

# *Pyramid Lake Paiute Tribal Council*

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## **RESOLUTION NO.: PL 081-23**

*Amended Title 2 – Taxation Administration Tax Code*

### **RESOLUTION OF THE TRIBAL COUNCIL OF THE PYRAMID LAKE PAIUTE TRIBE NIXON, NEVADA**

**WHEREAS,** the Pyramid Lake Paiute Tribe is organized pursuant to the provisions of Section 16 of the Indian Reorganization Act (25 U.S.C. § 476) and is federally recognized by the United States Government through the Secretary of the Interior and the Bureau of Indian Affairs; and

**WHEREAS,** the Pyramid Lake Paiute Tribe, is the duly elected governing body of the Pyramid Lake Paiute Tribe, charged with the responsibility of establishing policy and taking action to provide administrative guidelines; and

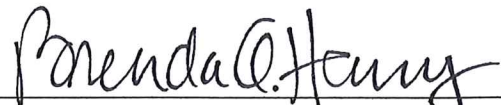
**WHEREAS,** the Pyramid Lake Paiute Tribal Council adopted Title 2 – Taxation which is administered and enforced by the Pyramid Lake Tax Commission; and

**WHEREAS,** the Pyramid Lake Paiute Tribal Council has determined it is appropriate to amend the existing Title 2 – Taxation to include the Administrative Tax Code as recommended by the Tax Commission.

**NOW, THEREFORE BE IT RESOLVED,** that the Pyramid Lake Paiute Tribal Council hereby approves and adopts the amended Title 2 – Taxation to include the Administrative Tax Code, a true and correct copy of which are attached.

### ***CERTIFICATION***

It is hereby certified that the foregoing resolution of the Pyramid Lake Paiute Tribal Council, governing body of the Pyramid Lake Paiute Tribe, composed of ten members, of whom ten (10) constituting a quorum were present at a meeting duly held on the 16<sup>th</sup> day of June, 2023, was adopted by the affirmative vote of nine (9) FOR and zero (0) AGAINST, with zero (0) ABSTENTIONS; pursuant to the authority contained in the Constitution and By-laws of the Pyramid Lake Paiute Tribe.



Brenda A. Henry, Tribal Council Secretary  
Pyramid Lake Paiute Tribal Council



# ADMINISTRATIVE CODE

## TITLE 2 - TAXATION

Approved by the Pyramid Lake Tribal Council on  
March 18, 2022 through Resolution No. PL 032-22



PYRAMID LAKE PAIUTE TRIBE  
PYRAMID LAKE TAX COMMISSION  
P.O. BOX 256  
NIXON, NV 89424



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# **PYRAMID LAKE ADMINISTRATIVE TAX CODE**

## **INTRODUCTION**

This Administrative Tax Code is developed for the purpose of properly overseeing the amended Pyramid Lake Tax Code, adopted through Resolution PL032-22 on March 18, 2022, and implementation through the procedures and guidelines set forth.

The Pyramid Lake Administrative Code (PLAC) is subject to revisions as needed to keep updated information current to the Tribe, Taxpayers, and the State of Nevada.

## **PYRAMID LAKE TAX DEPARTMENT**

### **DESCRIPTION**

The Pyramid Lake Tax Department is located in Nixon, Nevada at the Tribal Administration Building:

Pyramid Lake Paiute Tribe  
P.O. Box 256  
208 Capital Hill  
Nixon, Nevada 89424  
TEL: (775) 574-1000

Tax Department staff consists of the following positions:

Tax Administrator  
Tax Accounting Specialist  
Tax Office Manager  
Tax Clerk  
Five appointed Tax Commissioners  
One appointed Tax Judge  
One appointed Tax Court Clerk

The Tribal Tax Court Judge is responsible for the adjudication of the Tribal Tax Code violations, and appeals from final decisions of the Tax Commission, and is under the general administrative direction of the Chief Tribal Judge of the Pyramid Lake Tribal Court.

The Tax Administrator assumes primary responsibility for implementation of procedures and regulations governing the Tribal Tax Code; conducts assessment of all property or all other objects subject to taxation; and, implements and controls day to day operations of the Tax Department.

The Tax Specialist, Tax Office Manager, and Tax Clerk are under the direct supervision of the Tax Administrator, and assists the Tax Administrator in the implementation of procedures for collections of various taxes and fees currently being assessed and imposed, of day-to-day operations of the Tax Department.



