

TITLE XXVII – CHITIMACHA TRIBAL TAX ORDINANCE

CHAPTER 1. GENERAL PROVISIONS

Sec. 101 Title.

This Title XXVII shall be known as the Tribal Tax Ordinance.

Sec. 102 Purpose.

The purpose of this Title is to provide for the taxation of certain transactions, events, and property within the jurisdiction of the Chitimacha Tribe of Louisiana in order to provide revenues for the Tribe to fund governmental operations and programs promoting the health, education, and general welfare of the Tribe and its members.

Sec. 103 Authority.

- (a) The Chitimacha Tribe of Louisiana has the inherent sovereign authority to levy and collect taxes, regulate certain business conduct within the jurisdiction of the Tribe, provide financing for the current expenses of the tribal government, and expand tribal government operations and services, and, through the specific grant of authority in Article VII, Section 1(c), (f), (g), and (h) of the Chitimacha Constitution, the Tribe hereby adopts this Tribal Tax Ordinance.
- (b) Pursuant to this authority, and consistent with the provisions contained herein, the Tribal Council shall determine and set by resolution certain taxes as needed from time to time.
- (c) Without restricting the Tribe's authority to levy any particular tax, the Tribal Council is specifically authorized to determine and set by resolution the following types of taxes:
 - (1) Retail Sales and Service Tax;
 - (2) Use Tax;
 - (3) Cigarette, Tobacco Products, and Vapor Products Tax;
 - (4) Motor Vehicle Fuel Tax;
 - (5) Business Income Tax;

(6) Real Property Tax; and

(7) Hotel Occupancy Tax.

(d) The Tribal Council is further authorized to compact or enter into taxation agreements with the State of Louisiana or any of its political subdivisions.

Sec. 104 Jurisdiction.

(a) This Title shall apply to all persons and property, personal and real, subject to the jurisdiction of the Chitimacha Tribe of Louisiana as established by Article II of the Constitution of the Tribe, the inherent sovereignty of the Tribe, and other applicable laws, regulations, codes and ordinances.

(b) Nothing in this Title shall be construed as a limitation on the Tribe's authority and power to enforce the terms of this Title in a manner permitted by law but not expressly provided herein.

(c) Nothing in this Title shall be construed as limiting, waiving, or abrogating the sovereignty or sovereign immunity of the Tribe or jurisdiction of the Tribe or any regulatory or adjudicatory authority possessed by the Tribe.

Sec. 105 Severability.

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

Sec. 106 Construction.

This Title shall be interpreted and applied in a manner consistent with all other laws, ordinances, codes, resolutions, and regulations of the Tribe.

Sec. 107 Amendments.

This Title may be amended upon a duly enacted resolution of the Tribal Council or as otherwise authorized by the Tribe's laws.

Sec. 108 Effect of Headings.

Headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any portion of this Title.

Sec. 109 Definitions.

- (a) "Person" means any individual or association, partnership, corporation, company, or other form of business organization.
- (b) "Tangible personal property" means goods, wares, merchandise, or building materials and equipment sold at retail to consumers within the jurisdiction of the Tribe.
- (c) "Taxpayer" means any person liable for a tax under this Title.
- (d) "Tribal business" means any business or economic enterprise wholly owned by the Tribe, regardless of the form of the business organization and regardless of whether it is located or operated within the jurisdiction of the Tribe.
- (e) "Tribal Council" means the Chitimacha Tribal Council as determined by Article V of the Chitimacha Constitution.
- (f) "Tribal member" means an enrolled member of the Chitimacha Tribe of Louisiana.
- (g) "Tribal political subdivision" means any agency, department, or instrumentality created by, or pursuant to, Tribal law for the purpose of discharging some function of tribal government.
- (h) "Tribe" means the Chitimacha Tribe of Louisiana.
- (i) "Within the jurisdiction of the Tribe" means and includes all persons and property, personal and real, subject to the jurisdiction of the Tribe as established by Article II of the Constitution, the inherent sovereignty of the Tribe, and other applicable laws, regulations, and ordinances.

CHAPTER 2. RETAIL SALES AND SERVICES TAX

Sec. 201 Definitions.

