

ORDINANCE 27
SALES TAX ORDINANCE
SAGINAW CHIPPEWA INDIAN TRIBE OF MICHIGAN

SECTION 1. Purpose

The purpose of this Ordinance is to provide for taxes on certain Sales taking place on Tribal and Trust Lands as provided by the Tax Agreement between the Saginaw Chippewa Indian Tribe of Michigan and the State of Michigan of December 17, 2010. The taxes represent charges for the privilege of doing retail business on such lands, and provide funds for the benefit of Tribal general welfare, public safety, public health, and other programs as determined by the Tribal Council.

SECTION 2. Definitions

- a. "Taxes" shall mean charges, fees, and the like assessed by Tribal Council ordinance.
- b. "Tax Agreement" shall mean the Tax Agreement Between the Saginaw Chippewa Indian Tribe of Michigan and the State of Michigan dated December 17, 2010, as approved by the Tribal Council by Resolution 11-017 on November 8, 2010.
- c. "Tribal Council" or "Council" means the Saginaw Chippewa Tribal Council, the governing body of the Tribe as established pursuant to Article IV of the Tribal Constitution.
- d. "Tribal Court" means the Tribal Court of the Saginaw Chippewa Indian Tribe of Michigan.
- e. "Director of Business Regulation" or "Director of Regulation" means the position of Director of Business Regulation as established pursuant to this Ordinance and Ordinance 30 (Business Corporation Ordinance).
- f. "Tribe" means the Saginaw Chippewa Indian Tribe of Michigan.
- g. "Tribal Land and Trust Land shall means the lands identified and defined by Section II.K. of the Tax Agreement.
- h. "Tribal Member" means an individual who is an enrollment member of the Tribe.
- i. "Tribal Entity" means an entity, other than a single Resident Tribal Member or an entity wholly owned by the Tribe, that is wholly owned by any combination of the Tribe and its Resident Tribal Members, or is wholly owned by its Resident Tribal Members.

SECTION 3. Tax Imposed

- a. A sales tax of six percent (6%) is hereby imposed on sales inside Tribal and Trust Lands as provided by Section III. B. 3. of the Tax Agreement by Tribal, Tribal Member and Tribal Member Entity retailers that is consistent with the provisions of the Michigan sales tax pursuant to the General Sales Tax Act as amended, MCL 205.51 et.seq. and the Use Tax Act as amended, MCL 205.91 et. seq. This sales tax shall utilize the same base as that provided under State law and shall be subject to all requirements of the Tax Agreement, including but not limited to all administrative, collection, sharing and substantive requirements of the Tax Agreement.
 - (1) Exemption. Sales made in connection with an event that has been certified in advance by a Resolution of the Tribal Council as a Tribal Cultural, Historical, or Charitable Event shall be exempt from the sales tax imposed by Section 3.a.
- b. In addition, to Subsection 3(a) of this Ordinance, a sales tax of six percent (6%) is hereby imposed on sales inside Tribal and Trust Lands as provided by Section III. B.3. of the Tax Agreement on retailers who are not Tribal, Tribal Member or Tribal Member Entity retailers that is consistent with the Michigan sales tax pursuant to the General Sales Tax Act as amended, MCL 205.51 et.seq. and the Use Tax Act as amended, MCL 205.91 et. seq., provided that such retailers with place of business located in the Arnold J. Sowmick, Sr. Plaza or the Makawa Business Park who are otherwise assessed sales tax by the State of Michigan shall be exempt from this Subsection 3.b. The Director of Business Regulation shall determine whether retailers who are not Tribal, Tribal Member or Tribal Member Entity retailers meet the requirements for an Exemption as provided herein.

SECTION 4. Registration and Licensing

Every Tribal Member or Tribal Entity retailer shall register with and must obtain a license from the Director of Tribal Business Regulation. The Director of Tribal Business Regulation shall promulgate regulations that ensure, at a minimum, registration and licensing of Tribal Member and Tribal Entity retailers as required pursuant to Section XIII E. of the Tax Agreement.

SECTION 5. Violations

- a. A violation of any provision of the Tax Agreement or any regulations promulgated in accordance with the Tax Agreement shall be considered a violation of this Ordinance.
- b. A violation of this Ordinance shall constitute a civil infraction subject to a civil remedial money penalty, civil forfeiture of property, or both as set forth in this

Ordinance.

- c. Penalties; Remedies.
 1. A violation of the Tax Agreement shall be remedied in accordance with the Tax Agreement and by the imposition of a civil penalty of not more than five thousand dollars (\$5,000.00).
 2. Any person who is required to collect or remit the tax imposed by this Ordinance or the Tax Agreement shall be liable for the full amount of the tax owed plus simple interest at the rate of fifteen percent (15%) per month on unpaid balances. The Director of Tribal Business Regulation may impose a penalty of one hundred percent (100%) of taxes due if the Director of Business Regulation finds that a Retailer has willfully failed to collect or remit the tax imposed by this Ordinance.
 3. In addition to the remedies in Section 5(1) or (2), any tobacco product and motor fuel not acquired or possessed in accordance with the Tax Agreement may be seized and subject to forfeiture.
 4. The remedies in this section are not intended to be exclusive, but shall be in addition to and independent of:
 - A. any applicable contractual remedy;
 - B. any disciplinary action taken against a violator as an employee;
 - C. wage garnishment and set-off against any funds owed by the Tribe to any Tribal member;
 - D. prosecution or other enforcement action under federal or State law or under the provisions of any other applicable Tribal law, including a prosecution for perjury for false statements on a tax return; or
 - E. any other remedies provided under the Tax Agreement.

SECTION 6. Sovereign Immunity

Nothing in this Ordinance shall be construed as a waiver of the sovereign immunity of the Tribe or its Director of Tribal Business Regulation or any subordinate government unit except to the extent such immunity is explicitly waived in such ordinance, the Tax Agreement or by resolution of the Tribal Council. No enforcement action taken by the Director of Regulation shall be construed as a waiver of sovereign immunity of the Director of Regulation or the Tribe. Nothing in this Ordinance or any Tribal tax ordinance shall be construed as a waiver of sovereign immunity with regard to any counterclaim or similar assertion relating to an enforcement action

of the Director of Regulation.

SECTION 7. Severability of Provisions.

If any provision under this Ordinance is later found to be unconstitutional it shall be considered null and void, but the rest of the provisions in this Ordinance shall remain in effect.

Legislative History

Ordinance 27-Tribal Sales Tax. Enacted by Resolution No. 06-051 approved on April 12, 2006 . Section 7j. added by Resolution 06-107 approved on June 28, 2006. Section 8 amended by Resolution 06-138 approved on September 21, 2006. Sections 3h; 7j; 9a, b, c and d; 10; 11a and b; 13, 15 and 16c amended by Resolution 11-036 approved on January 26, 2011. Ordinance revised by Resolution 11-077 approved on May 23, 2011 Section 3.b. amended by Resolution 12-099 approved on June 5, 2012. Section 3.a.(1) added by Resolution 12-146 approved on September 19, 2012.