "at a hotel or motel" immediately after "commercial lodgings at subsection A(1). 2009 replacement supplies the necessary information at subsection (A)(5).

B. Remittance of Taxes by Vendor.

1. Each vendor shall make a report by the 10th day of each month on forms provided by the Acoma Tax Office showing the receipts for lodging paid to the vendor in the preceding calendar month.

2. Payment will be considered as timely paid if postmarked before midnight of the date on which it is due or if it is delivered

to the Acoma Tax Office by certified service or in person and a receipt given by close of business on the date due.

Origins: Enacted by Tribal Council Resolution No. TC-JAN-10-01-2; codified as §14-7-5(B) Pueblo of Acoma Laws 2003; restated as §14-4-5(B) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

C. Penalties.

1. Acoma lodging taxes not paid by the 15th of the month provided herein shall be considered delinquent and the vendor considered a delinquent taxpayer liable for the tax.

2. In addition to the lodging tax owed, each delinquent taxpayer shall be assessed:

   a. a penalty in the amount of One Hundred Dollars ($100) per day for each day the vendor is delinquent.

   b. interest at a rate of One Percent (1%) per month or Twelve Percent (12%) annual simple interest rate shall accrue against the amount of delinquent taxes due and shall be applied on a daily basis until the date the taxes are paid.

Origins: Enacted by Tribal Council Resolution No. TC-JAN-10-01-2; codified as §14-7-5(C) Pueblo of Acoma Laws 2003; amended in 2005 by Tribal Council Resolution No. TC-DEC-05-VI(2); restated as §14-4-5(A) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

Annotations: 2005 amendment deleted the phrase, "at a hotel or motel" immediately after "commercial lodgings at subsection A(1).

14-4-6 Use of Tax Proceeds. The proceeds of the Acoma Lodging Tax shall be used as follows:

A. Establishing, constructing, reconstructing or improving tourist and customer facilities and attractions.

Origins: Enacted by Tribal Council Resolution No. TC-JAN-10-01-2; codified as §14-7-6(A) Pueblo of Acoma Laws 2003; amended in 2005 by Tribal Council Resolution No. TC-DEC-05-VI(2); restated and amended as §14-4-6(A) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

Annotations: 2005 amendment made grammatical changes to subsection A. 2007 restatement replaced the term "Acoma Pueblo Hotel Occupancy Tax" with the term "Acoma Lodging Tax."

B. Advertising, publicizing, and promoting tourist and customer facilities and attractions.

Origins: Enacted by Tribal Council Resolution No. TC-JAN-10-01-2; codified as §14-7-6(B) Pueblo of Acoma Laws 2003; restated as §14-4-6(B) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

C. Development, maintenance and improvement of governmental infrastructure items such as roads and utilities and such other essential public services [that] Tribal Council deems appropriate.

Origins: Enacted by Tribal Council Resolution No. TC-JAN-10-01-2; codified as §14-7-6(C) Pueblo of Acoma Laws 2003; amended in 2005 by Tribal Council Resolution No. TC-DEC-05-VI(2); restated as §14-4-6(C) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

Annotations: 2005 amendment made grammatical changes to subsection C. 2009 replacement supplies the necessary information.

D. To defray the costs of administering the tax.

Origins: Enacted by Tribal Council Resolution No. TC-JAN-10-01-2; codified as §14-7-6(D) Pueblo of Acoma Laws 2003; restated as §14-4-6(D)) by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

14-4-7. Amendment of Tax. The Acoma Pueblo Tribal Council reserves the right to amend the rate and terms of the Acoma Lodging Tax as deemed necessary.

Origins: Enacted by Tribal Council Resolution No. TC-JAN-10-01-2; codified as §14-7-7 Pueblo of Acoma Laws 2003; restated and amended as §14-4-7 by Tribal Council Resolution No. TC-MAY-23-07-VIa in 2007.

Annotations: 2007 restatement replaced the term "Acoma Hotel Occupancy Tax" with the term "Acoma Lodging Tax."

Chapter 5. ACOMA GROSS RECEIPTS TAX

14-5-1 Title and Purpose.

A. Title. The tax imposed by this Chapter shall be cited as the "Acoma

Gross Receipts Tax."

B. Purpose. The purpose of the Acoma Gross Receipts Tax is to generate revenue for the Pueblo of Acoma by imposing a gross receipts tax on the privilege of engaging in business within the Pueblo of Acoma jurisdiction.

Origins: Enacted by Tribal Council Resolution TC-JUL-30-08-VIc.

Annotations: 2008 enactment has an effective date of September 1, 2008.

14-5-2 Definitions.

A. "Engaging in Business" is carrying on or causing to be carried on any commercial activity involving the exchange of money or other valuable consideration for goods or services.

B. "Gross receipts" is the total amount of money or the value of other consideration received from selling goods, renting or leasing property or from performing services within the Pueblo of Acoma, unless exempt under Section 14-5-5.

C. "Person" is any individual, association, partnership, corporation, limited liability company, firm, trust or other form of business organization.

D. "Services" is services performed by an individual in the capacity of an employee are not services for purposes of this statute.

Origins: Enacted by Tribal Council Resolution TC-JUL-30-08-VIc.

Annotations: 2008 enactment has an effective date of September 1, 2008.

14-5-3 Rate and Incidence of Tax.

A. Rate. There is hereby imposed a tax of six percent (6%) upon the gross receipts of any person engaging in business within the Pueblo of Acoma jurisdiction.

