

# TAX ADMINISTRATION REGULATIONS

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**1.101. TITLE**

This chapter is called the Tax Administration Regulations.

**1.102. RESERVED**

**1.103. RESERVED**

**1.104. DEFINITIONS**

Subject to additional definitions (if any) contained in the subsequent paragraphs of this chapter and in other chapters, and unless the context otherwise requires, in the regulations:

A. "Chapter" means Title 24 of the Navajo Nation Code and accompanying regulations.

B. "Individual" means a natural person.

C. "Interest" means the interest of any grantee, lessee, permittee, assignee, sublessee, franchisee, or transferee, whether of the whole interest in a lease or less than the whole, including the interests of parties to a joint venture or operating agreement.

D. "Period" means the reporting period for each particular tax.

**1.105. RESERVED**

**1.106. RESERVED**

**1.107. RESERVED**

**1.108. RESERVED**

**1.109. RESERVED**

**1.110. RESERVED**

**1.111. RESERVED**

**1.112. RESERVED**

**1.113. LAY AND COLLECT TAXES**

When appropriate, the Commission will submit to the Navajo Nation Council proposed resolutions to lay and collect taxes on goods, services, or property both tangible and intangible, on income from whatever source derived, and on transactions, sales, inventories, and wages completed or earned, and other measures of economic activity or engagement within the Navajo Nation. The Commission will oversee tax policy and the administration of the tax laws.

**1.114. RESERVED**

**1.115. RESERVED**

**1.116. RESERVED**

**1.117. RESERVED**

**1.118. RESERVED**

**1.119. OFFICE OF THE NAVAJO TAX COMMISSION**

The Executive Director shall exercise the powers granted to the Office of the Navajo Tax Commission as a part of the Executive Branch of the government of the Navajo Nation, and may employ or engage those persons qualified by education and experience necessary to discharge the duties of the office and may delegate authority and duties among such persons.

**1.120. RESERVED**

**1.121. PROPOSAL OF REGULATIONS**

The Office of the Navajo Tax Commission may publish notice of proposed regulations in order to provide interested parties an opportunity to comment. Notice of the proposal will be published and the text made available according to Paragraph 1.123. The notice will invite written comments and give a deadline for their submission not less than 30 days after the first publication of notice. The Office of the Navajo Tax Commission may choose to hold a public hearing.

**1.122. ADOPTION OF REGULATIONS**

When appropriate, the Commission will adopt regulations, in accordance with the rules in this paragraph.

- A. Formal adoption. Regulations must be formally adopted in a resolution by a majority vote of the Commission.
- B. Manner of amendment. Regulations must be amended in the same manner as they are adopted and promulgated.

**1.123. PROMULGATION OF REGULATIONS**

Following their adoption by the Commission in accordance with Paragraph 1.122, regulations will be promulgated according to these rules.

- A. Notice required. Regulations will be effective only upon the publication of a notice in accordance with subparagraph (B).
- B. Publication defined. Publication means to publish in the legal section of a local newspaper at least once each week for three consecutive weeks and may include notice by mail to designated individuals on the basis of a registration list which is reasonably current. The notice will identify or otherwise describe the subject regulations.
- C. Effective dates. Regulations become effective 30 days after the first publication of notice or on the dates otherwise specified therein.
- D. Availability of text. A copy of the regulations will be filed and made available for public inspection at the Office of the Navajo Tax Commission and will be mailed to any person making a written request.

**1.124. PUBLIC RULINGS AND ADVICES**

When appropriate, the Office of the Navajo Tax Commission may issue general rulings, procedures, and advices for the information and guidance of taxpayers. In preparation thereof, the Office of the Navajo Tax Commission may inquire of persons regarding relevant facts, comments, and proposals, providing such persons a reasonable time for their submission.

**1.125. REQUESTS FOR PRIVATE RULING**

In connection with determining any obligation under this chapter, a taxpayer, designee, or representative may request a private ruling from the Office of the Navajo Tax Commission.

- A. Authority. The Office of the Navajo Tax Commission has discretionary authority to issue declaratory rulings concerning the validity or application of the Navajo

Nation tax laws, the regulations, and other rules with respect to any property, person, transaction, activity, or statement of facts. This discretion will be exercised in the light of all relevant circumstances, and with a view to issuing rulings to the extent consistent with the proper and efficient administration of the tax laws. However, no ruling will be given in any matter already under examination or appeal.