## **ADMINISTRATIVE CODE**

### **GENERAL PROVISIONS**

Process for payments by mail:

1. Mail payments to:           Pyramid Lake Paiute Tribe  
  Tax Department  
  P.O. Box 256  
  Nixon, NV 89424
2. All payments must be accompanied by the tax return.
3. All partial payments must be approved by the Tax Administrator and accompanied by the tax return. Partial payments are subject to interest and penalties.
4. Make check or money order payable to the Pyramid Lake Tax Commission.
5. Tax Return must be dated and signed by a person who has the authority to execute the Tax Return which includes, but is not limited to, business owner or representative of a Business, President of Corporation, or a delegated representative of Corporation including those agents or representatives authorized under the Tax Code.
6. Cash payments must be made in person to the Tax Administrator or Tax Department staff, and must be accompanied with the tax return. A written receipt will be provided to the taxpayer as "proof of payment" at the time of payment.
7. Any business or individual requesting information or a balance of their account must do so in writing to the Tax Administrator, or in person at the Tax Department.

## CHAPTER 2.21

### POSSESSORY INTEREST TAX

#### 2.21.01 WHEN TO FILE

Taxpayers should file their returns after January 1, but no later than April 15, of each tax year, unless an extension of time is timely requested and granted. Failure to file by April 15 will result in the assessment of penalties and interest.

#### 2.21.02 APPLICATION FOR EXTENSION OF TIME

If you know you cannot file your return by the due date, a request for an extension of time must be filed. Tax staff can provide the instructions to file such a request. The extension gives you an extra month to file and pay the tax, but interest will be charged from the original due date of the return on any unpaid tax.

#### 2.21.03 THE FORMS TO FILE

The Tax Commission is authorized by Tribal laws to collect taxes which are provided for in the Tax Code. To assist in administering those taxes the Tax Department issues return forms. The taxpayer has to file the Possessory Interest Tax Return, Form 101. Form 101, Schedules A and B must be signed and dated and the appropriate schedules attached.

#### 2.21.04 HOW TO COMPLETE FORM 101

1. Line 1: Name, Address, Tax ID and Telephone Number.  
Fill in your name, address, Tax ID, and telephone number.
2. Line 2: Filing Status  
The nature of your business organization must be identified.
3. Line 3: The Nature of Activity  
The nature of your business activity must be identified.
4. Line 4: Land Value  
Attach Schedule A. Instructions for completing Schedule A are explained in Section 2.21.06.
5. Line 5: Net Income  
Attach Schedule B. Instructions for completing Schedule B are explained in Section 2.21.07.
6. Line 6: Capitalization Rate  
Apply the Capitalization of Income Method in determining your tax liability. Use a 13 percent Capitalization Rate (indicated on Line 6). Section 2.21.05 allows you to use a

higher Capitalization Rate if you demonstrate its relevance to your business. Documentation of the higher Capitalization Rate must be approved by the Tax Commission prior to the due date of the tax return.

7. Line 7: Capitalized Value of Net Income  
The Capitalization Value of Net Income is determined by dividing Line 5 (Net Income) by Line 6 (Capitalization Rate).
8. Line 8: Total Assessed Value  
The sum total of Line 4 (Land Value) and Line 7 (Capitalized Value of Net Income).
9. Line 9: Tax Base: Proportion of the Assessed Value  
The Total Assessed Value, subject to the tax rate, is different for different categories of business activity, owing to the nature of the activity. The proportion of the Assessed Value (which we call the Tax Base) is set at 80 percent for tax purposes.
10. Line 10: Tax Rate  
Tax Code Section 2.21.04 has set the Tax Rate at three percent (3%) of the Tax Base (the amount on Line 9 of Form 101). In order to provide stability and reasonableness, the Tax Rate will be kept constant during the present tax cycle. The Tax Commission may increase the said tax rate of inflation after the end of the present tax cycle should the budget require it.
11. Line 11: Taxes Due the Pyramid Lake Paiute Tribe  
This is the amount you owe to the Tribe to be paid no later than April 15 of the tax year, unless an extension is given. Late payment is subject to penalty and interest.
12. Line 12: Tax Credit from Tax Estimates  
If you have made any payments on taxes due this year on the basis of your estimated tax schedule, add them and put the total payments on Line 12.
13. Line 13: Net Tax Due  
If the amount on Line 11 is larger than the amount on Line 12, a tax payment equal to the difference is due.
14. Line 14: Net Refund  
If amount on Line 12 exceeds the amount on Line 11, a tax refund equal to the difference is owed to you.