B. Incidence of Tax. The incidence of the Gross Receipts Tax imposed by this Chapter shall be on the person engaging in business within the Pueblo of Acoma jurisdiction.

Origins: Enacted by Tribal Council Resolution TC-JUL-30-

08-VIc.

Annotations: 2008 enactment has an effective date of September 1, 2008.

14-5-4 Payment Due Date. The taxes imposed by this Chapter are to be paid on or before the tenth day of the month following the end of the month for which the tax is due.

Origins: Enacted by Tribal Council Resolution TC-JUL-30-08-VIc.

Annotations: 2008 enactment has an effective date of September 1, 2008.

14-5-5 Exemptions. The Acoma Gross Receipts Tax shall not apply to:

A. Receipts from traditional Acoma livelihoods, including but not limited to, farming, livestock raising, bread making, pottery making and other artisans.

B. Receipts from the sale or lease of any gaming business owned by the Pueblo of Acoma tribal government.

C. Receipts from sales on which the State of New Mexico imposes a gross receipts tax.

D. Receipts from wholesale sales, where tax will be collected by a subsequent retailer, which is subject to a gross receipts tax.

E. Receipts from the sale of tobacco products.

F. Receipts from the sale of gasoline or special fuel upon which a gasoline or special fuel excise tax has been paid to the Tribe or the State of New Mexico.

G. Receipts from the sale of telecommunications services, electricity, natural gas, propane, firewood and water for residential use of the buyer or members of the buyer's household.

H. Receipts from the sale or lease, other than construction material, to the Tribe, its governmental agencies, or political subdivisions.

I. Receipts from the performance of any service, other than design, engineering or construction services, performed for the Tribe, its governmental agencies, or political subdivisions.

J. Receipts from vendors who sell less than ten (10) days in a calendar year, or receive less than $12,000 in gross receipts in a calendar year, within the Pueblo of Acoma, and who have a valid Pueblo of Acoma Business License or Vendor Permit, if applicable.

K. Internal sales within the Pueblo of Acoma Business Enterprises.

L. Community based fund raising by charitable organizations recognized as such by Tribal Council.

M. Big Game Trophy license fees.

N. Tour fees for guided visits to Old Acoma originating at the Sky City Cultural Center.

Origins: Enacted by Tribal Council Resolution TC-JUL-30-08-VIc and amended in 2009 by Tribal Council Resolution TC-AUG-27-09-VIa.

Annotations: 2008 enactment has an effective date of September 1, 2008. The 2009 amendment has an effective date of August 27, 2009. The 2009 amendment added "design, engineering, or" immediately before "construction services" and added "performed" immediately after "construction services" both in Subsection (I). The 2009 amendment added "Receipts from" to the beginning of Subsection (J), added 1) "or receive less than $12,000 in gross receipts in a calendar year," immediately after the first calendar year, 2) "Business License or" immediately after the second "Pueblo of Acoma," and 3) ",if applicable" all in Subsection (J).

14-5-6 Enforcement. Enforcement of this Code shall be as described in Chapter 1 of this Title, including penalties and procedures for tax protest.

Origins: Enacted by Tribal Council Resolution TC-JUL-30-08-VIc.

Annotations: 2008 enactment has an effective date of September 1, 2008.

Chapter 6. WILDLIFE HABITAT IMPROVEMENT FEE

Origins: Enacted by Tribal Council Resolution No. TC-JUL-30-08-VIb.

14-6-1 Enactment of Pueblo of Acoma Wildlife Habitat Improvement Fee. The Pueblo of Acoma hereby enacts a Wildlife Habitat Improvement Fee to be imposed on Big Game Trophy Hunting licenses. The Acoma Tax Department shall be responsible for administering the Pueblo of Acoma

Wildlife Habitat Improvement Fee.

14-6-2 Rate of Fee. A fee of $200 shall be assessed on each Big Game Trophy Hunting License. The fee shall be collected from the licensee at the same time as the fee for the Big Game Trophy Hunting License. Failure to pay the Habitat Improvement Fee shall result in the denial of the Big Game Trophy Hunting License.

14-6-3 Purpose of Fee. The purpose of the Wildlife Habitat Improvement Fee is to generate revenue for the Pueblo to be used to preserve and improve wildlife habitat on Pueblo of Acoma lands.

14-6-4 Use of Fee Proceeds. All Wildlife Habitat Improvement Fee receipts shall be distributed to the Pueblo's Natural Resources Department to be used for the preservation, protection and improvement of the Pueblo's wildlife habitat. The Natural Resources Department shall submit a report to the Acoma Tribal Council each year showing the amount of such fees received the previous year, the amount of such receipts expended the previous year and the purpose for the expenditures.

14-6-5 Effective Date of Habitat Improvement Fee. The Wildlife Habitat Improvement Fee shall be collected starting with the 2009 hunting season permits and licenses. All Big Game Trophy Hunting licenses issued after the effective date shall be subject to the Wildlife Habitat Improvement Fee of $200 per license.

Chapter 7. ACOMA CIGARETTE TAX ACT

14-7-1 Title and Purpose.

A. Title. The tax imposed by this Chapter shall be cited as the "Acoma Cigarette Tax."

B. Purpose. The purpose of the Acoma Cigarette Tax is to generate revenue for the Pueblo of Acoma by imposing a cigarette tax on the privilege of distributing cigarettes within the Pueblo of Acoma jurisdiction.

Origins: Enacted by Tribal Council Resolution No. TC-SEPT-25-09-VIb.

