

RESOLUTION OF THE KAYENTA TOWNSHIP COMMISSION

Enacting Amendment 2 to Chapter 8, Business Sales Tax Ordinance

WHEREAS:

1. The Kayenta Township Commission ("KTC") has the general authority and responsibility to govern for the welfare of the Kayenta Township ("Township") and its residents, including the enactment of such ordinances, rules and regulations as it deems in the best interest of the Township; and
2. The KTC has found that there is need to clarify, improve and enhance the Business Tax Ordinance. The administration and enforcement of the tax ordinance has been hampered by the lack of clear authority of the auditor and the lack of a jeopardy assessment provision. There is also a need to clarify other provisions such as the taxation of government sales and the exemption of certain transactions. Furthermore, numerous typographical corrections and codification of provisions need to be made to clarify the intent of the law.
3. These amendments have been posted for the public's review and providing an opportunity for the public comments, suggestions and recommendations. Certain additional changes have also been made by the Township administration.

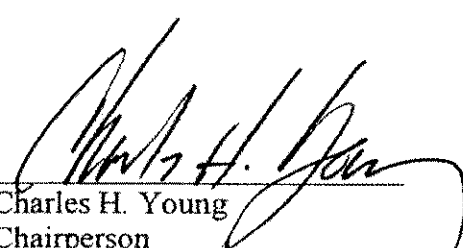
NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Kayenta Township Commission hereby enacts Amendment Two to Chapter 8, Business Sales Tax Ordinance, attached hereto as Exhibit "A" and incorporated herein by reference, to be effective immediately.
2. The Legal Counsel for the Township is hereby authorized to codify these amendments, making technical and grammatical corrections as he deems necessary.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Kayenta Township Commission at a duly called meeting in Kayenta, Navajo Nation (AZ), at which a quorum was present and that same was passed by a vote of 3 in favor, 0 opposed and 0 abstained, this 19th day of April, 2004.

Motion: Helen Bonnaha
Second: Richard Mike



Charles H. Young
Chairperson

KAYENTA TOWNSHIP

**Business Sales Tax Ordinance
(As amended April 19, 2004 by KTCA-20-04)**

CHAPTER 8. BUSINESS SALES TAX ORDINANCE

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BUSINESS SALES TAX ORDINANCE

SECTION 800. TITLE

This Chapter is known as the Business Sales Tax Ordinance.

SECTION 801. PURPOSES

The purposes of this Chapter are:

1. To enhance the general well-being of the members of the Navajo Nation residing within the Township;
2. To promote the economic growth of the Township;
3. To provide operating capital for the infrastructure development and maintenance within Township;
4. To expand the governmental capacity of the Township to meet the needs of its citizens and others for municipal and other governmental services in the Township; and
5. To support capital improvements of the Township.

SECTION 802. NONDISCRIMINATION

No provision of this Chapter shall be construed as imposing a tax which discriminates on the basis of whether a taxpayer is owned or controlled by members of the Navajo Nation.

SECTION 803. DEFINITIONS

As used in this Chapter:

1. "Commercial Consumption" means the use connected with trade or commerce and includes:
 - a. The use of services or products by retail establishments, hotels, motels, restaurants, warehouses, and other commercial establishments;
 - b. Transportation of property by land, water, or air;
 - c. Agricultural uses unless specifically exempted by this Chapter; and
 - d. Real property contracting work.
2. "Commercial Lease" means the lease or rental of any real property for consideration for use as office space, operation of a business, storage of vehicles, or residential

occupancy for more than 30 days. Home Site residential leases are not included in this definition.