The definitions contained in Section 109 shall apply to provisions of this Chapter 2 according to their content, except the following words, terms, and phrases when used in this Chapter 2 shall have the meanings ascribed to them below.

- (a) "Casual sales" means the isolated or occasional sales of tangible personal property by the owner or the rendering, furnishing, or performing of a service by the provider where the service is not in the course of repeated and successive transactions of a like character.
- (b) "Gross receipts" means the amount received in money, credits, property, or other consideration from sales at retail transacted within the jurisdiction of the Tribe, without any deduction on account of the cost of materials used, the cost of labor or services purchased, the amounts paid for interest or discounts, or any other expenses whatsoever, nor shall any deductions be allowed for losses.
- (c) "Gross taxable services" means the total amount received in money, credits, property, or other consideration, valued in money, from services rendered, furnished, or performed within the jurisdiction of the Tribe, except where such service is performed on tangible personal property delivered outside the Tribe's jurisdiction or is used in processing of tangible personal property for use in taxable retail sales or services.
- (d) "Property used in processing" means any tangible personal property which is intended to become an integral part of other tangible personal property to be sold ultimately at retail, by means of fabrication, compounding, manufacturing, or germination.
- (e) "Sale at retail" or "retail sale" means the sale of tangible personal property or services to a consumer or to any person for any purpose, other than for processing, for resale of tangible personal property or taxable services, or for resale of tangible personal property used in connection with taxable services.
- (f) "Services" means all acts or services rendered, furnished, or performed, except services performed on tangible personal property delivered outside the jurisdiction of the Tribe, services used in processing tangible personal property for use in taxable retail sales or services, or services for an employer for a valuable consideration. Services, as used in this Chapter, does not include the furnishing of sleeping rooms, cottages, cabins or units by hotels.

Sec. 202 Imposition of Retail Sales Tax.

- (a) The rate of tax imposed on the gross receipts from all sales of tangible personal property sold at retail to consumers within the jurisdiction of the Tribe shall be determined and set by resolution of the Tribal Council.
- (b) The retailer of such tangible personal property shall collect, report, and remit the tax imposed by this section on the sale of tangible personal property sold to consumers within the jurisdiction of the Tribe.

Sec. 203 Exemptions for Retail Sales Tax.

There is hereby specifically exempted from the retail sales tax provisions of this Chapter 2 and from computation of the amount of the tax imposed by it the following:

- (a) The gross receipts from sales to the Tribe, to a tribal business, to a tribal political subdivision, or to the United States.
- (b) The gross receipts from casual sales.
- (c) The gross receipts from the sale of objects of religious, ceremonial, or historical importance to the Tribe or Tribal members.

Sec. 204 Imposition of Services Tax.

- (a) The rate of tax imposed on the gross taxable services from services rendered, furnished, or performed within the jurisdiction of the Tribe shall be determined and set by resolution of the Tribal Council.
- (b) The service provider shall collect, report, and remit the tax imposed by this section on gross taxable services from services rendered, furnished, or performed within the jurisdiction of the Tribe.

Sec. 205 Exemptions for Services Tax

There is hereby specifically exempted from the service tax provisions of this Chapter 2 and from computation of the amount of the tax imposed by it the following:

- (a) The gross taxable services from services rendered, furnished, or performed by the Tribe, a tribal business, a tribal political subdivision, any other Indian Tribe, or the United States.
- (b) The gross taxable services from services rendered, furnished, or performed from casual sales.

CHAPTER 3. USE TAX

Sec. 301 Definitions.

The definitions contained in Section 109 shall apply to provisions of this Chapter 3 according to their content, except the following words, terms, and phrases when used in this Chapter 3 shall have the meanings ascribed to them below.

- (a) "Purchase price" means the total amount for which tangible personal property is sold, valued in money, whether paid in money or otherwise.
- (b) "Use" means and includes the exercise of a right or power incident to ownership of any interest in tangible personal property purchased from any retailer, except that it shall not include property used in processing, or the sale of property in the regular course of business. Use includes the consumption of supplies taken out of retail inventory for the business' use.

Sec. 302 Imposition of Use Tax.

