

RESOLUTION OF THE
NAVAJO NATION COUNCIL

20th NAVAJO NATION COUNCIL - Fourth Year, 2006

AN ACT

RELATING TO GOVERNMENT SERVICES AND FINANCE; APPROVING
AMENDMENTS TO THE UNIFORM TAX ADMINISTRATION STATUTE, 24
N.N.C. §§101 ET SEQ.

BE IT ENACTED:

Section 1. Amendments to the Uniform Tax Administration Statute.

The Navajo Nation hereby approves amendments to the Uniform Tax Administration Statute, Title 24, Chapter 1, Navajo Nation Code.

Section 2. Purpose.

The purpose of these amendments is primarily technical in nature and provides clarity to taxpayers in their understanding of their responsibility in filing and paying Navajo taxes.

Section 3. Amendments.

The Navajo Nation hereby amends the Navajo Nation Code, Title 24, as follows:

Title 24, Navajo Nation Code
Taxation

Chapter 1. Uniform Tax Administration Statute

§104. Definitions.

Subject to additional definitions (if any) contained in the subsequent sections of this Chapter or in subsequent chapters:

E. "Month" means any consecutive 30 calendar day time-period for purposes of this Chapter.

EF. "Office of the Navajo Tax Commission" is located within the Navajo Nation Executive Branch and is responsible for the administration of the Navajo Tax Code.

FG. "Person" means any organization, whether a sole proprietorship, partnership, joint venture, trust, estate, unincorporated association, company, corporation, or government (other than the government of the Navajo Nation and any wholly owned subdivision or enterprise of the Navajo Nation government), or any part, division, or agency of any of the foregoing, and an individual or group of individuals.

H. "Received" means

1. The postmark date, if action is taken by mail;
2. The date actually received by the Navajo Nation, when documents and/or payments are hand-delivered; or
3. The date of receipt by the Navajo Nation, in the case of wire transfer payments.

GI. "Regulations" means the regulations adopted by the Commission.

HJ. "Related persons" means two or more persons owned or controlled, directly or indirectly, by the same person. As applied to natural persons, "related persons" means two or more natural persons who have a legal relationship arising out of marriage, adoption, or blood, through the third degree of kinship.

IK. "Return" means any document required to be filed when paying any Navajo Nation tax, as contrasted with other documents required to be filed that are not associated with actual payment of taxes. "Return" also includes any attachments, such as schedules or forms that are associated with any return.

[Subsequent subsections are renumbered]

§106. Reserved. Waiver of taxes.

Any waiver of tax or associated interest requires a two-thirds (2/3) vote of the full membership of the Navajo Nation Council. The Office of the Navajo Tax Commission has the authority to relieve a taxpayer of penalties and certain administrative fees, as set out in Sections 112-116 below.

§108. Designation of Individual.

On an annual basis, each taxpayer must designate and provide the mailing address of a natural person for the purposes of notice, by filing a Form 100. The forms must be submitted each year to the Office of the Navajo Tax Commission by January 15, even if no changes have occurred since the prior filing. In addition, an updated form must be filed within 30 days of a change in circumstances. The Commission may by regulation impose requirements as to the individuals who shall be designated under this Section, and may require information or documentation it deems necessary for the proper and efficient administration of these taxes to be provided with the designation. For purposes of this Section only, the term "taxpayers" shall not include persons on whom the Hotel Occupancy Tax is imposed, but shall include persons responsible for collecting and remitting the Hotel Occupancy Tax. In addition, for purposes of this Section only, "taxpayers" shall include all persons owning an interest in a lease subject to the Navajo Possessory Interest Tax.

§112. Penalties for failure to file.

~~A. If a taxpayer fails to timely file any required form by the time due, including, but not limited to, a Form 100, return, operator's questionnaire, or declaration of interest, a penalty shall be assessed for each month or fraction thereof that the form is not filed, in the amount of five percent (5%) of the tax due for the period; provided, however, that the minimum amount for the total penalty imposed under this Section shall be fifty dollars (\$50.00).~~

~~b. The total penalty imposed by this Section shall not exceed twenty five percent (25%) of the tax due, except when the fifty dollars (\$50.00) minimum is applicable.~~

~~c. A form filed on or before an extended due date for filing is timely filed.~~

~~D. For good cause shown, the Office of the Navajo Tax Commission may in its discretion relieve the taxpayer from all or part of the penalties imposed under this Section.~~

A. If any taxpayer fails to timely file any tax return, a penalty shall be assessed for each month or fraction thereof that the return is not filed, in the amount of five percent (5%) of the tax due for the period; provided, however, that the minimum amount for the total penalty imposed under this Section shall be fifty dollars (\$50.00).