14-7-2 Definitions.

A. "Cigarette" means

1. any roll of tobacco or any substitute for tobacco wrapped in

paper or in any substance not containing tobacco; or

2. any roll of tobacco that is wrapped in any substance containing tobacco, other than one hundred percent natural leaf tobacco, which because of its appearance, the type of tobacco used in the filler, its packaging and labeling, or its marketing and advertising, is likely to be offered to, or purchased by, consumers as a cigarette, as described in Paragraph (1) of this Subsection, and "cigarette" includes bidis and kreteks.

B. "Contraband cigarettes" means cigarette packages with counterfeit stamps, counterfeit cigarettes, cigarettes that have false or fraudulent manufacturing labels, cigarettes not sold in packages of five, ten, twenty or twenty-five and cigarette packages without the tax stamps required by the Acoma Cigarette Tax Act.

C. "Distributor" means a person licensed pursuant to this Chapter to distribute cigarettes within the Pueblo of Acoma jurisdiction. "Distributor" does not include:

1. a retailer;

2. a cigarette manufacturer, export warehouse proprietor or importer with a valid permit pursuant to 26 U.S.C. 5713, if that person sells cigarettes within the Pueblo of Acoma jurisdiction only to distributors that hold valid licenses under the laws of a state or sells to an export warehouse proprietor or to another manufacturer; or

3. a common or contract carrier transporting cigarettes pursuant to a bill of lading or freight bill, or a person who ships cigarettes through the Pueblo of Acoma jurisdiction by a common or contract carrier pursuant to a bill of lading or freight bill.

D. "License" means a license granted pursuant to this Chapter that authorizes the holder to conduct business as a manufacturer, distributor, or retailer of cigarettes.

E. "Manufacturer" means a person that manufactures, fabricates, assembles, processes or labels a cigarette within the Pueblo of Acoma jurisdiction or that imports from outside the Pueblo of Acoma jurisdiction, directly or indirectly, a finished cigarette for retail sale or distribution within the Pueblo of Acoma jurisdiction.

F. "Package" means an individual pack, box, or other container; "package" does not include a container that itself contains other

containers, such as a carton of cigarettes.

G. "Person" means any individual, association, partnership, corporation, limited liability company, firm, trust or other form of business organization.

H. "Retailer" means a person within the Pueblo of Acoma jurisdiction, that sells cigarettes at retail to a consumer within the Pueblo of Acoma jurisdiction and the sale is not for resale.

I. "Stamp" means an adhesive label issued and authorized by the Acoma Office of Taxation to be affixed to cigarette packages for excise tax purposes and upon which is printed a serial number and the words "Pueblo of Acoma" and "tobacco tax."

J. "Tax stamp" means a stamp that has a specific cigarette tax value pursuant to this Chapter.

Origins: Enacted by Tribal Council Resolution No. TC-SEPT-25-09-VIb.

14-7-3 Rate and Incidence of Cigarette Tax.

A. Rate. There is hereby imposed an excise tax for each cigarette sold by a Distributor to a Retailer located within the Pueblo of Acoma jurisdiction:

1. $.00375, if the cigarettes are packaged in lots of twenty or twenty-five;

2. $.075, if the cigarettes are packaged in lots of ten; or

3. $.015, if the cigarettes are packaged in lots of five.

B. Incidence of Tax. The tax imposed by this Section shall be referred to as the "Acoma Cigarette Tax." The incidence of the Acoma Cigarette Tax imposed by this Section shall be on the Distributor selling cigarettes to a Retailer located within the Pueblo of Acoma jurisdiction.

C. Annual Tax Rate Adjustments. The Acoma Office of Taxation may adjust the rate each year by increasing the tax by $.00025 per individual cigarette, provided that the tax rate shall not exceed a tax of $.01 per individual cigarette. The Acoma Office of Taxation shall provide notice of the annual tax rate adjustments to any person selling or distributing cigarettes within the Pueblo of Acoma jurisdiction.

Origins: Enacted by Tribal Council Resolution No. TC-SEPT-25-09-VIb and amended in 2010 by Tribal Council Resolution No. TC-MAY-06-10-VIb.

Annotations: The 2010 amendments deleted "or distributed" and replaced it with "by a Distributor to a Retailer located" as subsection A. The 2010 amendment increased the rate to 75¢ per pack at subsection A(1) through A(3). The 2010 amendment replaced "person distributing cigarettes" with "Distributor selling cigarettes to a Retailer located" at subsection B.

14-7-4 Effective Date and Transition. The effective date of the Acoma Cigarette Tax Act is July 1, 2009, and all transactions involving the selling or distributing of cigarettes on and after the effective date are subject to the Acoma Cigarette Tax. Each person subject to the Acoma Cigarette Tax Act shall comply with the tax stamping requirements provided in this Chapter no later than July 1, 2010.

Origins: Enacted by Tribal Council Resolution No. TC-SEPT-25-09-VIb.

14-7-5 Affixing Stamps.

A. Except as provided in Section 14-7-6, all cigarettes shall be placed in packages or containers to which an Acoma cigarette tax stamp may be affixed. Only a distributor with a valid license pursuant to this Chapter may purchase or obtain unaffixed tax stamps.

B. Stamps shall be affixed by the distributor to each package of cigarettes to be sold or distributed within the Pueblo of Acoma jurisdiction within ten days of receipt of those packages.