- B. Form of request. The request must be made in writing to the Office of the Navajo Tax Commission, must state the ruling sought, and must contain a complete statement of the facts relied on, together with any information and documents necessary to present those facts. The request must identify the taxpayer.
- C. Effect. Private rulings are binding on the Office of the Navajo Tax Commission with respect to the facts and issues presented and ruled upon, but only as to the subject property, transactions, or the person requesting the ruling. Private rulings are appealable actions.

#### 1.126. **PROCEDURAL RULES FOR APPEALS**

In addition to the general rules and procedure provided in this chapter, the Office of the Navajo Tax Commission or the Commission may by ruling or in regulations establish rules of procedure for the conduct of administrative hearings and appeal proceedings in an effective manner comporting with due process.

#### 1.127. **PROCEDURAL RULES FOR COLLECTION**

In addition to the general rules and procedure provided in this chapter, the Office of the Navajo Tax Commission or the Commission may by ruling or in regulations establish the guidelines and procedures for the exercise of its power to attach and seize assets and the performance of its other collection duties in an effective manner comporting with due process.

#### 1.128. **PROCEDURAL RULES FOR EXAMINATION**

In addition to the general rules and procedure provided in this chapter, the Office of the Navajo Tax Commission may by internal policy establish the guidelines and procedures for the exercise of investigative authority and the conduct of inspections, examinations, and field and office audits.

#### 1.129. **INTERNAL POLICY MATTERS**

In addition to the general rules and procedure provided in this chapter, the Office of the Navajo Tax Commission may by internal policy establish the guidelines and procedures for conducting its business, administering the tax laws, organizing and operating its office, and for effectively discharging its duties and responsibilities, including assessment and enforcement.

#### 1.130. **RESERVED**

#### 1.131. **PRESUMPTION OF MAILING**

Upon showing of certification of mailing by the Office of the Navajo Tax Commission, it shall be presumed that the taxpayer received the mailing in question.

#### 1.132. **RESERVED**

#### 1.133. **RESERVED**

#### 1.134. **RESERVED**

#### 1.135. **EXAMINATION AND AUDITS**

For the purpose of determining an assessment, preparing a required return or form where none has been prepared or filed, determining the correctness of any required return or form, determining the liability of any person for taxes, determining the liability in law or in equity of any transferee or fiduciary of any person for taxes, or collecting any liability, the Office of the Navajo Tax Commission may make an inquiry and may:

- A. Examine any books, records, papers, maps, documents, or other data which may be relevant or material to the inquiry.
- B. Summon the person liable for the tax or required to file and/or pay, any officer, employee, or agent of that person, any person having possession, custody, or care of information relating to the business of the person liable for tax or required to file and/or pay, or any other person the Office of the Navajo Tax Commission may deem proper, to appear before the Office of the Navajo Tax Commission at the time and place named in the summons and to produce such information and materials, and to give such testimony, under oath, as may be relevant or material to the inquiry.
- C. Take such testimony of any such person, under oath, as may be relevant or material to the inquiry.

#### **1.136. FILING REQUIREMENTS FOR STATUTORILY AND CONTRACTUALLY EXEMPT PERSONS**

The Office of the Navajo Tax Commission may require any person claiming exempt status to file an affirmative statement of exempt status. With respect to any assessment date or period for which a return is not filed, the Office of the Navajo Tax Commission may require a person to file an affirmative declaration that it meets the exceptions from filing, together with a statement of the amount of any excluded or exempt receipts and the facts on which the claim of exclusion or exemption is based. Upon written request and within a reasonable time allowed, the person must file the statement or declaration required. Failure to comply is subject to the penalties provided for in the Uniform Tax Administration Statute.

#### **1.137. NOTICE OF LIEN**

Public notice of a lien will be effective as to all property and rights to property of a taxpayer, business, or person if the description of the taxpayer, business, or person is sufficient to put a reasonable person on inquiry to ascertain the existence of a lien on the property.

#### **1.138. RESERVED**

#### **1.139. SERVICE AND ENFORCEMENT**

Subpoenas and summonses will be served and enforced according to the following provisions.