#### 2.21.05      SCHEDULES A AND B

The Possessory Interest Tax utilizes the Capitalization of Net Income Method to assess taxpayer's liability, and has set the Capitalization Rate at 13 percent (13%), or more if applicable. This method consists of two parts:

1. The actual possessory interest in trust land, within the boundaries of the Pyramid Lake Paiute Tribe by lease, permit, contract, easement, right-of-way, deed, or other agreement, under which a person uses that property for business, profit, or use.
2. Net income to the facilities related to the items in (1). The proportionate net income is calculated in Schedule A and the Net Income to Facility in Schedule B.

The tax is calculated in accordance with the methodology set forth in Section 2.21.04(2) and (3) of the Tax Code. Schedules A and B are provided to assist the taxpayer in the preparation of Form 101.

The Tax Commission utilizes two forms for Schedule A, one for Utilities, one for others holding easements on rights-of-way, and one for persons holding leases. Make sure you have the correct form before proceeding.

#### 2.21.06      HOW TO FILE SCHEDULE A

1. Line 1: Name, Address, Tax ID and Telephone Number  
Fill in name, address and telephone number. The Tax Commission will issue a Tax ID number for future returns.
2. Line 2: Filing Status  
The nature of your business activity must be identified.
3. Line 3: The Nature of Activity  
The nature of your business activity must be identified.
4. Line 4: Total System Miles (For all Utilities/Railroads)
  - a. For Utilities and Railroads, the total miles from the reports filed with the regulatory authorities would be adequate for this purpose.
  - b. For Billboard and Telecommunications or similar Lessees, report total billboards or telecommunication towers the taxpayer operates in the United States pursuant to a lease or other agreement. For other non-exempt Lessees, consult the Tax Department for proper method of reporting.
5. Line 5: Miles Not Included in Federal Reports (For All Utilities/Railroads)  
The total miles for a utility that is not included in its report to the utility authority. For non-utility and railroad rights-of-way, this line does not apply to you. Fill in with a zero.
6. Line 6: Exempt Portion  
Exemptions to this tax are defined under Section 2.21.07 of the Tax Code. If a Taxpayer has both taxable and exempt possessory interests, the Taxpayer shall file a claim for the exemption with the Tax Commission at the time of filing the required tax

return, which shall be accompanied by a map, plat, or diagram clearly indicating the specific property which is exempt. Exemptions states, “(1) Return Exemption. No person shall be required to file a Possessory Interest Tax return for any possessory interest that is exempt under this Chapter, provided that the Tax Commission may require any Person to provide information necessary to establish the claimed tax exemption (2) Claim Requirement. A Taxpayer owing both taxable and exempt possessory interests shall file a claim for any exemption with the Tax Commission at the time of filing the required tax return, which shall be accompanied by a map, plat, or diagram clearly indicating the specific property for which exemption is claimed.”

7. Total System Miles on the Pyramid Lake Paiute Tribe’s Reservation

a. Line 7: (For All Utilities/Railroads)

The total system miles on the Pyramid Lake Paiute Tribe Reservation is contained in the rights-of-way easement grants. It can be found in the approved Bureau of Indian Affairs maps and application.

b. Line 7 (Billboard and Telecommunication Lessees)

Report total billboards and telecommunication towers on the Reservation. For other Lessees, consult the Tax Department for proper method of reporting.

8. Line 8: Total of Lines 4 and 5 (Utilities only)

Total miles of the system in the utility report to its regulatory authority and those miles which are not reported to the authority.

9. Line 9: Easement on the Pyramid Lake Paiute Tribe

The various dimensions of the easement or leasehold, as appropriate, from documents mentioned in Line 7.

10. Line 10: Easement or Lease in Acres

The easement in miles of length and feet of width, can be transformed to acres by dividing the sum total of the width in feet and length in feet by a denominator of 43,560. For instance, a 10-mile long pipeline is equal to 52,800 feet. If the width is 75 feet, then the easement in acreage would be:

$$\frac{52,800 \times 75}{43,560} = 90.91 \text{ acres}$$

Lessees report total acreage of lease(s).