C. A distributor shall apply stamps only to packages of cigarettes that it has received directly from a manufacturer or importer of cigarettes that possesses a valid and current permit pursuant to 26 U.S.C. 5713.

D. Packages shall contain cigarettes in lots of five, ten, twenty, or twenty-five.

E. Unless the requirements of this Section are waived pursuant to Section 14-7-6, a tax stamp shall be affixed to each package of cigarettes subject to the cigarette tax pursuant to Section 14-7-3.

F. Stamps shall be affixed inside the boundaries of the Pueblo of Acoma, unless the Acoma Office of Taxation has granted a license allowing a person to affix stamps outside the Pueblo of Acoma.

Origins: Enacted by Tribal Council Resolution No. TC-SEPT-25-09-VIb.

14-7-6 Waiver of Requirement That Stamps Be Affixed. The requirement imposed in Section 14-7-5 that stamps be affixed to packages or containers of cigarettes is waived if the cigarettes are distributed by a manufacturer pursuant to federal regulations and are exempt from tax pursuant to 26 U.S.C. 5704.

Origins: Enacted by Tribal Council Resolution No. TC-SEPT-25-09-VIb.

14-7-7 Sale of Stamps; Prices.

A. Only the Acoma Office of Taxation shall sell stamps. Stamps may be sold by the Acoma Office of Taxation only to a distributor.

B. Stamps shall display a serial number. Stamps bearing the same serial number shall not be sold to more than one distributor. The Acoma Office of Taxation shall keep records of the serial numbers of the stamps provided to each distributor.

C. A stamp shall be affixed to a package of cigarettes in such a manner as to clearly display the serial number at the point of sale.

D. Tax stamps shall be sold at their face value with the following discounts:

1. Fifty-five hundredths percent less than the face value of the first $30,000 of stamps purchased in one calendar month;

2. Forty-four hundredths percent less than the face value of the second $30,000 of stamps purchased in one calendar month;

3. Twenty-seven hundredths percent less than the face value of stamps purchased in excess of $60,000 in one calendar month.

E. If the face value of tax stamps sold in a single sale to a distributor is less than $1,000, the discount provided for in this Section shall not be allowed.

Origins: Enacted by Tribal Council Resolution No. TC-SEPT-25-09-VIb and amended in 2010 by Tribal Council Resolution No. TC-MAY-06-10-VIb.

Annotations: The 2010 amendment decreased the discount. At subsection D(1), "One" is replaced with "Fifty-five hundredths"; at subsection D(2), "Eight-Tenths" is replaced with "Forty-four hundredths"; and at subsection D(3), "One-Half" is replaced with "Twenty-seven hundredths."

14-7-8 Licensing; General Licensing Provisions.

A. A person shall not engage in the manufacture, distribution, or retail of cigarettes within the Pueblo of Acoma jurisdiction without a license issued by the Acoma Office of Taxation.

B. The Acoma Office of Taxation shall issue a license for a term not to exceed one year.

C. The Acoma Office of Taxation may charge a license fee of up to one hundred dollars ($100) for each manufacturer's, distributor's, or retailer's license issued or renewed.

D. An application for a license or renewal of a license shall be submitted on a form determined by the Acoma Office of Taxation and shall include:

1. The name and address of the applicant and (a) if the applicant is a firm, partnership or association, the name and address of each of its members, or (b) if the application is a corporation, the name and address of each of its officers;

2. The address of the applicant's principal place of business and every location where the applicant's business is conducted; and

3. Any other information the Acoma Office of Taxation may require.

E. The Acoma Office of Taxation may issue a distributor's license, a manufacturer's license, and a retailer's license to the same person.

F. Persons licensed as manufacturers or distributors may sell stamped cigarettes at retail.

G. A license may not be granted, maintained or renewed if one or more of the following conditions applies to an applicant:

1. The applicant owes five hundred dollars ($500) or more in delinquent cigarette taxes to any jurisdiction;

2. The applicant has had a manufacturer's, distributor's, or retailer's license revoked by the Acoma Office of Taxation or any other entity within the past 2 years;

3. The applicant is convicted of a crime related to contraband cigarettes, stolen cigarettes or counterfeit stamps;

4. The applicant is a manufacturer and imports cigarettes into the United States that are in violation of 19 U.S.C. 1681a or manufactures cigarettes that do not comply with the Federal Cigarette Labeling and Advertising Act.

H. In addition to a civil or criminal penalty provided by law, upon a finding that a licensee has violated a provision of this Chapter or a rule adopted pursuant to this Chapter, the Acoma Office of Taxation may revoke or suspend the license or licenses of the licensee.

I. As used in this Section, "applicant" includes a person(s) owning, directly or indirectly, in the aggregate, more than ten percent of the ownership interest in the business holding or applying for a license pursuant to this Chapter.

Origins: Enacted by Tribal Council Resolution No. TC-SEPT-25-09-VIb.

14-7-9 Distributor's License.

A. A person shall not distribute within the Pueblo of Acoma jurisdiction stamped packages of cigarettes for resale or sell stamped packages of cigarettes at wholesale without first obtaining a distributor's license from the Acoma Office of Taxation.

B. A person licensed to distribute cigarettes within the Pueblo of Acoma jurisdiction is authorized to:

1. Receive unstamped packages of cigarettes from a Manufacturer;

2. Purchase tax stamps from the Acoma Office of Taxation;

3. Affix tax stamps to unstamped packages of cigarettes;

4. Sell stamped packages of cigarettes to a retailer for resale; and

5. Sell unstamped packages of cigarettes to a person licensed to distribute cigarettes outside a Pueblo of Acoma jurisdiction or to a Distributor.