B. The total penalty assessed in Subsection (A) shall not exceed twenty-five percent (25%) of the tax due, except where the fifty dollars (\$50.00) minimum applies.

C. If a person fails to timely file a Form 100, Fuel Excise Tax Retailer Report, Carrier Report, or Refiner Report, a one-time fifty dollar (\$50.00) penalty shall be assessed for each document that is not timely filed.

D. If a person fails to timely file a Possessory Interest Tax Form 200 or 245, a one-time penalty of fifty dollars (\$50.00) shall be assessed for each form that is filed after the due date but within 30 days of that date, and the penalty shall be increased to one-hundred and fifty dollars (\$150.00) if the form is filed more than 30 days after the required date.

E. For purposes of this Section, a form filed on or before an extended due date for filing is timely filed.

F. For good cause shown, the Office of the Navajo Tax Commission may in its discretion relieve the taxpayer from all or part of the penalties imposed under this Section.

§113. Penalties for failure to pay.

A. A taxpayer failing to timely pay an amount of tax by the time due shall be assessed an immediate penalty of five percent (5%) of the amount of the underpayment.

B. For each full month the payment is overdue, an additional penalty shall be assessed of five-tenths percent (0.5%) of the underpayment.

§115. Charges for administrative costs.

A. 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 ~~outside the jurisdiction of the Navajo Nation.~~

§129. Statute of limitations.

A. Except for the Business Activity Tax and the Hotel Occupancy Tax, taxes imposed and required to be collected by the Code shall be assessed within four years after the return is filed, or the Possessory Interest Tax notice of assessment is issued, except as provided in Subsection (B) of this Section. Taxes imposed and required to be collected by the Business Activity Tax and the Hotel Occupancy Tax shall be assessed within six years after the return is filed, ~~or the Possessory Interest Tax notice of assessment is issued,~~ except as provided in Subsection (B) of this Section.

§132. Abatement authority

C. ~~Abatements in excess of one thousand dollars (\$1,000.00) shall be recorded in the Office of the Navajo Tax Commission in a form available for public inspection. The records shall be maintained for a minimum of four years after the date of the abatement.~~

§134. Confidentiality rules.

B. It shall be unlawful for any employee or former employee of the Office of the Navajo Tax Commission to reveal to any person, other than another employee or legal counsel for the Office of the Navajo Tax Commission, any information contained in the return of any taxpayer or any other information about any taxpayer acquired as a result of his or her employment by the Office of the Navajo Tax Commission, except:

~~(1) In accordance with §132(e),~~

[Subsequent paragraphs are to be renumbered]

C. For purposes of this Section, "employee of the Office of the Navajo Tax Commission" shall include members of the Navajo Tax Commission and any person for whose services the Office of the Navajo Tax Commission has contracted, provided that such person shall agree in the contract for services to abide by the provisions of this Section.

Section 4. Effective Date

The amendment enacted herein shall be effective upon its approval pursuant to 2 N.N.C. §221.

Section 5. Codification.

This amendment of the Navajo Nation Code shall be codified by the Office of Legislative Counsel. The Office of Legislative Counsel shall incorporate said amendment in the next codification of the Navajo Nation Code.

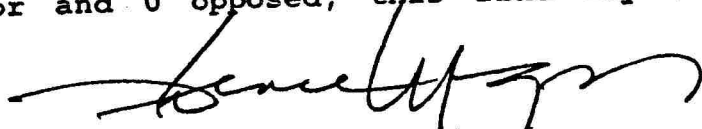
Section 6. Savings Clause.

Should any portion of this amendment be determined invalid by the Navajo Nation Supreme Court, or by any District Court of the Navajo Nation without appeal to the

Navajo Nation Supreme Court, those portions of the Act which are not determined invalid shall remain the law of the Navajo Nation.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona) at which a quorum was present and that the same was passed by a vote of 53 in favor and 0 opposed, this 22nd day of December 2006.



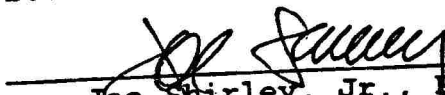
Lawrence T. Morgan, Speaker
Navajo Nation Council


Date

Motion: Nelson Gorman, Jr.
Second: Edward Jim

ACTION BY THE NAVAJO NATION PRESIDENT:

1. I hereby sign into law the foregoing legislation, pursuant to 2 N.N.C. §1005 (C) (10), on this day of JAN 15 2007 2006.



Joe Shirley, Jr., President
Navajo Nation

2. I hereby veto the foregoing legislation, pursuant to 2 N.N.C. §1005 (C) (11), this day of 2006 for the reason(s) expressed in the attached letter to the Speaker.

Joe Shirley, Jr., President
Navajo Nation