11. Line 11: Line 10 Minus Line 6 in Acres

The exempt section of the possessory income may be subtracted from the easement or lease on the Reservation.

12. Line 12: Land Value at Comparable Price

The rental or use value of land is set according to the Tax Code of the Pyramid Lake Paiute Tribe at \$4,270.00 per acre for the present tax cycle. Multiply Line 11 by Line 12.

13. Line 13: Proportion of Net Income for the Pyramid Lake Paiute Tribe:  
Divide Line 7 by Line 8.

#### 2.21.07      HOW TO FILE SCHEDULE B

1. Line 1: Name, Address, Tax ID and Telephone Number  
Complete name, address and telephone number: The Tax Commission will issue a Tax ID number for future returns.
2. Line 2: Filing Status  
The nature of your business organization must be identified.
3. Line 3: The Nature of Activity  
The nature of your business activity must be identified.
4. Line 4: Gross Operating Income  
The amount on this line is found in the utilities' reports to the regulatory authorities and/or company financial reports. All other taxpayers report gross operating income based on audited financial statements.
5. Line 5: Gross Operating Expenses  
The amount on this line is found in the utilities' report to the regulatory authorities and/or company financial reports. All other taxpayers report gross operating expenses based on audited financial statements.
6. Line 6: Other Expenses  
The amount on this line is found in the utilities' reports to the regulatory authorities and/or company financial reports. Identify other expenses if more than one. Other taxpayers should have all their expenses reported on an audited financial statement.
7. Line 7: Net Income Including Non-Utility Income  
The amount on this line is found in the utilities reports to the regulatory authorities, or in the audited financial statement. Utilities must include all non-utility income on this line.
8. Line 8: Non-Utility Income  
The amount on this line is found in the utilities' reports to the regulatory authorities. This line is for utilities only, other taxpayers report zero.
9. Line 9: Net Income Excluding Non-Utility Income for the Utility System At-large  
Line 7 (Net Income Including Non-Utility Income) minus Line 8 (Non-Utility Income) for utilities.

10. Line 10: Land Value

The value of land for all classes of possessory interest is taken from Schedule A, Line 12.

11. Line 11: Proportionate Net Income

The magnitude of proportion of a utility net income is to be transferred from Line 13 of Schedule A.

12. Line 12: Net Income Excluding Non-Utility Income for the Pyramid Lake Paiute Tribe

Multiply the percentage on Line 11 by the amount on Line 9.

13. Line 13: Recapture Value at 10% of the Land Value

The Tax Commission has taken the average mortgage rate of 10% and will give an interest deduction for the Net Income to Facility. Multiply Line 10 of Schedule B by 10%.

14. Line 14: Net Income to Facility

Line 12 minus Line 13 will determine the Net Income to Facility and this amount should be transferred to Line 5 of Form 101. Negative net income must be reported as zero.

## CHAPTER 2.31

### SALES AND USE TAXES

#### 2.31.01 CAPITAL GOODS PURCHASES: AGGREGATION TO DEFER PAYMENT

1. The periods for which related purchases of capital goods made to expand a business, establish a new business or renovate or replace capital equipment which may be aggregated to defer payment of the tax are:
  - a. Six months, if the purchases have a total sales price of at least \$100,000 but less than \$600,000.
  - b. One year, if the purchases have a total sales price of at least \$600,000.
2. The Tax Department may extend the initial deferral period if the taxpayer requests an extension of time before the expiration of that period. The request must:
  - a. Be in writing.
  - b. Include evidence that the purchases to be deferred are written within the scope of the program approved by the Tax Commission.
3. Payments of deferred taxes must be accompanied by forms provided by the Tax Commission.

#### 2.31.02 CREDIT SALES

1. If tangible personal property is sold on credit, either under a conditional sale or lease contract or otherwise, the whole amount of the contract is taxable unless the retailer keeps adequate and complete records to show separately the sale price of the tangible personal property, and the insurance, interest, finance, carrying and other charges made in the contract. If such records are kept by the retailer, the insurance, interest, finance and carrying charges may be excluded from the computation of the tax.
2. The total amount of the tax on the entire sales price in credit transactions is due on the date of the return to be filed after the close of the reporting period in which the sale was made.
3. No reduction in the amount of tax payable by the retailer is allowable by reason of his or her transfer at a discount of a conditional sale or lease contract or other evidence of indebtedness.