Origins: Enacted by Tribal Council Resolution No. TC-SEPT-25-09-VIb and amended in 2010 by Tribal Council Resolution No. TC-MAY-06-10-VIb.

Annotations: The 2010 amendment added "or to a Distributor" at the end of subsection B(5).

14-7-10 Manufacturer's License.

A. A person shall not manufacture cigarettes within the Pueblo of Acoma jurisdiction unless licensed by the Acoma Office of Taxation.

B. A person licensed to manufacture cigarettes within the Pueblo of Acoma jurisdiction is authorized to:

1. Manufacture, produce and package cigarettes;

2. Receive imported cigarettes;

3. Sell unstamped cigarettes to a distributor, another manufacturer or an export warehousing proprietor; and

4. Sell unstamped cigarettes outside the boundaries of the Pueblo of Acoma.

Origins: Enacted by Tribal Council Resolution No. TC-SEPT-25-09-VIb.

14-7-11 Retailer's License.

A. A person shall not sell cigarettes at retail within the Pueblo of Acoma jurisdiction, unless licensed by the Acoma Office of Taxation.

B. A person licensed to sell cigarettes at retail within the Pueblo of Acoma jurisdiction shall:

1. Only obtain cigarettes for resale from a Distributor;

2. Only obtain stamped cigarettes;

3. Comply with the provisions of this Chapter or any law or rule that applies to retailers of cigarettes.

Origins: Enacted by Tribal Council Resolution No. TC-SEPT-25-09-VIb.

14-7-12 Retention of Invoices and Records; Inspection by Acoma Office of Taxation.

A. A manufacturer, distributor or retailer shall maintain copies of invoices for each of its facilities for every transaction involving a cigarette sale, purchase, transfer, receipt or consignment, except that a retailer need not retain copies of invoices for sales of cigarettes to consumers. An invoice shall show:

1. the names and addresses of all persons involved in the transaction, including the seller, purchaser, consignor and consignee. If a transaction involves an additional facility of the same manufacturer, distributor or retailer, the invoice shall also show the address of the additional facility;

2. the date;

3. the price; and

4. the quantity of each brand of cigarettes involved in each transaction.

B. Records required to be maintained pursuant to Subsection A of this section shall be preserved on the premises described in the license in a manner that ensures permanency and accessibility for inspection at reasonable hours by the Acoma Office of Taxation.

C. The records required to be maintained pursuant to Subsection A of this section shall be retained for a period of three years from the end of the year in which the transaction occurred, unless otherwise required by law to be retained for a longer period of time.

D. The Acoma Office of Taxation, or a designee, may inspect the reports and records required pursuant to this Chapter along with any stock of cigarettes in the possession of the manufacturer, distributor or retailer. The Acoma Office of Taxation, at its sole discretion, may share those records and reports with law enforcement officials of the federal government, other states and international authorities.

Origins: Enacted by Tribal Council Resolution No. TC-SEPT-25-09-VIb.

14-7-13 Export Sellers; Physical Segregation of Cigarettes to be Exported.

A. A distributor selling and shipping cigarettes outside the Pueblo of Acoma jurisdiction may maintain unstamped packages of cigarettes on the distributor's premises if the unstamped packages to be shipped outside a Pueblo of Acoma jurisdiction are kept in a separate part of the distributor's place of business, physically segregated from packages of cigarettes to be sold inside the Pueblo of Acoma jurisdiction and clearly identified as packages of cigarettes for shipment outside the Pueblo of Acoma jurisdiction. Unstamped cigarettes bearing a New Mexico Tax-Credit Stamp must be segregated from other unstamped cigarettes and may be sold only to another New Mexico tribe or pueblo that has enacted a Qualifying Tribal Cigarette Tax as that term is used under the New Mexico Cigarette Tax Act, NMSA 1978, § 7-12-1 et seq. If packages of cigarettes to be sold outside Pueblo of Acoma are intermingled with packages of cigarettes to be sold inside Pueblo of Acoma, they shall be stamped and treated for purposes of the Acoma Cigarette Tax Act as packages of cigarettes to be sold inside a Pueblo of Acoma.

B. Unstamped packages of cigarettes shall not be transferred by a distributor to another facility of the distributor's or to another person within Pueblo of Acoma.

C. A person doing business as both a distributor and a retailer or both a distributor and a manufacturer shall maintain separate areas for stamped and unstamped packages of cigarettes.

Origins: Enacted by Tribal Council Resolution No. TC-SEPT-25-09-VIb, and amended in 2010 by TC-JUN-17-10-Ia.

Annotations: The 2010 amendment inserted a new second sentence to subsection A.

14-7-14 Shipment of Unstamped Cigarettes in Pueblo of Acoma.

A. A person that ships unstamped packages of cigarettes into Pueblo of Acoma jurisdiction other than to a distributor shall first file a notice of the shipment with the Acoma Office of Taxation.

B. A person that transports unstamped packages of cigarettes into or within Pueblo of Acoma shall carry, in the transporting vehicle, invoices or equivalent documents applicable to all cigarettes in the shipment. The invoices or documents shall show:

1. The name and address of the consignor or seller;

2. The name and address of the consignee or purchaser; and

3. The quantity of each brand of cigarettes transported.

C. The provisions of Subsections A and B of this Section shall not apply to common or contract carrier transporting cigarettes through Pueblo of Acoma to another location pursuant to a proper bill of lading or freight bill that states the quantity, source and destination of the cigarettes.