3. "Commission" means the Kayenta Township Commission.
4. "Component Part" includes:
 - a. Poultry, dairy, and other livestock feed and their components;
 - b. Baling ties and twine used in the baling of hay and straw;
 - c. Fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and
 - d. Feed, seeds, and seedlings.
5. "Compounded" means to form a whole product with new properties, to produce or create by combining two or more parts or elements or substances.
6. "Contractor" means any person who undertakes to or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does himself or by or through others, construct, alter, repair, add to, subtract from, improve, move, wreck, or demolish any road, highway, bridge, parking area, fence, livestock guard, gate, building, stadium, or other structure, airport, railway, or similar transportation facility; park, trail, athletic field, golf course, dam, reservoir, canal ditch, culvert, sewerage or water treatment facility, power plant, pumping station, natural gas compressing station, gas processing plant and gathering lines, coal gasification plant, refinery, distillery, blending, or similar facility; sewerage, water, coal, coal slurry, gas, or other pipeline; transmission line, radio, television, microwave, telephone, or other similar tower; water, oil, gasoline, fuel or other storage tank; shaft, tunnel, or other mining appurtenance; microwave station or similar facility; leveling, clearing, or other preparation of land; excavating of earth; drilling wells of any type, including seismograph shot holes or core drilling; or other structure, project, development, or improvement to real property, or to do any part thereof.
7. "Construction contractor" includes subcontractors, specialty contractors, prime contractors, and any person receiving consideration for the general supervision and/or coordination of such a construction project except for remediation contracting. This definition shall govern without regard to whether or not the construction contractor is acting in fulfillment of a contract.
8. "Taxable contractor" is a person who supervises, performs, or coordinates the construction with any subcontractors or specialty contractors, and is responsible for the completion of the contract.
9. "Medicine" means:

- a. Insulin, syringes, blood sugar monitoring strips or devices, and any legend drug prescribed for the treatment of human ailments by a person authorized to prescribe treatments and dispensed on prescription filled by a registered pharmacist, or supplied to patients by a licensed physician, surgeon or podiatrist:
 - i. A legend drug is considered a drug on a prescription;
 - ii. A "legend drug" is a drug which bears the statement CAUTION: FEDERAL LAW PROHIBITS DISPENSING WITHOUT PRESCRIPTION.
- b. Any medicine dispensed to patients in any hospital, infirmary, or clinic located within the exterior boundaries of the Navajo Nation, provided that the medicine is dispensed by a registered nurse, pharmacist or licensed physician;
- c. Any item used in the practice of traditional Navajo medicine, provided the item is used for such purposes;
- d. Any medical oxygen, prosthetic devices, or other medical devices, monitoring devices, dentures, hearing aids, crutches, prescription eyeglasses and contact lenses, or any durable medical equipment primarily and customarily used for medical purposes, or stoma supplies prescribed by a physician or administered under the direction of a physician, registered nurse, or customarily used for medical purposes and not useful in the absence of illness, injury, or other medical condition.
- e. "Medicine" does not include any alcoholic beverage.

10. "Person" means any organization, whether it be a sole proprietorship, partnership, joint venture, trust, estate, unincorporated association, corporation, or government, or any part, division, or agency of any of the foregoing including Navajo Nation enterprises and corporate entities owned by the Navajo Nation, or an individual or group of individuals.

11. "Purchase Price" means the amount paid or charged for tangible personal property or any other taxable item or service under Section 804, excluding only cash discounts taken or any excise tax imposed on such purchase by the federal government.

12. "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

13. "Retail sale" means:

- a. Any sale within the Township of tangible personal property or any other taxable item or service under Section 804, other than a "sale for" (meaning wholesale) resale of such property item, or service by a retailer or a wholesaler to a user or consumer.

- b. "Retail sale" includes sales by any farmer or other agricultural producer of poultry, eggs, or dairy products to consumers if such sales have an average monthly sales value of \$125 or more.

