

Title 17 – Tax
Chapter 8 – Room Occupancy Tax

Sec.

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Legislative History

Enacted:

Ordinance 303 Enacting a Room Occupancy Tax Ordinance (2/23/12); BIA (2/28/12)

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17-08.010 Title.

This Chapter shall be known and cited as the “Swinomish Room Occupancy Tax Code.”

[History] Ord. 303 (2/23/12).

17-08.020 Findings.

The Swinomish Indian Tribal Community finds that:

- (A) The power to tax is an essential attribute of Indian sovereignty because it is a necessary instrument of self-government and territorial management. It derives from the Tribe’s general authority, as sovereign, to control economic activity within its jurisdiction, and to defray the cost of providing governmental services by requiring contributions from persons or enterprises engaged in economic activities within that jurisdiction;

- (B) Tax revenues are essential to the Tribe's ability to provide goods and services, and to finance government operations and economic development, for the safety, health and welfare of the Tribe, its members, and those who work on, live on, and visit the Reservation;

- (C) Among the benefits provided by the tribal government to tribal members and to non-members residing, visiting or conducting business upon the Reservation are the following: the provision of governmental services, including public sewage collection systems, water systems to provide safe drinking water and fire protection, tribal roads, solid waste collection, and social services and education programs; the maintenance of public health, safety, and law and order, including tribal police, fisheries enforcement, hazardous emergency response, environmental protection, comprehensive land use planning and regulation, and the provision of a Tribal Court system with general jurisdiction for the resolution of civil disputes and limited jurisdiction for the prosecution of criminal actions; the protection of Reservation lands and resources; the provision of public recreational amenities and facilities such as athletic fields, a gymnasium, meeting rooms, parks, and tribally owned tidelands; the support of cultural and religious events and activities; the promotion and regulation of Reservation businesses and economic development; and the provision of employment to both members and non-members of the Tribe;
- (D) The Tribe has been able to obtain numerous federal and state grants, low interest loans, and other programs that have, in part, financed the provision of public services and benefits to the Reservation community. The full cost of these needed and beneficial programs and services are not covered by the programs, themselves, however, and it is necessary for the Tribe to raise supplemental revenues locally to continue to provide these essential public services;
- (E) The entire Reservation community, both tribal members and non-members, whether visiting, residing, employed or otherwise doing business on the Reservation, benefits from these tribal governmental services and programs directly and because the tribal services and programs supplement or replace other governmental programs and relieve other units of government from the full burden of these programs;
- (F) It is appropriate, therefore, that a portion of the costs of these essential government services be borne by persons engaged in or benefiting from residential, business or recreational activities on the Reservation, who thereby benefit from governmental services provided by the Tribe; and
- (G) Additionally, the Tribe makes contributions to local fire and police agencies to defray a portion of the cost of fire protection, emergency medical services, and law enforcement assistance, where necessary, on the Reservation. Revenues are needed by the Tribe to fund such contributions.

[History] Ord. 303 (2/23/12).

17-08-030 Purpose.

In the public interest and for the welfare of the people of the Swinomish Indian Tribal Community, its employees, the residents of and visitors to Swinomish Indian country, the

Senate, in the exercise of its authority under the Tribal Constitution, declares its purpose by the provisions of this Chapter to regulate the rental of motels, hotels, and other temporary lodging businesses in Indian country and to impose, collect and administer taxes on room occupancy.

[History] Ord. 303 (2/23/12).

17-08.040 Authority.

This Chapter is enacted pursuant to authority provided Article VI, Section 1(h) and (l) of the Swinomish Constitution, as amended, and pursuant to the inherent sovereign powers of the Swinomish Indian Tribal Community.

[History] Ord. 303 (2/23/12).

17-08.050 Definitions.