- A. The Office of the Navajo Tax Commission will serve a subpoena or summons by an attested copy delivered by certified mail or in hand to the person to whom it is directed, or left at its last and usual place of abode or business. On the hearing of an application for the enforcement of the summons, the certificate of service signed by the person serving the subpoena or summons will be evidence of the facts it states. When the subpoena or summons requires the production of books, records, papers, maps, documents, and other data, it will be sufficient if the items are described with a reasonable certainty.
- B. Whenever any person neglects or refuses to obey a subpoena or summons, or to produce books, records, papers, maps, documents, or other data, or to give testimony, as required, the Office of the Navajo Tax Commission may impose the sanctions provided by law. The Office of the Navajo Tax Commission may further

apply to any court of competent jurisdiction for such order as it deems proper and not inconsistent with the law for punishment of contempts, to enforce obedience to the requirements of the subpoena or summons and to punish the person for his/her default or disobedience.

**1.140. RESERVED**

**1.141. RESERVED**

**1.142. REQUESTS FOR INFORMATION**

The Office of the Navajo Tax Commission may require of any and all persons who own interests in a lease granted or approved by the Navajo Nation, who engage in business activity within the Navajo Nation, or are otherwise subject to its jurisdiction, such information as the Office of the Navajo Tax Commission may deem relevant to the efficient administration of this chapter. Upon a written request by the Office of the Navajo Tax Commission and after reasonable opportunity to comply, those persons must provide the information required. Failure to comply with a request for information will subject a person to the penalties provided for in the Uniform Tax Administration Statute.

**1.143. REQUIRED INFORMATION**

A. General. Forms to be filed pursuant to this chapter will be made available by the Office of the Navajo Tax Commission. Persons are responsible for requesting forms as needed. Any filing may be prepared on a clear copy of the official form or a substantially similar form approved by the Office of the Navajo Tax Commission. The information to be included in or filed with the forms will be prescribed in instructions and other rules. Failure to fully and adequately complete a form will subject a person to penalties under the Uniform Tax Administration Statute.

Additional information may be required, sufficient to establish the qualification for any exclusion or exemption from or deduction claimed in the base, or to disclose the detail of transactions.

B. Supplemental material. Supplemental documents may be required and are permitted. For example, statements filed with any federal, state, or local authority which contain information substantially similar to that required herein may be attached to the form to clarify or support an entry, to disclose a method, to establish a qualification, to provide detail, or as otherwise appropriate. Such statement and other materials must be clearly identified, be referenced to the corresponding entry on the form, and be reconciled to the information therein.

C. Attachments. Any additional information, supplemental material, or other attachment filed with a form is deemed a part of the form itself.

D. Computations on returns. Rounding off to whole dollar amounts of money on returns and information provided by a taxpayer under this section will be permitted as provided in this subsection.

1. When the instructions or return permit, a person may elect to enter any amount required to be reported on such return at the nearest whole dollar amount.
2. The election not to use whole dollar amounts must be made at the time of filing the return, even if not timely filed. Such election may not be revoked after the time prescribed for filing such return, including extensions of time granted for such filing.
3. The taxpayer's election shall be binding only for the period covered by that return and a new election may be made on a subsequent return.



4. The provisions of Paragraph 1. of this subsection apply only to amounts required to be reported on a return. They do not apply to items which must be taken into account in making the computations necessary to determine such amounts.
- E. Signature. Any return, form, or other document which is required to be made or filed under this chapter must be signed and verified by a written declaration made subject to the penalties set forth in the Uniform Tax Administration Statute.

#### **1.144. PLACE AND MANNER OF FILING AND PAYMENT**

Taxpayers and other persons making filings and payments under this chapter must comply with the following requirements:

