

TITLE 22 - TAXATION

CHAPTER 5 – HOTEL OCCUPANCY TAX; FOOD AND BEVERAGE TAX

Legislative History: 22 T.O.C. Chapter 5, “Hotel Occupancy Tax; Food and Beverage Tax,” was adopted by Resolution No.11-431 and became effective November 1, 2011.

HOTEL OCCUPANCY TAX; FOOD AND BEVERAGE TAX

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Section 5101 Definitions. The following definitions shall apply to this chapter:

“Food and beverage” means all food and beverage sold for human consumption.

“Gaming Ordinance” means the “Ordinance for the Regulation of Gaming Activities Within the Tohono O’odham Nation,” Ordinance No. 93-01, as amended, Tohono O’odham Code Title 16, Chapter 1.

“Hotel” means a hotel, motel, or other short-term, transient lodging establishment that is operated and located on the Nation’s lands.

“Nation’s lands” includes all lands identified or described in Article I, Section 1 of the Constitution of the Tohono O’odham Nation.

“Room” means a room or space within a hotel that is rented or leased for less than 30 consecutive days, including but not limited to rooms for overnight habitation and conference or meeting rooms or spaces.

“Transaction Privilege Taxes Ordinance” means Ordinance No. 03-81, as amended, Tohono O’odham Code Title 22, Chapter 2.

Section 5102 Hotel Occupancy Tax

(A) A 12.5% tax plus \$2.00 per room, per night (collectively, “occupancy tax”) is levied for the use and occupation of a hotel room that is located on Nation’s lands.

(B) The 12.5% tax levied by subsection (A) shall be calculated based on gross income from the use and occupation of a hotel room, provided that for purposes of this section, gross income does not include the cost of food and beverage served by the hotel, and does not include personal services performed by the hotel except for those services related to occupancy of the room, including cleaning and preparing the room for occupation.

(C) The occupancy tax shall be paid by the person for whom the room is provided, and collected by the provider of the room.

Section 5103 Food and Beverage Tax

(A) A 9.2% tax is hereby levied on all food and beverage sold on any property within the Nation’s lands that is managed or operated by, or that is leased by or to, the Nation’s enterprise that is established to conduct gaming activities, including property that is within or outside a gaming facility, as that term is defined in the Gaming Ordinance.

(B) The tax levied by subsection (A) shall not apply to food and beverage sold from vending machines or to retail grocery sales that are subject to the taxes levied by the Transaction Privilege Taxes Ordinance.

Section 5104 Enforcement; Application of Transaction Privilege Taxes Ordinance Provisions

(A) The Nation's Treasurer shall administer and enforce the provisions of this chapter in accordance with Tohono O'odham Code Title 22, Chapter 4 and other applicable laws of the Nation.

(B) The collection, remittance, reporting, penalty, appeal, and other provisions of Transaction Privilege Taxes Ordinance shall apply to the occupancy tax and food and beverage tax levied by this chapter.