- (A) For the purposes of this Chapter, the following words and phrases have the following meanings, unless explicitly stated otherwise:
- (1) **“Engaged in the business of renting temporary lodging rooms”** means maintained a temporary lodging rooms business within Swinomish Indian Country under the jurisdiction of the Tribe.
 - (2) **"Essential government services"** mean services such as Tribal administration, public facilities, fire, police, public health, education, job services, sewer, water, environmental and land use, transportation, utility services, and economic development.
 - (3) **“Reservation”** means all lands and waters within the exterior boundaries of the Swinomish Indian Reservation.
 - (4) **"Room rental charge"** means the actual amount charged for the rental of a temporary lodging room before applicable taxes.
 - (5) **“Senate”** means the Swinomish Indian Senate.
 - (6) **“Temporary lodging facility”** means a motel, hotel, lodge or other facility providing temporary lodging to guests.
 - (7) **“Temporary lodging room”** means a room in a motel, hotel, lodge or other facility providing temporary lodging to a guest.
 - (8) **“Tribal Court”** means the Swinomish Tribal Court.
 - (9) **"Tribal member"** means an enrolled member of the Swinomish Indian Tribal Community.

(10) **“Tribe”** or **“Tribal”** means or refers to the Swinomish Indian Tribal Community, a Federally recognized Indian tribe organized pursuant to Section 16 of the Indian Reorganization Act of 1934, which is composed of members tracing their ancestry to the aboriginal Swinomish, Samish, Kikiallus, and Lower Skagit bands of Indians.

(B) All other words and phrases shall have their ordinary and customary meanings.

[History] Ord. 303 (2/23/12).

17-08.060 Room occupancy tax--Levy.

(A) The Tribe shall impose taxes, pursuant to the terms of this section, on the rental of guest rooms in temporary lodging facilities owned and operated by the Tribe within the exterior boundaries of the Swinomish Indian Reservation.

(B) The Tribal tax rate shall be one hundred (100) percent of the local special excise tax imposed by Skagit County Code 3.16.010.

(C) Should there be any future increase or decrease in the local special excise tax, the Tribal tax shall increase or decrease by no less than one hundred (100) percent of the increase or decrease in the local tax rate.

(D) The tax imposed pursuant to this Chapter shall be in addition to the retail sales tax imposed by STC Title 17 Chapter 3.

[History] Ord. 303 (2/23/12).

17-08.070 Tax Separate from Rental Price

(A) The tax required by this Chapter to be collected by temporary lodging facilities owned and operated by the Tribe within the exterior boundaries of the Reservation shall be stated separately from the rental price and retail sales tax in any invoice or other rental instrument. If not stated separately on the invoice or other rental instrument, then the tax shall be accounted for separately in the records of the transaction by the Tribe.

(B) For purposes of determining the tax due from the guest to the temporary lodging facility and from the temporary lodging facility to the Tribal Treasurer, it shall be conclusively presumed that the rental price quoted in any price list, rental document, contract or other agreement between the parties does not include the tax imposed by this Chapter or STC Title 17, Chapter 3 but if the temporary lodging facility advertises the rental price as including either or both taxes or that it is paying either or both taxes, the advertised price shall not be considered the rental price.

[History] Ord. 303 (2/23/12).

17-08.080 Room occupancy tax--Collection and payment of.

- (A) Taxes shall be collected by temporary lodging facilities owned and operated by the Tribe within exterior boundaries of the Reservation and remitted monthly to the Tribal Treasurer.
- (B) Temporary lodging facilities owned and operated by the Tribe within the Reservation shall maintain accurate written records of room rental charges and room occupancy taxes charged and received, and shall make such records available for inspection by the Tribal Treasurer and/or third party auditor retained by the Tribe. Records shall be maintained for no less than three years after the audit is accepted by the appropriate federal oversight agency.

[History] Ord. 303 (2/23/12).

17-08.090 Room occupancy tax--Audit.

The Tribe may retain a third-party independent auditor for the purposes of verifying compliance with this Chapter.

[History] Ord. 303 (2/23/12).

17-08.100 Severability.

If any provision of this Chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances, is not affected.

[History] Ord. 303 (2/23/12).

17-08.110 Repealer.

[Reserved]

17-08.120 Effective Date.

This Chapter shall be effective upon approval by the Secretary of the Interior or the Secretary's designee.

[History] Ord. 303 (2/23/12).