14. "Retailer" means:

- a. A person in a regularly organized retail business in tangible personal property or any other taxable item or service under Section 804, and selling to the user or consumer and not for resale (meaning wholesale), and includes commission merchants, auctioneers, and all persons regularly engaged in the business of selling to users or consumers within the Township.
 - b. "Retailer" does not include contractors, or peddlers, or farmers, gardeners, stockmen, poultry men, or other growers or agricultural producers producing and doing business on their own premises, except those who are regularly engaged in the business of buying or selling for a profit.
 - c. When in the opinion of the Commission it is necessary for the efficient administration of this Chapter to regard salespersons, representatives, peddlers, or canvassers as the agents of the dealers, distributors, supervisors, or employers under whom they operate or from whom they obtain the tangible personal property sold to them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors, or employers, the Commission may regard them and may regard the dealers, distributors, supervisors, or employers as retailers for purposes of this Chapter.
15. "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable item or service under Section 804 for a consideration. It includes:
- a. Installment and credit sales;
 - b. Any closed transaction constituting a sale;
 - c. Any sale of electrical energy, water, gas, services, or entertainment taxable under this Chapter;
 - d. Any transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price; and
 - e. Any transaction under which right to possession, operation or use of any article of tangible personal property is granted under a lease or contract and such transfer of possession would be taxable if an outright sale were made.
 - f. Any "construction" meaning addition to, subtraction from, alteration, repair, improvement, movement, wrecking, or demolishing any building, highway, road, railroad, excavation, or other structure, project, development, or improvement to real property, or to do any part thereof for compensation taxable under this

Chapter.

- g. Professional services, (but does not include retail labor costs in connection to a retail installation, service industries and delivery charges exempted under Section 853).
- 16. "Nation" means the government of the Navajo Nation and the lands subject to its jurisdiction. For the purposes of this section, the term "Nation" does not include tribal enterprises, corporate entities owned by the Navajo Nation, or any of its political subdivisions.
- 17. "Peddler" means a person who acquires or offers goods for sale within the boundaries of the Township, but does not operate an ongoing business from a fixed location or site within the boundaries of the Township.
- 18. "Service Industries" means work done for others as an occupation or business such as: housecleaning, installation, maintenance, or repairs of tangible personal property done or guaranteed by a dealer or manufacturer.
- 19. "Storage" means any keeping or retention of tangible personal property or any other taxable item or service under Section 804 within the Township for any purpose except sale in the regular course of business.
- 20. "Tangible personal property" means:
 - a. All goods, wares, merchandise, produce and commodities;
 - b. All tangible or corporeal things and substances which are dealt in or capable of being possessed or exchanged;
 - c. Water in bottles, tanks, or other containers; and
 - d. All other physically existing articles or things, including property severed from real estate.
- 21. "Tangible personal property" does not include:
 - a. Real estate or any interest therein or improvements thereon;
 - b. Bank accounts, stocks, bonds, mortgages, notes and other evidence of debt;
 - c. Insurance certificates or policies;
 - d. Personal or governmental licenses;
 - e. Water in pipes, conduits, ditches, or reservoirs;

- f. Currency or coinage constituting legal tender of the United States or of a foreign nation.
- 22. "Telephone" means cellular phones, telecommunications, facsimile machines, or any device that transmits voice or digital messages over a wire, via satellite or transmission to and from a transceiver.
- 23. "Township" means the Kayenta Township.
- 24. "Use" means:
 - a. The exercise of any right or power over tangible personal property under Section 804, incident to the ownership or the leasing of that property, item, or service.
 - b. "Use" does not include the sale, display, demonstration, or detail of that property in the regular course of business and held for resale.
- 25. "Vendor" means any person receiving any payment or consideration upon a sale of tangible personal property or any other taxable item or service under Section 804, or to whom such payment or consideration is payable including all persons who do business on an ongoing business within the Township.
- 26. "Telecommunications" means the gross proceeds of sales or gross income derived from the business, including the gross income derived from tolls, subscriptions and services on behalf of subscribers or from the publication of a directory of the names of subscribers of the business of providing intra-Navajo Nation telecommunications services. Intra-Navajo Nation telecommunications services means transmitting signs, signals, writings, images, sounds, messages, data or other information of any nature by wire, radio waves, light waves or other electromagnetic means if the information transmitted originates and terminates in the Navajo Nation. Telecommunications does not include internet access that enables users to access content, information, electronic mail or other services over the internet.