- A. Place and address. All filings and payments must be delivered to the Office of the Navajo Tax Commission or mailed to: Office of the Navajo Tax Commission, Post Office Box 1903, Window Rock, AZ 86515-1903.
- B. Identification. Any payment must be marked with clear identification of the taxpayer, the return or other form, the assessment date or period, and type of liability for which the payment is being made.
- C. The payee. The check or other remittance must be made payable to the order of the Office of the Navajo Tax Commission or the Navajo Nation.
- D. Application of payments. Any payment received by the Office of the Navajo Tax Commission will be applied as described below. The Office of the Navajo Tax Commission will report to the taxpayer the application made and the resulting status of the taxpayer's account and will issue a notice of assessment for any unpaid amount.
  1. When a payment is included with a timely filed return or when a payment due under the Possessory Interest Tax is timely paid, the payment shall be applied first to the tax due for the current period, then to any outstanding penalty, then to any outstanding interest, then to any tax owed for any prior period.
  2. When a payment is included with a return which is filed late, or when payment due under the Possessory Interest Tax is made late, but the payment specifies the tax year to which the Possessory Interest Tax payment applies, the payment shall be applied first to any penalty due for the specified tax period, then to any interest due for the specified tax period, then to any tax due for the specified tax period.
  3. When a payment is made with no identification as to application to a particular tax, tax period, or assessment date, the payment shall be applied first to any and all penalties owed for any tax or period, then to any and all interest owed for any tax or period, then to any tax owed for any period.
  4. When a payment is made with respect to an audit assessment issued by the Office of the Navajo Tax Commission, the payment shall be applied first to any accrued penalties associated with the assessment, then to any accrued interest associated with the assessment, then to any tax associated with the assessment.

#### **1.145. RESERVED**

#### **1.146. DUE DATES AND TIME DETERMINATION**

The following rules apply in the determination of dates and time:

- A. Due date. Due dates are those stated in the chapters or specified in instructions, forms and notices of the Office of the Navajo Tax Commission. If a due date falls on a Saturday, Sunday, or a legal holiday, then the due date becomes the next working day. Holidays of the Navajo Nation are the same as the federal holidays, with five exceptions: the Nation does not observe Columbus Day, and it celebrates

Navajo Sovereignty Day on the 4<sup>th</sup> Monday in April, Navajo Memorial Day on June 1, Navajo Code Talker Day on August 14, and Navajo Family Day on the Friday after Thanksgiving. When a holiday falls on a Saturday or Sunday, it is observed on the adjacent Friday or Monday, respectively.

- B. Action by mail. Except as provided in Paragraph 1.147, when a taxpayer elects to act by mail, the date of the action is determined by the postmark. For instance, mail postmarked by midnight of the date due is timely made and is deemed made as of that day. If self-metered mail is received within five days, the metered date is deemed to be the postmark.
- C. Computation of time. In computing and determining the day on which a period of time ends and action is due, the first day is not counted and the actual days elapsed -- including Saturdays, Sundays and holidays -- are counted.
- D. In order to be considered filed with the Office of the Navajo Tax Commission, for purposes of determining timeliness of filing, an actual, original signed return or report must be submitted to the Office of the Navajo Tax Commission. The submission of facsimiles, PDF filings, or other types of email or electronic filing will not constitute filing.

#### **1.147. RULE FOR LIABILITIES OVER \$10,000**

If the tax due with the return or on a specified date is more than \$10,000, the payment must be received by the Office of the Navajo Tax Commission not later than the due date; and the rule in Paragraph 1.146(B). regarding postmarks does not apply. A taxpayer may remit by wire or other direct bank transfer according to the instructions of the Office of the Navajo Tax Commission.

#### **1.148. INTEREST RATES AND APPLICATION**

Interest is imposed on any unpaid tax.

- A. Duration of accrual. Interest is computed from the date the tax was first due (without regard to any extension of time or stay of payment) to the date payment is received.
- B. Interest on Underpayments. The rate of interest will be equal to the rate presently used by the Internal Revenue Service for an underpayment by an individual. The Office of the Navajo Tax Commission will issue a quarterly advice to coincide with the Internal Revenue Service announcement in which the current and past rates for both an underpayment and overpayment are listed.
- C. Interest on refunds. The rate of interest will be equal to the rate presently used by the Internal Revenue Service for an overpayment by an individual.

#### **1.149. DESIGNATION OF INDIVIDUAL**

Each taxpayer must designate and provide the mailing address of a natural person for the purposes of notice, together with such other information as may be required by form and instructions.

