RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL

(Amending and Codifying Tobacco Tax Ordinance, Ordinance No. 95-149 as Chapter 1, Title 22 of the Tohono O'odham Code)

RESOLUTION NO. 06-812

1	WHEREAS,	the Legislative Council is vested with the power to levy taxes and to enact laws
2		governing the conduct of persons within the Nation's jurisdiction (Constitution of
3		the Tohono O'odham Nation, Article VI, Section 1(d)(4) and (c)(1)); and
4	WHEREAS,	by Resolution No. 95-148 the Legislative Council enacted the Tobacco Tax Ordinance,
5		Ordinance No. 95-149, which levies a tax upon every person engaging in the business
6		of selling tobacco products within the Tohono O'odham Nation; and
7	WHEREAS,	one purpose of the Ordinance is "to resist the attempts of the State of Arizona to
8		impose state taxes upon on-reservation activities" (Ordinance No. 95-149, Section
9		1(1)); and
10	WHEREAS,	because the Nation's tax is currently levied at a rate equal to the Arizona tobacco tax,
11		the State of Arizona does not collect its tobacco tax on the Nation (A.R.S. §42-3302);
12		and
13	WHEREAS,	on November 7, 2006, Arizona voters approved Proposition 203, which will amend
14		Arizona law to increase the state tax on tobacco sales; and
15	WHEREAS,	in order to ensure that the State of Arizona is prevented from collecting the amount
16	ľ	of the increased tax on the Nation and to accomplish the Ordinance's other
17		purposes, it is necessary to amend Section 2(B) of the Tobacco Tax Ordinance to
18		increase the tax rates therein as follows:
19		"1. On each cigarette, 9 cents.
20		2. On smoking tobacco, snuff, fine cut chewing tobacco, cut and granulated
21		tobacco, shorts and refuse of fine cut chewing tobacco, and refuse, scraps,
22		clippings, cuttings and sweepings of tobacco, excluding tobacco powder or
23		to baccoproductsusedexclusively foragriculturalorhorticulturalpurposes
24		and unfit for human consumption, 20.3 cents per ounce or major fraction
25		thereof.
26		3. On all cavendish, plug or twist tobacco, 5 cents per ounce or fractional part
27		thereof.
28		4. On each twenty small cigars or fractional part thereof weighing not more
29		than three pounds per thousand, 40.1 cents.
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RESOLUTION NO. 06-812 (Amending and Codifying Tobacco Tax Ordinance, Ordinance No. 95-149 as Chapter 1, Title 22 of the Tohono O'odham Code) Page 2 of 3 1 5. On cigars of all descriptions except those included in paragraph 4 of this 2 subsection, made of tobacco or any tobacco substitute therefor, if 3 manufactured to retail at not more than 5 cents each, 19.8 cents on each three cigars, but if manufactured to retail at more than 5 cents each, 19.8 4 5 cents on each cigar."; and WHEREAS, it is in the Nation's best interest to amend and codify the Nation's Tobacco Tax as set 6 7 forth in Tohono O'odham Code Title 22 - Taxation, Chapter 1- Tobacco Tax, which is 8 hereby incorporated by this reference, to increase tobacco tax rates in a manner 9 that will preclude the State of Arizona from imposing its tax. NOW, THEREFORE, BE IT RESOLVED by the Tohono O'odham Legislative Council that 10 Tohono O'odham Code Title 22 - Taxation, Chapter 1 - Tobacco Tax is hereby 11 12 adopted and shall supercede and replace Ordinance No. 95-149, as amended by 13 Resolution No. 02-565; provided that any references in the laws of the Nation to the provisions of such ordinance or its amendments shall be construed as referring to 14 the corresponding, renumbered sections of Tohono O'odham Code Title 22 -15 Taxation, Chapter 1. 16 17 BE IT FINALLY RESOLVED by the Tohono O'odham Legislative Council that Tohono 18 O'odham Code Title 22 - Taxation, Chapter 1 - Tobacco Tax shall be effective 19 December 7, 2006. 20 The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the <u>07TH.</u> Day 21 of <u>DECEMBER, 2006</u> at a meeting at which a quorum was present with a vote of <u>2,440.80</u> FOR; <u>-0-</u> 22 AGAINST; <u>-0-</u> NOT VOTING; and <u>[04] ABSENT</u>, pursuant to the powers vested in the Council by 23 Section 1 (c)(1)(2)&(d)(4) of Article VI of the Constitution of the Tohono O'Odham Nation, adopted 24 by the Tohono O'Odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant 25 Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June 26 18, 1934 (48 Stat. 984). 27 TOHONO O'ODHAM LEGISLATIVE COUNCIL. 28 29 30 31 Verlon M. Jose, Legislative Chairman 32 33 Z day of Decympel, 2006 34