D. The Acoma Office of Taxation may, by regulation, require and prescribe the contents of reports to be filed with the Acoma Office of Taxation by persons transporting unstamped packages of cigarettes within the Pueblo of Acoma jurisdiction.

Origins: Enacted by Tribal Council Resolution No. TC-SEPT-25-09-VIb and amended in 2010 by Tribal Council Resolution No. TC-MAY-06-10-VIb.

Annotations: The 2010 amendment deletes "Commercial Area" immediately after "Pueblo of Acoma" at subsection B.

14-7-15 Civil Penalties.

A. Whoever knowingly fails, neglects or refuses to comply with the provisions of the Cigarette Tax Act shall be liable for, in addition to any other penalty provided in that act:

1. For a first offense, a penalty of up to $1,000;

2. For a second offense, a penalty of not less than $1,500 and no more than $2,500; and

3. For a third offense, a penalty of not less than $2,500 and no more than $5,000.

B. Contraband cigarettes within Pueblo of Acoma jurisdiction and the equipment used to manufacture, package or stamp them are subject to seizure, forfeiture and destruction by the Acoma Office of Taxation, its revenue officers or its agents or by other Pueblo of Acoma officers.

C. Counterfeit stamps for use within Pueblo of Acoma jurisdiction in the possession of any person and the equipment used to produce them are subject to seizure by the Acoma Office of Taxation, its revenue

officers or its agents or by Pueblo of Acoma officers or other state or local peace officers.

Origins: Enacted by Tribal Council Resolution No. TC-SEPT-25-09-VIb.

14-7-16 Reporting Requirements; Penalty.

A. Each person who sells within Pueblo of Acoma jurisdiction cigarettes manufactured by that person or who receives on consignment or buys cigarettes either directly from the manufacturer or from any out-of-state person for resale in Pueblo of Acoma shall report to the Acoma Office of Taxation by the twenty-fifth day of each month that person's sales of cigarettes during the preceding month in the Pueblo of Acoma.

B. Any person who sells within Pueblo of Acoma jurisdiction cigarettes manufactured by that person or who receives on consignment or buys cigarettes for resale in Pueblo of Acoma who willfully fails to render accurately the reports required by this section is subject to a civil penalty.

C. Any tobacco product manufacturer, stamping agent or importer of cigarettes, or any officer, employee or agent of any such entity, who knowingly makes a materially false statement in any record required to be kept by the Cigarette Tax Act, or in any report or return required to be filed with the Acoma Office of Taxation by the Cigarette Tax Act is subject to a civil penalty.

Origins: Enacted by Tribal Council Resolution No. TC-SEPT-25-09-VIb.

14-7-17 Reports.

A. A distributor shall submit periodic reports to the Acoma Office of Taxation, in the manner and on the form prescribed by the Acoma Office of Taxation. A distributor shall submit a separate report for each of its facilities. The information in the report shall be itemized and shall clearly disclose cigarette brands, quantities and the type of stamp applied to the packages of cigarettes. A report shall include:

1. An inventory of stamped and unstamped packages of cigarettes held for sale or distribution within Pueblo of Acoma jurisdiction at the beginning of the reporting period;

2. The quantity of stamped packages of cigarettes held for sale or

distribution within Pueblo of Acoma jurisdiction that were received from another person during the reporting period and the name and address of each person from whom each quantity was received;

3. The quantity of Pueblo of Acoma stamped packages of cigarettes that were distributed or shipped to another distributor or retailer within the Pueblo of Acoma jurisdiction during the reporting period and the name and address of each person to whom each quantity was distributed or shipped;

4. The quantity of unstamped packages of cigarettes that were distributed or shipped to another distributor within the Pueblo of Acoma jurisdiction during the reporting period and the name and address of each person to whom each quantity was distributed or shipped;

5. The quantity of Pueblo of Acoma stamped packages of cigarettes that were distributed or shipped to another facility of the same distributor within the Pueblo of Acoma jurisdiction during the reporting period and the address of that facility;

6. The quantity of stamped cigarette packages that were distributed or shipped within the Pueblo of Acoma jurisdiction to an Indian nation, tribe or pueblo or to a person located on the land of an Indian nation, tribe or pueblo or to instrumentalities of the federal government during the reporting period and the name and address of each person, entity or instrumentality to whom each quantity was distributed or shipped;

7. An inventory of stamped and unstamped packages of cigarettes held for sale or distribution within Pueblo of Acoma jurisdiction at the end of the reporting period;

8. An inventory of stamped and unstamped packages of cigarettes for sale or distribution outside of Pueblo of Acoma jurisdiction at the beginning of the reporting period;

9. The quantity of packages of cigarettes held for sale or distribution outside the Pueblo of Acoma jurisdiction that were received from another person during the reporting period and the name and address of each person from whom each quantity was received;

10. The quantity of packages of cigarettes that were distributed or shipped outside the Pueblo of Acoma jurisdiction during the reporting period;

11. An inventory of packages of cigarettes held for sale or distribution outside the Pueblo of Acoma jurisdiction at the end of the reporting period;