- A. More than one tax. A taxpayer obligated to designate under more than one tax may designate one individual as the designee for all such tax statutes or may designate separate individuals as the designees for each tax. Only one individual is permitted to be a designee for each tax.
- B. Joint or common undertaking. Participants in a joint or common undertaking, regardless of their ownership or agreement, or the form of their organization, must designate one individual. If one participant is the operating agent or charged with the management of the undertaking, the designation must be made by that participant.
- C. Oil and gas property. An owner of an interest in an oil and gas lease, who is not the operator, must make a designation, but may designate the same individual designated by the operator.

- D. Additional individuals. A taxpayer may also name other individuals to receive the tax publications of the Office of the Navajo Tax Commission. The Office of the Navajo Tax Commission will keep a reasonably current list and will be diligent in mailing to such individuals notices, regulations, rulings, instructions, and other information in a timely manner.

**1.150. RESERVED**

**1.151. RESERVED**

**1.152. RESERVED**

**1.153. RESERVED**

**1.154. CHARGES FOR ADMINISTRATIVE COSTS**

- A. Notice. Upon determining any charges for costs, the Office of the Navajo Tax Commission will issue a notice of assessment to the taxpayer. Such assessment shall constitute an adverse action.
- B. Costs. Costs will be limited to direct costs and out-of-pocket expenses incurred in collection efforts beyond the ordinary office functions, duties, and notices for collecting taxes, and the usual legal expenses for obtaining local court judgments. On good cause shown, the Office of the Navajo Tax Commission may adjust the assessment.
- C. Good Cause. A mere mistake, the absence of negligence or of intentional disregard of the regulations, or the presence of substantial issues of interpretation, especially in the case of a deficiency arising upon examination of a return which was timely filed, and all surrounding facts and circumstances, including the pattern of compliance of the taxpayer, may be given due weight in determining good cause.

**1.155. RESERVED**

**1.156. SUSPENSION AND EXCLUSION**

- A. In addition to possible criminal prosecution under Title 17 of the Navajo Nation Code, any person, including employees or agents in the course of their employment or agency, who engages in the prohibited acts set forth in Subparagraph (C) may have its rights to engage in productive activity within all or some of the Navajo Nation suspended, either temporarily or permanently, utilizing the procedures set forth in the Uniform Tax Administration Statute.
- B. In addition, any non-member who engages in the prohibited acts set forth in Subparagraph (C) may be excluded from land subject to the jurisdiction of the Navajo Nation in accordance with procedures set forth in Title 17 of the Navajo Nation Code.
- C. The following are prohibited acts:
  - 1. Forcibly, or by bribe, threat or other corrupt practice, obstructing or impeding the due administration of any tax; or
  - 2. Willfully failing to comply with a subpoena or summons duly issued pursuant to this chapter; or
  - 3. Committing fraud, or knowingly assisting another in the commission of fraud, with the intent to evade or defeat the assessment or collection of any tax, interest, penalty, or costs imposed or assessed; or
  - 4. With knowledge and intent, falsely verifying by written declaration any return, form, or other document.

1.157. **RESERVED**

1.160. **RESERVED**

1.161. **RESERVED**

1.162. **EXAMINATION PROCEDURE**

Upon completion of the examination of a taxpayer, the Office of the Navajo Tax Commission will provide the taxpayer with a written statement of findings for any determination which alters a liability for tax, interest, or penalties, and will issue a refund or a notice of assessment for any amounts overpaid or due. If no such determination is made, the Office of the Navajo Tax Commission may issue a letter stating that there is no change for the assessment date or period examined.

1.163. **NOTICE OF ASSESSMENT**

- A. A notice of assessment may arise from an initial assessment of taxes, from an estimate of the taxes due when a required return has not been filed, from a deficiency in the amount of taxes reported or paid determined upon examination of a declaration, or from an application of interest, penalties, or charges for costs.
- B. The notice of assessment will set forth the requirements for payment and for appealing the assessment in accordance with the Rules and Procedures for Administrative Appeals.
- C. At any time prior to the payment of an assessment or conclusion of an appeal, the Office of the Navajo Tax Commission may amend the notice of assessment. When such amendment is made, the amended assessment may cover all periods covered by the original assessment.
- D. When it appears that a taxpayer has made an overpayment, the Office of the Navajo Tax Commission will remit a refund. In this situation, the one-year deadline for the taxpayer to request a refund shall not apply; the taxpayer shall be eligible for any refund/credit for overpayment arising during the periods covered by the assessment.