- (a) The rate of tax imposed on the purchase price of tangible personal property that is used, stored, distributed, or consumed within the jurisdiction of the Tribe shall be determined and set by resolution of the Tribal Council, provided that said rate is equal to the retail sales tax imposed by Chapter 2.
- (b) The purchaser of such tangible personal property shall collect, report, and remit the tax imposed by this section on sale of tangible personal property used, stored, distributed, or consumed within the jurisdiction of the Tribe.

Sec. 303 Exemptions.

There is hereby specifically exempted from the provisions of this Chapter 3 and from computation of the amount of the tax imposed by it the following:

- (a) The purchase of tangible personal property that is used, stored, distributed, or consumed by the Tribe, a tribal business, or a tribal political subdivision.
- (b) No use tax is imposed on tangible personal property brought into the jurisdiction of the Tribe by a nonresident individual for the individual's use or enjoyment while temporarily within the jurisdiction of the Tribe.
- (c) No use tax is imposed if the retail sales tax imposed by Chapter 2 was paid on the purchase price of the tangible personal property.

Sec. 304 Evidence of Use.

For the purpose of the proper administration of this Chapter 3 and to prevent evasion of the use tax, evidence that tangible personal property was sold by any person for delivery within the jurisdiction of the Tribe shall be prima facie evidence that such tangible personal property was sold for use within the jurisdiction of the Tribe.

Sec. 305 Receipt as Evidence.

A tax receipt from a retailer given to the purchaser which indicates the retail sales tax imposed by Chapter 2 has been paid in the form of a notation on the sales slip or receipt for the purchase price relieves the purchaser of liability for the use tax imposed by this Chapter 3.

CHAPTER 4. CIGARETTE, TOBACCO PRODUCTS, AND VAPOR PRODUCTS TAX

Sec. 401 Definitions.

The definitions contained in Section 109 shall apply to provisions of this Chapter 4 according to their content, except the following words, terms, and phrases when used in this Chapter 4 shall have the meanings ascribed to them below.

- (a) "Cigarettes" mean any roll for smoking made wholly or in part of tobacco, irrespective of the tobacco being flavored, adulterated, or mixed with other ingredients, where such roll has a wrapper or cover made of paper or any material, except where such wrapper is wholly or in the greater part made of natural leaf tobacco in its natural state.
- (b) "Tobacco products" mean cigars, snuff, chewing tobacco, and any other products made up or composed of tobacco in whole or in part, except cigarettes.

- (c) “Tribal tobacco retailer” means a retail sales business established and operated by the Tribe for the purpose of selling tobacco products within the jurisdiction of the Tribe.
- (d) “Vapor product” means any non-combustible product containing nicotine or other substances that employs a heating element, power source, electronic circuit, or other electronic, chemical or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine or other substances. “Vapor product” includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar produce or device and any vapor cartridge or other container of nicotine or other substance that is in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device.

Sec. 402 Imposition of Cigarette, Tobacco, and Vapor Products Tax.

- (a) The rate of tax imposed on cigarette, tobacco products, and vapor products sold within the jurisdiction of the Tribe shall be determined and set by resolution of the Tribal Council.
- (b) The tribal tobacco retailer shall collect, report, and remit the tax imposed by this section on direct sales of cigarette, tobacco products, and vapor products to the consumer.

Sec. 403 Exemptions.

The excise taxes imposed by this Chapter 4 shall be a tax upon the sale of cigarettes, other tobacco products, and vapor products by the Tribe only.

Sec. 404 Unauthorized Sale of Cigarettes, Tobacco Products, and Vapor Products.

The sale of cigarettes, tobacco products, or vapor products by any person within the jurisdiction of the Tribe, other than the Tribe from tribal tobacco retailers, is prohibited. Any person selling, offering for sale, displaying for sale, or possessing with intent to sell, any cigarette, tobacco products, or vapor products within the jurisdiction of the Tribe, other than from tribal tobacco retailers, shall be subject to civil fines or penalties.

Sec. 405 Addition of Tax to Retail Selling Price

- (a) The amount of the tax imposed by this Chapter 4, as determined by the Tribal Council, shall be added to the retail selling price of every package of cigarettes, every tobacco product, and every vapor product sold within the jurisdiction of the Tribe.
- (b) The added retail selling price shall be used to compute other applicable taxes, including, but not limited to, the retail sales tax as provided by Chapter 2.