SECTION 804. TAX IMPOSED

- 1. There is levied a tax on the purchaser for the amount paid or charged on the sales or gross income derived from the sale of the following:
 - a. Retail sales of tangible personal property made within the boundaries of the Township. Sales by the Navajo Nation government or any political subdivision thereof, sales by corporations owned by the Navajo Nation, and sales by Navajo Nation enterprises shall be fully subject to the tax imposed by this chapter at the rate established by the Commission. In cases where a person is partially owned by the Navajo Nation government or any of its subdivisions or enterprises, gross receipts shall be prorated if necessary;
 - b. Professional services, (but does not include retail labor costs in connection to a retail installation, service industries and delivery charges exempted under Section

853);

- c. Construction on real property within the boundaries of the Township;
- d. Amount paid to common carriers or telephone or telegraph corporations, whether the corporations are privately or publicly owned, for all transportation, telephone service (including cellular, cable, or satellite telephone service), Fax or telegraph service, and other telecommunications services provided to residential and commercial consumers within the Township;
- e. Gas, electricity, water, heat, coal, fuel oil, or other fuels sold or furnished for commercial consumption;
- f. Gas, electricity, water, heat, coal, fuel oil, or other fuels sold or furnished for residential use;
- g. Meals sold including all hot or cold food prepared for consumption on the premises or taken home, including within a Bed and Breakfast facility;
- h. Food for home consumption except for food exempt under Section 806(2);
- i. Admission to any place of amusement, entertainment, or recreation, including seats and tables reserved or otherwise, and other similar accommodations, including the amusement income from coin operated games and juke boxes;
- j. Services for repairs or renovations of tangible personal property or services to install or incorporate tangible personal property into the construction of real property;
- k. Cleaning or washing of tangible personal property;
- l. Laundry and dry cleaning services;
- m. Leases and rentals of tangible personal property if the property site is within the boundaries of the Township, if the lessee took possession within the Township, or if the property is stored, used, or otherwise consumed within the Township;
- n. Tangible personal property stored, used, or consumed within the Township;
- o. The gross income derived from tours that include sites visited within the Township, exempting agreements and contracts finalized prior to June 15, 1997;
- p. The gross income derived from the business activity of operating a hotel, motel or bed and breakfast charging for lodging and/or lodging space furnished to any person, for any period of not more than thirty (30) days;
- q. The gross income derived from a business activity for printing, faxing, copying, or publishing of printed materials; and

- r. Taxable services include cosmetology and hair cutting, house and carpet cleaning, and tax preparation.
2. If the sales tax is not separately stated on the sales invoice and collected from the customer, the business is liable for the factored tax due.

SECTION 805. RATE OF TAX

The rates of the tax levied under Section 804 shall be 5.0%.

SECTION 806. GENERAL EXEMPTIONS

The following sales and uses are exempt from the taxes imposed by this Chapter:

1. Sales of medicine;
2. Purchases of food with food stamp coupons issued by the United States Department of Agriculture under the Food Stamp Act of 1977 (P.L. 95-113) or sales paid for by vouchers issued under Section 17 of the Child Nutrition Act (P.L. 95-627 and P.L. 99-669);
3. Sales of meals served to schools, churches, or charitable institutions;
4. Sales by religious or charitable institutions in the conduct of their regular religious or charitable functions or activities;
5. Property brought into the Township by a nonresident for his or her own personal use or enjoyment while within the boundaries of the Township, except property purchased for use within the Township by a nonresident living and working in the Township at the time of purchase;
6. Isolated or occasional sales by persons not regularly engaged in the business of selling same;
7. Sales of newspapers or newspaper subscriptions;
8. Tangible personal property, other than money, traded in as full or part payment of the purchase price;
9. Sales of motor fuels and special fuels such as:
 - a. Jet fuel;
 - b. Diesel fuel.
10. Sales or use of property which the Township is prohibited from taxing under the laws of the Nation or applicable laws of the United States.