#### 2.31.03 TRADE-IN ALLOWANCES



The amount upon which the tax is computed includes any allowance for property which is traded in. If the Tax Commission finds that an allowance stated in an agreement is less than the fair market value, the allowance actually agreed upon shall be deemed the market value.

2.31.04      LEASE, RENTAL, TRANSACTION IN LIEU OF SALE; LEASE, RENTAL AGREEMENT WITH OPTION TO PURCHASE

1. If tangible personal property is sold, but the transaction is designated as a lease or rental for the purpose of retaining title as security for the payment of the purchase price, or for the purposes of avoiding the full tax, the transaction is a sale and the tax applies to the transaction in the same manner as if it were designated a conditional sale.
2. If the property is substantially consumed during the period of the lease the transaction is a sale to which the tax applies.
3. An agreement entered into with the understanding that the lessee will become the owner of the property upon completion of the prescribed payments constitutes a sale to which the tax applies as indicated in Pyramid Lake Paiute Tax Code.
4. An agreement which provides for the lease or rental of tangible personal property and grants the lessee an option to purchase the property results in a sale when the option is exercised. For example, if an agreement provides for a lease for 1 year to \$50 per month, with an option to buy upon completion of the rental payments of \$600 for an additional amount of \$400, the total sales price is \$1,000 and the tax applies to that amount. If the tax has been paid on the rental receipts of \$600, when the option is exercised the tax is due on the amount of \$400. In the above example no mention is made of certain charges not subject to tax for the sake of simplicity and conciseness.

2.31.05      LEASE, RENTAL OF TANGIBLE PERSONAL PROPERTY

1. A person who purchases tangible personal property outside of the Reservation for lease or rental within the Reservation shall:
  - a. Pay the use tax due on the Reservation based on the cost of the property; or
  - b. Pay the tax measured by his gross receipts from the lease or rental of the property on the Reservation.
2. A person who purchases tangible personal property within the Reservation for lease or rental within the Reservation shall:
  - a. Pay the sales tax on the sales price of the property to him; or
  - b. Give the seller a resale certificate for the property and elect to pay the tax measured by the gross receipts from the lease or rental of the property within the Reservation.

3. If a person who sells and rents or leases tangible personal property within the Reservation gives a resale certificate to the vendor from whom he purchases property, when the property is:
  - a. Sold, the tax applies to the sales price.
  - b. Committed to lease or rental transactions, the tax applies to his lease or rental receipts.
4. If the purchaser:
  - a. Pays the tax to his vendor on the sales price of the property to him, no further tax is due and tax must not be collected from the customer on the lease or rental price.
  - b. Elects to measure the tax by his/her lease or rental receipts, he may seek reimbursement for the tax from his customers measured by the lease or rental price.
5. The tax applies to the sales price of the property within the Reservation following its use in rental or lease service, without any deduction or credit for the tax paid on the original cost of the property or the taxes paid on lease or rental receipts.

2.31.06        MERCHANDISE RETURNED BY CUSTOMERS

1. For the purpose of the deduction from gross receipts of the sales price of merchandise, which was returned by customers, "full sale price" includes the portion of the price, which was designated as sales tax.
2. When a charge for restocking or handling is deducted from the refund of the sales price to the customer for merchandise which was returned, the full sale price shall be deemed to have been refunded, or credited to the customer if the charge represents, as closely as can reasonably be determined, the actual expense to the retailer of retaking the property and replacing it on the shelves or other place from which it was removed for delivery to customer.
3. The charge may not include compensation for increased overhead costs because of the return, for refinishing or restoring the property to saleable condition where the necessity therefore was occasioned by customer usage, or for any expense which was incurred before the sale, such as the cost of transferring the title or possession under a conditional sale contract.

2.31.07        CHARGES FOR FREIGHT, TRANSPORTATION OR DELIVERY

1. Except as otherwise provided in subsection 3, any charge for freight, transportation or delivery included in the sale of tangible personal property is subject to sales and use taxes.