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	RESOLUTION NO. <u>06-812</u> (Amending and Codifying Tobacco Tax Ordinance, Ordinance No. 95-149 as Chapter 1, Title 22 of the Tohono O'odham Code)
	Page 3 of 3
1	ATTEST:
3	Sania John
4 5	Lucille Lopez, Acting Legislative Secretary
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7	<u>07</u> day of <u>Munhor</u> , 2006.
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9	Said Resolution was submitted for approval to the office of the Chairwoman of the Tohono O'Odham Nation on the day of, 2006 at o'clock,M.,
10	D'Odham Nation on the day of <u>Feerwill</u> , 2006 at <u>Strip of octock, M., M., pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective</u>
11 12	upon her approval or upon her failure to either approve or disapprove it within 48 hours of
13	submittal.
14	
15	TOHONO O'ODHAM LEGISLATIVE COUNCIL
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18	
19	Verlon M. Jose, Legislative Chairman
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21	
22	oth Translation
23	[MAPPROVED on the 8th day of December, 2006
24	[] DISAPPROVED at 1:05 o'clock, A.M.
25 26	[] DISAPPROVED at $\frac{10.05}{20}$ o'clock, $\frac{1}{10}$ M.
27	Vinuan han Saunders
28	William Sawacan
29	VIVIAN JUAN-SAUNDERS, CHAIRWOMAN
30	TOHONO O'ODHAM NATION
31	
32	
33	a d
34	Returned to the Legislative Secretary on the $\underline{\partial \mathcal{S}}$ day of
35	December
36	
37	
38	Grand Salar
39 40	Lucille Lopez, Acting Legislative Secretary
	lucine lopez, Acting legislative secretary
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ACTION: AMENDING AND CODIFYING TOBACCO TAX ORDINANCE, ORDINANCE NO. 95-149 AS CHAPTER 1, TITLE

22 OF THE TOHONO O'ODHAM CODE

MOVED: COUNCILWOMAN FELICIA NUNEZ SECOND: COUNCILWOMAN OLIVIA LISTON

DATE: DECEMBER 07, 2006

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 310.8	FRANCES MIGUEL (Absent) (Vernon J. Smith) (Present) FRANCES G. ANTONE (Lucilda J. Valenzuela (Norris))	155.40 155.40	x x			
CHUKUT KUK 258.7	1. ETHEL GARCIA () 2. VERLON M. JOSE (David Garcia)	129.35 129.35	x x			
GU ACHI 221.6	1. TIMOTHY L. JOAQUIN (Jonas Robles) 2. CYNTHIA E. MANUEL (Louis L. Johnson)	110.80	x x			
GU VO 193.1	1. RAYMOND VICTOR () 2. MICHAEL FLORES (Grace Manuel)	96.55 96.55	x x			
HICKIWAN 167.4	1. (Vacant) () 2. SANDRA ORTEGA ()	83.70 83.70	x x			
PISINEMO 171.8	1. BARBARA SALVICIO () 2. GERALD FAYUANT ()	85.90 85.90	x x			
SAN LUCY 169.0	1. (Vacant) () 2. GLORIA RAMIREZ ()	84.50 84.50	x x			
SAN XAVIER 193.8	1. FELICIA NUÑEZ () 2. OLIVIA VILLEGAS-LISTON (Eileen A. Estrada-Lopez)	96.90 96.90	x x			V
SCHUK TOAK 146.9	1. FRANCES B. CONDE () 2. PHYLLIS JUAN ()	73.45 73.45	x x			х
SELLS 421.0	1. MARLENE SARAFICIO-JUAN () 2. EVELYN B. JUAN MANUEL (Absent) (Kimberly Listo) (Present)	210.50 210.50	x x			
SIF OIDAK 186.7	1. WAVALENE ROMERO (Isidro Lopez) 2. DARLENE ANDREW (Rita Wilson)	93.35 93.35	X X			
	TOTAL	2,440.80	2,440.80	-0-	-0-	[01]