11. Property stored within the Township for resale.
12. Subcontracting within the Township (as in construction contracting) provided the subcontractor has written evidence that he is working for a taxable, licensed construction contractor within the Township.
13. Long term rental income derived from home site residential leases; such leases as are approved by the Commission.
14. In calculating applicable gross receipts, a vendor may exclude those gross receipts on either receipts of sales tax paid by customers or factored tax from sales where the tax is not added on to the sales invoice amount or separately stated. If the vendor failed to collect sales tax from the purchaser, the vendor is responsible for paying the tax due in the amount of factored tax.

SECTION 807. AGRICULTURAL EXEMPTIONS

The following agricultural sales and uses are exempt from the tax imposed by this Chapter:

1. A farm or ranch operation may exclude from its gross receipts any amount derived directly from traditional farming or livestock activities within the Township.

SECTION 808. ECONOMIC DEVELOPMENT EXEMPTIONS

The following sales and uses are deemed critical to the economic development of the Navajo Nation and are therefore exempt from the tax imposed by this Chapter:

1. A person engaged in manufacturing activities may exclude from its gross receipts the cost of raw materials imported into the Township to be used in the process of manufacturing Navajo goods.

SECTION 809. AVAILABILITY OF EXEMPTION CONDITIONED ON COMPLIANCE WITH LAW

The availability of any of the exemptions specified in Sections 806, 807 and 808 of this Chapter is strictly conditioned on compliance with this Chapter, other Township laws and regulations, and any other applicable Navajo law.

1. The Office of Navajo Labor Relations, the Division of Natural Resources, the Division of Health and the Division of Economic Development are hereby authorized to notify the Township that a person or vendor is or is not in compliance with the requirements of the Navajo Preference in Employment Act, the Navajo Business Procurement Act, the Navajo EPA or any other law of the Navajo Nation or the Township.

2. In the event that a person or vendor is deemed non-complying by any of the offices or divisions specified in this Subsection (1) above, the Township shall not allow any of the exemptions specified in Section 806 to the non-complying person or vendor.
3. In the event a business is deemed non-complying pursuant to this section, that person or vendor shall be entitled to appeal the issue of non-compliance through the regular appeal procedures specified in this Chapter. No other method of appeal shall be allowed. A determination of non-compliance made by any of the offices or divisions specified in Subsection (1) above is presumed correct, and the burden of proving compliance shall remain on the taxpayer.

SECTION 810. EXEMPT SALES TO BE REPORTED

The sales or uses exempt under Section 806(1), (2), (3), (7), (9), (10), (12) and (13), the sales and uses exempt under Section 807(1), (3), and all sales and uses exempt under Section 808 shall be reported to the Township by the seller, vendor, or purchasers, as the case may be. The Township shall disallow any exemption included in this section upon failure by the seller, vendor, or purchaser to report the full amount of such exempt sales.

SECTION 811. EXEMPTION CERTIFICATES REQUIRED

1. For the purpose of the proper administration of this Chapter and to prevent evasion of the tax and the duty to collect the tax, it shall be presumed that tangible personal property or any taxable item or service subject to tax pursuant to this Chapter and sold by any person for delivery within the Township is sold for storage, use, or other consumption in the Township unless the person selling such property, item or service has taken from the purchaser an exemption certificate signed by and bearing the name and address of the purchaser to the effect that the property, item, or service, was exempted under this Chapter.
2. The Commission, by regulation, shall define the procedure to be utilized in applying for and obtaining such exemption certificates, and shall further determine the information required to be contained therein.

SECTION 812. SALES AND USE TAX LICENSE

1. It is unlawful for any person required by this Chapter to collect sales or use tax, to engage in business within the Township without first having obtained a license to do so. This license shall be granted and issued by the Township. The license is not assignable and is valid only for the person in whose name it is issued until that person ceases to do business or changes his or her business address, or until the license is revoked by the Commission. Such license shall be granted only upon application stating the name and address of the applicant and other information the Township may require. If business is transacted at two or more separate places by one person, a separate license for each place of business shall be required. Licenses shall be renewed annually. The Commission shall, on reasonable notice and after a hearing, revoke the license of any person violating any provisions of this Chapter. Any person required by this Chapter to collect sales or use tax within the Township without

having secured a license to do so shall be deemed to have interfered with the administration of Township taxation. No license is required for any person engaged exclusively in the selling of commodities which are exempt from taxation under this Chapter.