2. Any charge for freight, transportation or delivery that appears on the invoice of the seller is part of the selling price even if stated separately and is not deductible from the price of the property as shown on the invoice.
3. A charge for freight, transportation or delivery is not taxable if:
  - a. It is invoiced to the purchaser by the freight carrier; and
  - b. Title to the property passes before shipment.
4. A charge for freight, transportation or delivery that is not connected with the sale of tangible personal property is a charge for a service and is not subject to sales and use taxes.

2.31.08      AUCTIONS WHEN OWNER BIDS IN HIS PROPERTY

Sales tax does not apply when an owner of property delivers it to an auctioneer for auction and bids in his own property at the auction.

2.31.09      FORECLOSURE SALES

1. The tax does not apply to sales of tangible personal property at public auction if:
  - a. The sale is made pursuant to a court decree of foreclosure by an officer appointed by the court for that purpose; or
  - b. The property is bid in by the mortgagee.
2. The tax applies to other foreclosure sales and to sales by a person who has a bid in the property to the same extent as to other sales.

2.31.10      ADVERTISING AGENCIES, ARTISTS, AND DESIGNERS

1. As used in this section, an "advertising agency is a person who is primarily in the business of furnishing advertising and promotional services to clients.
2. An advertising agency is the consumer of all the tangible personal property used in the normal course of the business, such as ink, rubber cement, and other items used for the purposes of the agency.
3. The development of primary advertising materials on behalf of a client for delivery to the print or broadcast media, a printer or a supplier is principally a service and the charges for such materials are not subject to the sales tax. As used in this subsection, the phrase "development of primary advertising materials" includes all activities involved in the conceptualization, production, and refinement of the advertisement or public relations materials before its subsequent reproduction by a printer or supplier.

The gross receipts from primary advertising materials produced before reproduction are not subject to the sales tax regardless of their form because the development of these materials for the specific benefit of a particular client will be considered a service. These services may include, without limitation, rough or comprehensive visualizations, consultation, market analysis, writing of scripts or copy, creation of preliminary and final artwork or photographs, typesetting, typography, or placing or arranging for the placing of advertisements in newspapers, magazines, publications, television, radio or other advertising media. The sales tax does not apply to a charge billed as an agency fee, service charge or commission if it represents a charge or part of a charge for a service that is not subject to the sales tax.

4. The sales tax applies to the gross receipts from the creation of reproductions of the primary advertising materials, whether the reproduction is performed by a printer or supplier or is performed directly by the advertising agency.
  - a. To clients for items of tangible personal property, such as drawings, designs, paintings, photographs, lettering, assemblies, printer matter, and similar items.
  - b. For typography and reproduction proofs when used as part of a paste-up, mechanical or assembly, whether they are used for reproduction or display purposes.
5. An advertising agency may act as a purchasing agent for a customer for the acquisition of reproduction of primary advertising materials from a printer or supplier and pay the tax at the time of purchase from the printer or supplier if it:
  - a. Obtains prior written authorization from the customer to purchase the reproductions on his or her behalf;
  - b. Discloses to the printer or supplier the name of the customer for whom the reproductions are being purchase;
  - c. Charges the customer for the reproductions an amount not to exceed the amount paid by the advertising agency, including the tax;
  - d. Lists separately the charges to the customer set forth in paragraph (c) on the statement to the customer; and
  - e. Does not use the reproductions for itself or any other customer.
6. The sales tax does not apply to any charges for:
  - a. Supervision, consultation, research, postage, express, telephone and telegraph messages, transportation and travel expenses, or talent fees, if the charge is stated separately on the invoice or is part of a charge for other services;

- b. Retouching to prepare artwork or photograph for reproduction.

2.31.11      BARBERS, BEAUTY SHOP OPERATORS, LAUNDERERS AND CLEANERS

1. Barbers, beauty shop operators, bootblacks, launderers and cleaners are the consumers of the supplies and other property used in performing their services and the tax applies to the sales price of their purchases of such property.
2. These persons are retailers of any supplies or other tangible personal property which they sell to their customers and the tax applies to the sales price of the property sold.

2.31.12      BEER, WINE, AND LIQUOR DEALERS

The tax applies in the retail sale of beer, wine and liquor to the entire amount charged for the product, including the amount of all other state and federal taxes imposed on the product. "All On Sale Liquor" sold to tribal members are subject to the sales tax.