CHAPTER 5. MOTOR VEHICLE FUEL TAX

Sec. 501 Definitions.

The definitions contained in Section 109 shall apply to provisions of this Chapter 5 according to their content, except the following words, terms, and phrases when used in this Chapter 5 shall have the meanings ascribed to them below.

- (a) “Motor vehicle fuel” means the following:
 - (1) All products commonly or commercially known or sold as gasoline.
 - (2) All other combustible gases and liquids suitable for the generation of power in an internal combustion engine or motor.

Sec. 502 Imposition of Motor Vehicle Fuel Tax.

- (a) The rate of tax imposed on the sale of motor vehicle fuel within the jurisdiction of the Tribe shall be determined and set by resolution of the Tribal Council.
- (b) The gas station operator shall collect, report, and remit the tax imposed by this section on direct sales of motor vehicle fuel to the consumer.

Sec. 503 Exemptions.

There is hereby specifically exempted from the provisions of this Chapter 5 and from computation of the amount of the tax imposed by it the following:

- (a) Motor vehicle fuel sold to the Tribe, to a tribal business, to a tribal political subdivision, for its own use and not intended for resale.

- (b) Motor vehicle fuel sold to the United States, its agencies, and federal corporations wholly owned by the United States government.

Sec. 504 Unauthorized Sale of Motor Vehicle Fuel

The sale of motor vehicle fuel by any person within the jurisdiction of the Tribe, other than from a gas station operator with a valid tribal business license to sell motor vehicle fuel, is prohibited. Any person selling, offering for sale, displaying for sale, or possessing with intent to sell any motor vehicle fuel within the jurisdiction of the Tribe, other than from a licensed gas station operator, shall be subject to civil fines or penalties..

Sec. 505 Addition of Tax to Retail Selling Price

- (a) The amount of the tax imposed by this Chapter 5, as determined by the Tribal Council, shall be added to the retail selling price of every gallon of motor vehicle fuel sold within the jurisdiction of the Tribe.
- (b) The added retail selling price shall be used to compute other applicable taxes, including, but not limited to, the retail sales tax as provided by Chapter 2.

CHAPTER 6. BUSINESS INCOME TAX

Sec. 601 Definitions.

The definitions contained in Section 109 shall apply to provisions of this Chapter 6 according to their content, except the following words, terms, and phrases when used in this Chapter 6 shall have the meanings ascribed to them below.

- (a) “Operating income” means gross receipts, as defined in Chapter 2, minus total business related expense, including the retail sales tax and other applicable taxes imposed by this Title or paid to another taxing authority.

Sec. 602 Imposition of Business Income Tax.

- (a) The rate of tax imposed on the operating income of businesses that operate within the jurisdiction of Tribe shall be determined and set by resolution of the Tribal Council.
- (b) The business owner shall remit the tax imposed by this section.

Sec. 603 Exemptions.

There is hereby specifically exempted from the provisions of this Chapter 6 and from computation of the amount of the tax imposed by it the following:

- (a) The business income tax shall not apply to the Tribe, to a tribal business, to a tribal political subdivision, or to the United States.
- (b) The business income tax shall not apply to organizations that qualify for tax exempt status under state or federal law.

Sec. 604 Deductions. [RESERVED]

CHAPTER 7. REAL PROPERTY TAX

Sec. 701 Definitions.

The definitions contained in Section 109 shall apply to provisions of this Chapter 7 according to their content, except the following words, terms, and phrases when used in this Chapter 7 shall have the meanings ascribed to them below.

- (a) "Fair market value" means amount at which the real property would change hands between a willing buyer and willing seller, when the former is not under any compulsion to buy, and the latter is not under any compulsion to sell, both parties having reasonable knowledge of relevant facts. Fair market value shall be determined in accordance with criteria established by resolution of the Tribal Council.
- (b) "Real property" means land and improvements upon land for commercial and residential purposes.

Sec. 702 Imposition of Real Property Tax.

- (a) The rate of tax imposed on the fair market value of real property located within the jurisdiction of the Tribe shall be determined and set by resolution of the Tribal Council.
- (b) The property owner shall remit the tax imposed by this section.