2. Each person filing contract bids with the Township for sale of tangible personal property or any other taxable item or service under this Chapter shall include with the bid the sales tax license number issued to that person under Subsection (1).

SECTION 813. LICENSE FEE

All persons doing business in the Township whose gross income did not exceed \$125,000 for the past tax year shall pay a license fee of \$25 per annum. All persons doing business in the Township whose gross receipts from sales and uses taxable under this Chapter exceeded \$125,000 but were less than \$500,000 for the past tax year shall pay a license fee of \$50 per annum. All persons doing business in the Township whose gross receipts from sales and uses taxable under this Chapter exceeded \$500,000 for the past tax year shall pay a license fee of \$100 per annum. All persons doing a taxable business in the Township shall have a license before doing business.

SECTION 814. COLLECTION OF TAX

1. a. Each vendor is responsible for the collection of the sales or use tax imposed under this Chapter.
 - b. The vendor is not required to maintain a separate account for the tax collected, but is deemed to be a person charged with receipt, safekeeping, and transfer of public moneys.
2. Each person storing, using or consuming tangible personal property under Section 804 is liable for the use tax imposed under this Chapter.
3. If any sale of tangible personal property or any other taxable item or service under Section 804 is made by a wholesaler to a retailer, upon the representation by the retailer that the personal property purchased is purchased by the retailer for resale, and the personal property thereafter is not resold, the wholesaler is not responsible for the collection or payment of the tax imposed on the sale, but the retailer is solely liable for the tax.
4. a. Each vendor shall pay or collect and remit the sales and use taxes imposed by this Chapter if within the Township they directly or by any agent or other representatives:
 - i. Has or utilizes an office, distribution house, sales house, warehouse, service enterprise, vending machine, home sales location, billboard, or other place of business;
 - ii. Maintains a stock of goods;

- iii. Regularly solicits orders whether or not such orders are accepted within the Township, unless the activity in the Township consists solely of advertising or of solicitation by direct mail;
 - iv. Regularly engages in the delivery of property in the Township other than by common carrier or United States mail, or
 - v. Regularly engages in any activity in connection with the leasing or servicing of property located within the Township borders.
- b. If none of the conditions listed under subsection (4)(a) exist, the vendor is not responsible for the collection of the use tax, but each person storing, using, or consuming tangible personal property purchased outside the Township and brought within the Township is responsible for remitting the use tax.
 - c. For purposes of collecting and enforcing the tax imposed by this Chapter, a vendor will be deemed to have submitted to the civil jurisdiction of the Navajo Nation and the Township if the vendor has done any of the acts listed in subsection (4)(a) above, or if the vendor has intentionally reached into the Township in order to make a sale, or has otherwise acted so as to establish a jurisdictional nexus with the Township.
5. Each vendor shall collect the sales or use tax from the purchaser, but the vendor may not collect as tax an amount, without regard to fractional parts of the one cent, in excess of the tax computed prescribed in this Chapter.
 6. On all motor vehicle sales made by other than a regular licensed dealer, the sales or use tax shall be paid by the purchaser directly to the Township upon every sale of a motor vehicle subject to registration under the laws of the Nation or any state.
 - a. No resident purchasing a motor vehicle within or without the Township and subject to the civil jurisdiction of the Navajo Nation and the Township shall operate that motor vehicle within the Township without first paying the tax due on the sale.
 - b. The Commission, by regulation, shall determine and establish the practices and procedures necessary for the implementation of this subsection.
 - c. If retail state and city taxes were paid on the purchase to any governmental jurisdiction in any state or city, the purchase is not subject to use tax.
 7. Except as provided in subsection (6) and in Section 815, the sales or use tax imposed by this Chapter is due and payable to the Township monthly based on monthly receipts. Each vendor shall, on or before the last day of the month next succeeding each reporting period, file with the Township a return for the preceding reporting period. The return shall be accompanied by a remittance of the amount of tax

required under this Chapter to be collected or paid for the period covered by the return.