12. The number of Acoma cigarette tax stamps on hand at the beginning of the reporting period;

13. The number of Acoma cigarette tax stamps purchased or received during the reporting period;

14. The number of Acoma cigarette tax stamps applied during the reporting period; and

15. The number of Acoma cigarette tax stamps on hand at the end of the reporting period.

B. A manufacturer shall submit periodic reports in the manner and on the form prescribed by the Acoma Office of Taxation. The information in the report shall be itemized to clearly disclose cigarette brands and quantities. The reports shall be provided separately with respect to each of the facilities operated by the manufacturer. A report shall contain the quantity of packages of cigarettes that were distributed or shipped:

1. To a manufacturer, distributor or retailer within Pueblo of Acoma during the reporting period and the name and address of each person to whom each quantity was distributed or shipped;

2. To another facility within Pueblo of Acoma of the same manufacturer during the reporting period and the address of the facility; and

3. Within Pueblo of Acoma to an Indian nation, tribe or pueblo or to a person located on the land of an Indian nation, tribe or pueblo or to instrumentalities of the federal government during the reporting period and the name and address of each person, entity or instrumentality to whom each quantity was distributed or shipped.

C. The Acoma Office of Taxation may require additional information to be submitted. The Acoma Office of Taxation shall establish the

reporting period, which shall be no longer than three calendar months and no shorter than one calendar month.

Origins: Enacted by Tribal Council Resolution No. TC-SEPT-25-09-VIb.

14-7-18 Intergovernmental Agreements; No Waiver of Sovereign Immunity.

A. The Acoma Office of Taxation, with the approval of the Acoma Tribal Council, may enter into an intergovernmental agreement with the State of New Mexico to:

1. Enforce, administer or otherwise implement the provisions of the Acoma Cigarette Tax Act;

2. Increase the ability of the Acoma Office of Taxation to account for packages of cigarettes imported into, sold, or transferred within and exported from the Pueblo of Acoma; and

B. Nothing in the Acoma Cigarette Tax Act shall be construed to waive or restrict the sovereign immunity of the Pueblo of Acoma.

Origins: Enacted by Tribal Council Resolution No. TC-SEPT-25-09-VIb.

14-7-19 Enforcement. Enforcement of this Chapter shall be as described in Chapter 1 of this Title, including procedure for tax protest.

Origins: Enacted by Tribal Council Resolution No. TC-SEPT-25-09-VIb.

Chapter 8. BUSINESS LICENSE AND VENDOR PERMIT.

Origins: Enacted by Tribal Council Resolution No. TC-JUL-22-10-VIb.

14-8-1 Application to do Business. All persons engaging in business within the exterior boundaries of the Pueblo of Acoma shall have a Business License or Vendor Permit. Each business shall apply for a Business License or Vendor Permit and pay a Business License or Vendor Permit Fee as required by this law for each outlet, branch, location, or place of business within the Pueblo of Acoma boundaries. A registration form shall be provided to the applicant by the Pueblo for this purpose.

14-8-2 Definitions.

A. "Artist or artisan" means any individual who displays or offers for sale his or her own hand-crafted products.

B. "Consumable Foods" means food items including but not limited to hamburgers, burritos, tamales, hot dogs, snow cones, soft drinks, etc.

C. "Engaging in Business" means any commercial activity or enterprise for financial gain, benefit, advantage or livelihood.

D. "Feast Days" means, for purposes of this Chapter, the Santa Maria Mission feast day, (1st Sunday in May), the St. Lawrence feast day, (August 10) and the San Esteban del Ray Mission feast day, (September 2).

E. "Non-consumables - Intrinsic Value" means artisan-created or one-of-a-kind items including but not limited to jewelry, pottery, furs, turtle shells, feathers, paintings, etc.

F. "Non-consumables – Merchandise" means items including but not limited to toys, magazines, cosmetics, T-shirts, etc.

G. "Person" means any individual, estate, trust, receiver, cooperative association, association, club, corporation, company, firm, partnership, joint venture, syndicate or other entity.

H. "Place of Business" means the premises to which the public is expressly or impliedly invited for the purpose of transacting business. Unless a construction contractor has at least one permanent location within the Pueblo, the place of business includes a construction site.

I. "Vendor" means any person with no established business location within the boundaries of the Pueblo of Acoma who offers for sale, occasionally or temporarily, consumable and non-consumable goods and merchandise or service.

14-8-3 Business license.

A. License Required. For the privilege of Engaging in business within the Pueblo of Acoma, each person with a permanent place of business within Pueblo of Acoma land must obtain a Pueblo of Acoma Business License each year.

B. Imposition of Annual Fee. There is imposed on each person engaging in business within the Pueblo of Acoma lands more than ten

(10) days per year an annual Business License Fee of $25 for each calendar year.

C. Application for Business License. Application for an annual Business License shall be made at the Pueblo of Acoma Office of Taxation which shall send notification and a Registration Form to each business in October of each year. The Registration Form and the annual fee, if applicable, must be submitted by January 15 of each year.

D. New Businesses. New Businesses must register for a business license within 30 days of opening for business.

E. Issuance of License. The Business License will be issued upon completion of the application form and payment of the Business License Fee, if applicable.

F. Renewal. Prior to the expiration of the Business License, any person with a place of business in the Pueblo and subject to this Law shall apply to renew the Business License and shall pay an annual fee of $25, to the Pueblo of Acoma.

G. Late Fee. There shall be imposed a late fee in the amount of $25 in the event a new business does not file an application for business license, and pay the applicable registration fee before it commences business or if the annual renewal application is not submitted, or the fee is not paid prior to expiration of an existing Acoma Business License.