Sec. 703 Exemptions.

The real property tax imposed by this Chapter shall not apply to any real property owned by the Tribe, a tribal political subdivision, the United States.

CHAPTER 8. HOTEL OCCUPANCY TAX

Sec. 801 Definitions.

The definitions contained in Section 109 shall apply to provisions of this Chapter 8 according to their content, except the following words, terms, and phrases when used in this Chapter 8 shall have the meanings ascribed to them below.

- (a) "Hotel" means any building or group of buildings in which the public may obtain accommodations for consideration, excluding accommodations rented for a continuous period of more than 30 days.
- (b) "Rooms" means any sleeping room, cabin, cottage, or unit.

Sec. 802 Imposition of Hotel Occupancy Tax.

- (a) The rate of tax imposed on the occupancy of rooms provided by hotels operated within the jurisdiction on the Tribe shall be determined and set by resolution of the Tribal Council.
- (b) The hotel operator shall collect, report, and remit the tax imposed by this section.

Sec. 803 Exemptions. [RESERVED from operation pending further action by the Chitimacha Tribal Council]

CHAPTER 9. PROVISIONS APPLICABLE TO ALL TAXES IMPOSED BY THIS TITLE

Sec. 901 Tax Liability.

- (a) A tax liability is created upon the occurrence of any transaction or event that gives rise to tax under this Title.
- (b) A tax liability is not extinguished until the tax has been paid directly to the Tribe or, in the event a Tax Commission is established, to the Tax Commissioner.

Sec. 902 Quarterly Returns.

- (a) The taxpayer shall remit to the Tribe or, in the event a Tax Commission is established, the Tax Commissioner, all taxed owed on a quarterly basis.
- (b) The taxpayer shall file with the Tribe or, in the event a Tax Commission is established, the Tax Commissioner, a quarterly return on or before the fifteenth (15th) of the month following the end of each calendar quarter in which a tax liability arises.
- (c) The quarterly return shall be filed on a form prescribed by the Tribe or, in the event a Tax Commission is established, the Tax Commissioner, which shall include the amount of gross receipts, allowable deductions, and the retail sales tax owed.
- (d) The quarterly return shall be signed by an authorized signatory of the taxpayer.

Sec. 903 Exemption from Filing Quarterly Returns

- (a) The following tax liabilities are not subject to the quarterly return filing requirements contained in this Chapter 9:
 - (1) Business income tax liabilities pursuant to Chapter 6;
 - (2) Real property tax liabilities pursuant to Chapter 7;

The exempt tax liabilities contained in Section 903(a) must file an annual return pursuant to Section 904 and remit the tax payment at that time.

Sec. 904 Annual Returns.

- (a) The taxpayer shall remit any final liability on unpaid taxes with the annual return.
- (b) The taxpayer shall file with the Tribe or, in the event a Tax Commission is established, the Tax Commissioner, an annual return by April 15th of the succeeding year.
- (c) The annual return shall be filed on a form prescribed by the Tribe or, in the event a Tax Commission is established, the Tax Commissioner.
- (d) The annual return shall be signed by an authorized signatory of the taxpayer.

Sec. 905 Penalties.

- (a) Any person subject to tax under this Title who fails to pay such tax within the time prescribed shall be subject to a penalty of five percent (5%) of the amount of the underpayment. An additional penalty will be assessed of one-half percent (1/2%) of the underpayment for each full month payment is overdue, but not to exceed thirty-six percent (36%) of the underpayment.
- (b) If any person subject to tax under this Title fails to file a return by the time due, a penalty of ten percent (10%) of the tax due for the assessment date or period, but not less than \$100, will be assessed against the taxpayer. An additional penalty of one-half percent (1/2%) of the tax due, but not less than \$100, will be assessed for each full month the return is overdue. The additional penalty will not exceed twenty-four percent (24%) of the tax due.

Sec. 906 Civil Cause of Action.

In the case of failure to pay a tax, any interest thereon, or penalty due, the amount of such tax, interest or penalty shall constitute a debt due to the Tribe and may be collected in an action of debt brought in a court of competent jurisdiction by the Tribe.

Sec. 907 Criminal Violation.