- a. The sales tax computed in the return shall in all cases be based upon the total nonexempt sales made during the period, including both cash and charge sales.
 - b. The use tax computed in the return shall in all cases be based upon the total amount of sales or purchases for storage, use, or other consumption in the Township made during the period, including both by cash and by charge.
8. Credit is allowed for prepaid taxes and for taxes paid on that portion of an account determined to be worthless and actually charged off for income tax purposes or on the portion of the purchase price remaining unpaid at the time of a repossession made under the terms of a conditional sales contract.
9. All sales tax returns shall contain the information and be in a form prescribed by the Township.
- a. The Township may extend the time for making returns and paying the taxes, but no extension may be for more than 90 days.
 - b. The Township, if it deems it necessary in order to ensure the payment of the tax imposed by this Chapter, may require returns and payment of the tax to be made for other than monthly periods.
10. If the accounting methods regularly employed by the vendor, and if the transaction of his business are such that reports of sales made during a calendar month period will impose unnecessary hardships, the Township may accept reports at intervals that will, in its opinion, better suit the convenience of the taxpayer or vendor, and will not jeopardize collection of the tax.
11. The vendor shall give the purchaser a receipt for the use tax collected. This provision may be satisfied by the vendor billing the use tax as a separate item and declaring the name and his or her use tax license number on the invoice for sale. The receipt shall be prima facie evidence that the vendor has collected the use tax and shall relieve the purchaser of the liability for reporting the use tax to the Township as a consumer.
12. The Township, if it deems it necessary to ensure compliance with this Chapter, may require any person, subject to the tax imposed under this Chapter, to deposit with it security as determined by the Township. The security may be sold by the Commission at public sale if it becomes necessary to do so in order to recover any tax, interest, or penalty due. Notice of such sale may be served upon the person who deposited the securities personally or by mail. If notice is by mail, notice sent to the last known address as it appears on the records of the Township is sufficient for purposes of this requirement. Upon such sale, the surplus, if any, above the amounts due under this Chapter, shall be returned to the person who deposited the security.

13. If any vendor, during any reporting period, collects as a tax an amount in excess of the lawful amount due, he or she shall remit to the Township the full amount of the tax imposed by this Chapter and also any excess.
14. For purposes of civil or criminal action brought under this Chapter, each monthly tax period in which a vendor collects a tax, and with intent to evade any tax, fails to timely remit the full amount of the tax required to be remitted, constitutes a separate offense.
15. A credit may be claimed for the 3.0% of the 5.0% Township tax paid to the Township against the tax assessed by the Nation after April 1, 2002, if the tax has been timely paid to the Township, provided that revenues from such excise taxes are utilized to provide essential government services. Employees of the Township are employees of the Nation for determination of confidentiality purposes and may share taxpayer's payment information.

SECTION 815. PREPAYMENT – PENALTY

1. Any person whose tax liability under this Chapter was:
 - a. \$96,000 for the previous year
 - b. \$24,000 for the previous quarter, or
 - c. Whose estimated tax liability is \$8,000 or more per month, as determined by the Township, shall pay not less than 90% of the amount of sales and use tax liability for April and May of each year. The Commission shall establish by rule the procedures and guideline for determining the tax liability under this section.
2. The prepayment shall be accompanied by a return showing the amount of the prepayment in the form and manner determined by the Township. The prepayments shall be made to the Township on or before June 15 each year.
3. The amount of the prepayment shall be a credit against the amount of the taxes due and payable for the monthly period in which the payment became due. In addition to any other penalties for late payment there shall be a penalty of 10% of the total amount of the prepayment due.

SECTION 816. ADMINISTRATIVE REGULATIONS

The Commission is empowered to administer this tax and to that end, shall be empowered to adopt rules and regulations, both substantive and procedural, orders implementing its decisions, rulings, and instructions such as may be necessary to the proper and efficient administration of this Chapter.

SECTION 817. REIMBURSEMENT FOR TAX COLLECTION