1.164. **RESERVED**

1.165. **PROCEDURE FOR REFUNDS**

- A. Claim. Any taxpayer which has made an overpayment may, within one year after the alleged overpayment is received by the Office of the Navajo Tax Commission, file a written claim for refund with the Office of the Navajo Tax Commission. However, no claim for refund need be filed if the basis therefor has already been established under an abatement or asserted in an appeal under this chapter. An issue determined in such an appeal may not be reopened by filing a claim for refund.
- B. Adjustment for another tax. The Office of the Navajo Tax Commission may provide for a refund or credit where taxes paid for one period thereafter requires adjustment on account of other taxes for concurrent periods which are later paid.
- C. Amended return. A claim may take the form of an amended return for the period for which the overpayment was made. The return must contain a clear statement of the amount of the refund being claimed and the basis therefor.
- D. Offset. Upon notice from the Office of the Navajo Tax Commission that an overpayment has been made, a taxpayer may offset against the tax due for a current period. A copy of the overpayment notice must be attached to the return.
- E. Appeal. Denial of a refund claim shall be considered an adverse action.
- F. Determination. If the Office of the Navajo Tax Commission determines, either on a claim for refund under this paragraph or in an appeal on a claim or from an

assessment, that the taxpayer has made an overpayment, and no appeal is taken, the Office of the Navajo Tax Commission shall refund the overpayment and applicable interest to the taxpayer.

- G. Order on appeal. Where an action of the Office of the Navajo Tax Commission is appealed, the Office of the Navajo Tax Commission shall make a refund of only the overpayment determined by the order in that appeal, plus the applicable interest.
- H. Application to unpaid taxes. If a taxpayer entitled to a refund owes unpaid taxes, the refund shall be offset and reduced by such unpaid amounts.
- I. Prohibition against any other manner of refund. No refund of or credit for taxes paid shall be made or allowed to any person by any court or agency other than as provided in this paragraph.

**1.170. RESERVED**

**1.171. RESERVED**

**1.172. DELINQUENT LIABILITIES**

All taxes assessed are a debt due and owing the Navajo Nation from the taxpayer or other person. If an assessment is not paid when due, the Office of the Navajo Tax Commission may, in addition to the remedies under this chapter, maintain an action for itself against the delinquent party for the collection of the liability, costs, and other lawful charges thereon. In such action, the Office of the Navajo Tax Commission will have the benefit of all laws which provide remedies against property or rights to property, real or personal, of the person liable for the assessment.

**1.173. COLLECTION**

A notice of assessment requires the payment of the amount due by the date stated therein and is collectible as of that date without further notice. Any amount of taxes which are reported in a return filed by a taxpayer and not paid by the due date is collectible as of that date without further notice and shall accrue interest and penalties until paid. Absent an official stay of payment, any collectible amount is a delinquent liability, and a collection action will commence upon issuance of a demand for payment to the delinquent taxpayer.

**1.174. RESERVED**

**1.190. RESERVED**

**1.191. RESERVED**

**1.192. DUTIES OF THE CONTROLLER**

The Controller is authorized and directed:

- A. To credit all tax monies received from the Office of the Navajo Tax Commission to the Tax Administration Suspense Fund.
- B. To keep separate accounts for the Fund and for any escrow accounts established within the Fund.
- C. To be accountable to the Office of the Navajo Tax Commission for the accounts and their disposition by regular and timely reports. The Office of the Navajo Tax Commission will timely reconcile the respective accounts.
  - 1. The reports are confidential and subject to the disclosure rule.
  - 2. The reports shall be made no less often than monthly, with quarterly summaries.

3. The reports shall show the amounts deposited and disbursed during the month and will reconcile the beginning and ending Fund balances.
- D. To disburse refunds as directed by the Office of the Navajo Tax Commission.

**1.193. ESTABLISHMENT OF ESCROW**

The Office of the Navajo Tax Commission may establish escrow accounts with the Controller of the Navajo Nation or an acceptable fiduciary agency, and may prescribe the procedures and accountability required for the custody and management of the monies placed in those accounts.

**1.194. EFFECTIVE DATE**

The effective date of these regulations shall be determined in accordance with paragraph 1.123, and their provisions apply (except as otherwise provided) to all assessment dates and periods beginning on or after the date of adoption.