- (a) Any person who intentionally violates any provision of this Title, or rule, regulation, or resolution issued hereunder, shall be guilty of a Class B Misdemeanor.
- (b) Any person who is subject to a tax imposed by this Title, who fails to make and furnish any return required to be made, or who shall make the return required but shall fail to pay the tax due, shall be guilty of a Class A Misdemeanor.
- (c) "Class B Misdemeanor," as used in this Title, shall have the same meaning prescribed in Title III, Chapter 8, Section 801(4) of the Chitimacha Comprehensive Codes of Justice.
- (d) "Class A Misdemeanor," as used in this Title, shall have the same meaning prescribed in Title III, Chapter 8, Section 801(3) of the Chitimacha Comprehensive Codes of Justice.

CHAPTER 10. TAX COMMISSION [Reserved from operation pending further action by the Chitimacha Tribal Council]

Sec. 1001 Creation of the Tax Commission.

There is hereby established a Chitimacha Tribe of Louisiana Tax Commission, which shall exercise that inherent sovereign authority of the Tribe delegated to it by this Title. The Tax Commission shall consist of a Tax Commissioner appointed by a resolution of the Chitimacha Tribal Council on such terms as the Tribal Council deems appropriate.

Sec. 1002 Powers of the Tax Commission.

The Tax Commission shall be generally empowered with the administration and enforcement of all Tribal tax laws. Incidental to the administration or enforcement of the Tribe's tax laws, the Tax Commission shall have the authority to:

- (a) Create positions and job responsibilities within the Tax Commission, oversee the performance of those who hold such a position, and make staffing recommendations to the Tribal Council;
- (b) Assess, collect, and issue receipts for taxes as are imposed in this Title and to bring actions on behalf of the Tribe in Tribal Court or any other court of competent jurisdiction for the collection of Tribal taxpayers, penalties and interest, and the enforcement of the Tribal tax laws;
- (c) Administer oaths, conduct hearings, and, by subpoena, compel the attendance of witnesses and the production of any books, records, and papers of any taxpayer relating to the enforcement of this Title;
- (d) Make, or cause to be made by its agents or employees, an examination or investigation of the place of business, equipment, facilities, tangible personal property, and the books, records, papers, accounts, documents, or other financial records of statements of any taxpayer, upon reasonable notice, during normal business hours, or at any other time agreed to by said taxpayer or otherwise justified by law, pursuant to a search warrant supported by probable cause and signed by a judge of the Chitimacha Tribal Court;
- (e) Serve as hearing officer for any administrative proceeding which is authorized or contemplated herein;

- (f) Prescribe, promulgate, and enforce written rules and regulations not inconsistent with this Title to provide for its internal operational procedures; or to interpret or apply any provisions of this Title as may be necessary to ascertain or compute the tax owing by any taxpayer; or for the filing of any reports or returns required by this Title; or as shall be reasonably necessary for the efficient performance of its duties, or as may be required or permitted by law; or rules governing administrative appeals of any matter arising pursuant to this Title;
- (g) Issue of licenses and/or permits where such are required by this Title or by Tax Commission rules and regulation; and
- (h) Adopt and promulgate a schedule of fees, penalties, and charges for the enforcement of the Tribal tax laws and for services related to the administration of the Tribal tax laws.

Sec. 1003 Sovereign Immunity of the Tax Commission

- (a) The Tax Commission shall be and hereby is deemed to be an agency and arm of the Tribe, protected by and enjoying all privileges and immunities of the Tribe, whether articulated in this Title or otherwise existing at law.
- (b) Except as expressly authorized by this Title, the Tax Commission, as a governmental agency of the Tribe, its Tax Commissioner, and employees shall be immune from any suit in law or equity while performing their lawful duties within the scope of the authority delegated to them provided, that any person against whom the Tax Commission has assessed taxes, penalties, or interest and who has paid under written protest any taxes, penalties, or interest may bring an action in the Tribal Court after exhaustion of administrative remedies, to recover of any taxes, penalties, or interest paid under written protest which the Tribal Court finally determines to have been wrongfully assessed or collected.
- (c) Without the express consent of the Tribe, no employee, officer, or agent of the Tribe, Tax Commission, or other political subdivision of the Tribe is authorized to waive the sovereign immunity of the Tribe, Tax Commission, or Tax Commission employees.