H. Fee Waived. Businesses involved exclusively in traditional Acoma livelihoods, including but not limited to farming, livestock raising, bread and pottery making do not have to pay Business License fees. However, a business license registration is required.

I. Denial or Revocation of License.

1. When deemed in the public interest, the Governor or Tax Administrator may refuse to grant or renew a business license. Any person who has been denied an Acoma Business license shall be entitled to a hearing in front of the Governor or Tax Administrator. The license applicant shall be given at least 5 days notice of the hearing. After the hearing, the Governor or Tax Administrator shall determine whether to issue or deny the license or license renewal.

2. When deemed in the public interest, upon recommendation of the Tax Administrator, the Tribal Council may revoke a business license with prior written notice to the license holder. The person whose license has been revoked shall be entitled to a hearing in front of the Governor, his designee, or the Tribal Council. The license holder shall be given at least 5 days notice of the hearing. After the hearing, the Governor, or the Tribal Council by majority vote, shall determine whether to revoke or restore the license.

J. License Must Be Displayed. Each business must display its license at each site where it conducts business.

14-8-4 Vendor Permit.

A. Imposition of Fee. There is imposed on each non-tribal vendor who sells consumable, non-consumable intrinsic value items and/or non-consumable merchandise from a temporary location within the Pueblo of Acoma lands a Vendor Permit Fee.

B. Schedule of Fees. The Vendor Permit Fee imposed shall be based on the following Vendor Permit Fee Schedule.

1. **Daily Fees:**

	Vendor Fee	Large Setup or Trailer
Indians (non-Acoma)		
Consumable foods	$20	$30
Non-consumables/Intrinsic value	$15	$30
Non-consumables/Merchandise	$30	$40
Non-Indians		
Consumable foods	$30	$40
Non-consumables/Intrinsic value	$30	$40
Non-consumables/Merchandise	$40	$50

2. **Feast Day Fees:**

Indians (non-Acoma)		
Consumable foods	$30	$50
Non-consumable/Intrinsic value	$30	$50
Non-consumable/merchandise	$45	$60
Non-Indians		
Consumable foods	$40	$70
Non-consumable/Intrinsic value	$60	$70
Non-consumable/merchandise	$60	$70

3. **Weekend fees ($10 discount):**

Indians (Non-Acoma)	Vendor fee
Consumable Food	$30
Non-consumable/Intrinsic value	$20
Non-consumable/Merchandise	$50
Non-Indians	
Consumable Food	$50
Non-consumable /Intrinsic value	$50
Non-consumable/Merchandise	$70

4. **Weekly fees ($20 discount:**

Indians (Non-Acoma)	Vendor fee
Consumable Food	$80
Non-consumable/Intrinsic value	$55
Non-consumable/Merchandise	$130
Non-Indians	
Consumable Food	$130
Non-consumable /Intrinsic value	$130
Non-consumable/Merchandise	$180

5. **Monthly fees ($200 discount):**

Indians (Non-Acoma)	Vendor fee
Consumable Food	$200
Non-consumable/Intrinsic value	$150
Non-consumable/Merchandise	$300
Non-Indians	
Consumable Food	$300
Non-consumable /Intrinsic value	$300
Non-consumable/Merchandise	$400

6. **Quarterly fees ($800 discount):**

Indians (Non-Acoma)	
Consumable Food	$400
Non-consumable/Intrinsic value	$300
Non-consumable/Merchandise	$600
Non-Indians	
Consumable Food	$600
Non-consumable/Intrinsic value	$600
Non-consumable/Merchandise	$800

7. **Annual fees ($3,600 discount):**

Indians (Non-Acoma)	
Consumable Food	$1,200
Non-consumable/Intrinsic value	$ 900
Non-consumable/Merchandise	$1,800

Non-Indians	
Consumable Food	$1,800
Non-consumable/Intrinsic value	$1,800
Non-consumable/Merchandise	$2,400

C. Application for Vendor Permit. Application for a Vendor Permit shall be made at the Pueblo of Acoma Office of Taxation. Vendor Permit fees for Feast Days shall be paid on or before the day of the Feast. If the Taxation Office staff is unavailable, fees shall be paid to designated Tribal Administration Office support staff.

D. Issuance of Permits. The Vendor Permit will be issued upon payment of the Vendor Permit Fee.

E. Permit must be displayed. Each Vendor shall display its permit at each site where it conducts business.

14-8-5 Penalty. Any person who violates the provisions of this section or fails to comply with any of its requirements shall be liable for the amount of the license or permit fee in addition to a penalty which is double the amount due, and may be subject to denial or revocation of the license or permit.

14-8-6 Enforcement. The Acoma Office of Taxation and Assessments, as an agency of the Acoma Pueblo, shall enforce provisions of this Law and any other subsequent licensing or permitting requirements enacted and incorporated into this Chapter by the Acoma Tribal Council. Such enforcement shall be in accordance with administrative procedures provided by this Law and through judicial enforcement in the Acoma Tribal Courts.

14-8-7 Accounting. Fees collected by the Taxation Office staff for business licenses and vendor permits shall be delivered to Central Accounting the following business day. Central Accounting shall maintain a separate ledger for business license/vendor permit fees, and otherwise account for these funds in the same way it accounts for other monies received pursuant to the requirements of Title 14 – Taxation, Chapter 1 Administration and Enforcement.

14-8-8 Pueblo of Acoma Food Ordinance. Any place of business where food is prepared and sold to the public shall also comply with any Pueblo of Acoma food ordinance.

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