

BAD RIVER BAND OF LAKE SUPERIOR TRIBE OF CHIPPEWA INDIANS

CHIEF BLACKBIRD CENTER

P.O.Box 39 • Odanah, Wisconsin 54861

Resolution No. 6-2-10-227

Adopting a Tribal Tax Code

WHEREAS, the Bad River Band of the Lake Superior Tribe of Chippewa Indians is a federally recognized Indian tribe with a Constitution enacted pursuant to the Indian Reorganization Act of 1934, 25 U.S.C. Section 476; and

WHEREAS, Article VI, Section 1(h) of the Bad River Constitution authorizes the Tribal Council to levy taxes upon members of the Band and their property and to levy taxes or license fees, subject to review by the Secretary of the Interior, upon non-members of their property located within the Reservation, provided that any such assessments upon members of the Band shall have the approval of a majority of the voters of the Band as a special election at which at least thirty percent of the eligible voters of the Band shall vote; and

WHEREAS, the Tribal Council has determined that a real need exists to implement and administer a tribal sales tax within the boundaries of the Reservation.

NOW, THEREFORE, BE IT RESOLVED that the Bad River Tribal Council hereby adopts the Tribal Sales and Use Tax Code as attached to this Resolution, effective **July 8, 2010**, and authorizes the Tribal Chairman to negotiate an agreement with the State Department of Revenue providing a credit against state use taxes for payment of any tribal sales tax.

Certification

I, the undersigned, as Secretary of the Bad River Band of Lake Superior Tribe of Chippewa Indians, an Indian Tribe organized under Section 16 of the Indian Reorganization Act, hereby certify that the Tribal Council is composed of seven members, of whom 7 members, constituting a quorum, were present at a meeting hereof duly called, noticed, convened, and held on the 2nd day of June, 2010; that the foregoing resolution was duly adopted at said meeting by an affirmative vote of 6 members; 0 against; and 0 abstaining, and that the said resolution has not been rescinded or amended.


Loretta Ford, Secretary
Bad River Tribal Council

Section 6. Impact of the Tax

The impact of the tax as imposed by this ordinance is declared to be on the consumer and shall be added to the purchase price of the property sold and received from the consumer. The tax required to be collected by the retailer constitutes a debt owed by the retailer to the Tribe and shall be recoverable at law in the same manner as other debts. Purchases made on behalf of the Tribe are exempt from tax.

Section 7. Exemptions from Sales Tax

The following are specifically exempted from taxes imposed in this ordinance:

- (1) The gross receipts from the sale of residential heating fuels, including but not limited to, fuel oil, coal, wood, steam, propane gas, natural gas, and L.P. gas sold to residential customer for residential use;
- (2) The gross receipts from isolated or occasional sales not made in the normal course of business of selling that kind of property are exempt;
- (3) Sales in connection with events certified in advance by the Tribal Council as a tribal cultural, historical, or charitable event;
- (4) Sales of tobacco products;
- (5) Sales of gasoline and motor fuels; and
- (6) Sales of alcohol.

Section 8. Enforcement

The Tribal Council Treasurer, Tribal Council Secretary, and Tribal Accounting Manager shall enforce all provisions of this Ordinance.

Section 11. Application for Retailer Permit

Every retailer or person engaging in business within the Reservation whose receipts are subject to sales tax shall file with the Treasurer an application for a sales tax permit(s). Every application for such a permit shall be made upon a form prescribed by the Treasurer and shall set forth the name under which the application transacts or intends to transact business, the location of the place(s) of business, and such other information as the Treasurer may require. The application shall be signed by the owner, if a natural person; in the case of an association or partnership, by a member or partner thereof; or in the case of a corporation, by an executive officer thereof or some person specifically authorized by the corporation to sign the application, to which shall be attached the written evidence of his authority. The applicant must have a sales tax permit for each place of business.

Section 10. Issuance of Retailer Permit

This ordinance shall be effective at _____ a.m. on _____.

Adopted by Resolution No. 6-2-10-227

HISTORY NOTE:

A resolution to create a sales and use tax code of the Tribal Court Code; relating to: raising revenue for the tribal government's essential services.

The power to tax is an inherent and essential part of the authority of the tribal government. It derives from the tribe's authority 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 its jurisdiction. See *Merrion v. Jicarilla Apache Tribe*, 455 U.S. 130 (1982).