Sec. 1004 Finality of Assessment.

- (a) If any taxpayer against whom the Tax Commissioner has assessed taxes, penalties, or interests pursuant to any tax law of the Tribe fails to file an administrative appeal pursuant to Chapter 11 and the rules and regulations prescribed by the Tax Commission within thirty (30) days of the date of any taxes, penalties, or interest assessed and fails to

pay the assessed taxes, penalties, or interest under written protest, then the assessment, without further action of the Tax Commission, shall become final.

- (b) In all instances where the proposed assessment of taxes, penalties or interest has been permitted to become final, a certified copy of the assessment may be filed in the office of the Clerk of Court of the Chitimacha Tribal Court, and upon being so filed, the Clerk of Court shall enter same upon the judgment docketed in the same manner as provided for civil judgments. When an assessment is so filed and docketed, it shall have the same force and be subject to the same law as a judgment of the Tribal Court, and accordingly it shall constitute a lien on any property of the taxpayer located within the jurisdiction of the Tribe, and execution may issue and proceedings in aid of execution may be had the same as on civil judgments of the Tribal Court.

CHAPTER 11. ADMINISTRATIVE APPEAL AND TRIBAL COURT REVIEW

Sec. 1101 Administrative Appeal.

Any taxpayer against whom the Tribe or, in the event a Tax Commission is established, the Tax Commissioner, has assessed taxes, penalties, or interest pursuant to this Title, and who has paid under written protest such taxes, penalties, or interest assessed by the Tribe or, in the event a Tax Commission is established, by the Tax Commissioner, who believes those taxes, penalties, or interest to be wrongfully assessed or collected, may appeal in writing for a hearing before the Tribe or, in the event a Tax Commission is established, the Tax Commissioner, under this Chapter and such rules and regulations as may be prescribed.

Sec. 1102 Exhaustion of Administrative Remedies.

Administrative remedies shall be deemed exhausted:

- (a) Upon a final decision of an administrative appeal.
- (b) If the Tribe or, in the event a Tax Commission is established, the Tax Commissioner, fail to schedule and hold a hearing on the merits of the administrative appeal within ninety (90) days after receipt of a written request for a hearing.
- (c) If the Tribe or, in the event a Tax Commission is established, the Tax Commissioner, shall fail to issue a written decision on said appeal within thirty (30) days of the hearing on the merits of the taxpayer's administrative appeal.

Sec. 1103 Inaction by Tax Commission Results in a Denial of Appeal

If the Tribe or, in the event a Tax Commission is established, the Tax Commissioner, fails to schedule and hold a hearing on the merits of the administrative appeal within ninety (90) days after receipt of a written request for a hearing or fails to issue a written decision on said appeal within thirty (30) days of the hearing on the merits of the taxpayer's administrative appeal, then this shall result in a final decision by the Tribe or, in the event a Tax Commission is established, the Tax Commissioner, denying the taxpayer's administrative appeal.

Sec. 1104 Tribal Court Review.

- (a) Any taxpayer who has exhausted administrative remedies may bring a suit against the Tribe or, in the event a Tax Commission is established, the Tax Commissioner, by filing a petition in the Chitimacha Tribal Court within thirty (30) days of the date administrative remedies have been deemed exhausted in accordance with this Chapter.
- (b) The Tribal Court shall have the authority to review a final decision of an administrative appeal under this Chapter.
- (c) The Tribal Court shall affirm the decision of the Tribe or, in the event a Tax Commission is established, the Tax Commissioner, unless, upon review of the record, the final decision appealed is found to be arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with the Tribe's laws.
- (d) The Tribal Court shall be empowered to either affirm the final decision appealed or direct a full or partial refund of any tax, penalty, or interest paid under written protest.
- (e) In no event shall the Tribal Court be authorized to award or order the payment of damages or to fashion any remedy except to order the refund of the amount of the taxes, penalties, or interest in controversy unless an additional remedy is specifically provided by this Title.
- (f) A Tribal Court decision is final and cannot be further appealed to any court or administrative body.

(Added by Ordinance #02-19; Adopted: February 7, 2019; Effective: February 7, 2019)