2.31.13      TRIBAL MEMBER LIQUOR SALES

The sales tax applies to all "On Sale Liquor" sales sold to Pyramid Lake tribal members for immediate consumption. The sales tax does not apply to "Off Sale Liquor" sales not intended for immediate consumption.

2.31.14      PAWNBROKERS AND CONSIGNEES

1. Pawnbrokers having possession of tangible personal property for the purpose of sale are retailers with respect to sales of the property and the tax applies to the gross receipts from such sales.
2. A consignee having possession of tangible personal property owned by another person, or the authority to sell such property or to cause the transfer of title to such property, is a retailer with respect to sales of the property and the tax applies to the gross receipts from such sales.

2.31.15      CONCESSIONAIRES; ORGANIZERS, OR PROMOTERS OF INFREQUENT SALES

1. A retailer is liable for the payment of the tax measured by the receipts from all retail sales made by the operation of a concession in his or her place of business unless the concessionaire has a valid Physical Retailer permit from the Tax Department.
2. If the retailer fails to make a return and remit the amount of tax due for the operation of the concession, the concessionaire must secure a permit and file a return together with the remittance of the amount of tax which is due.

3. Organizers or promoters of concession sales on an irregular basis, such as conventions, flea markets and sales of a seasonal character, who are registered sellers and are therefore liable for the tax on all concession sales, may provide simplified sales and use tax returns to their concessionaires, collect the taxes due at the termination of the sale and remit the total tax due on a single return to the Tax Department. Any person desiring to use the simplified sales and use tax returns for concessionaires must secure the approval of the Tax Department at least 10 days in advance of the sale. Any retailer, organizer or promoter desiring the assistance of the Tax Department to determine questions of possible tax liability must contact the Tax Department at least 30 days before the date of the planned sale.

2.31.16            CONSTRUCTION CONTRACTORS: DEFINITIONS

For the purpose of PLAC 2.31.17 to 2.31.18, inclusive:

1. "Construction contract for improvement to real property" means a contract for erecting, constructing or affixing a structure or other improvement on or to real property, or the remodeling, altering or adding to or repairing of an improvement to real property. The contract may be formal or informal. The term includes all types of contracts, including, without limitation:
  - a. Advertised contracts;
  - b. Negotiated contracts;
  - c. Fixed price contracts;
  - d. Cost reimbursable contracts;
  - e. Lump-sum contracts; and
  - f. Time and material contracts.
2. "Construction contractor" means any person who acts solely in his or her professional capacity or through others to construct, alter, repair, add to, remodel, or otherwise improve any real property. The term:
  - a. Includes a subcontractor, an interior decorator and a specialty contractor.
  - b. Does not include:
    - i. An employee who receives wages as his or her sole compensation;
    - ii. A licensed architect;
    - iii. A registered professional engineer; or
    - iv. A manufacturer of: modular homes, sectionalized housing, prefabricated homes or any other factory-built home or unit, who joins, installs or

affixes the prefabricated unit to the real property unless the manufacturer has entered into a construction contract for improvement to real property with a governmental entity, in which case the manufacturer will be considered a construction contractor.

2.31.17      CONSTRUCTION CONTRACTORS, APPLICATION OF TAX TO TANGIBLE PERSONAL PROPERTY PURCHASED FOR PERFORMANCE OF CONTRACT

1. A construction contractor is the consumer of all the tangible personal property purchased for use in improving real property pursuant to a construction contract for improvement to real property and the tax applies to the total sales price of the property to the contractor.
2. If any such purchase is made and the sales tax is not paid because the vendor did not have a valid Nevada seller's permit, or because a resale certificate was properly given or for any other reason, the use tax applies based upon the sales price of the property to the contractor.
3. Any tangible personal property purchased by a construction contractor for use in the performance of a construction contract for improvement to real property shall be deemed to have been purchased for use in improving real property.
4. If a construction contract for improvement to real property requires the construction contractor to perform repairs or improvements on real property, the tax applies pursuant to the provisions of this section.

2.31.18      CONSTRUCTION CONTRACTORS TAX EXEMPTION LETTER

1. Construction contractors who are registered with the Tax Department may give their suppliers a tax exemption letter and report the use tax to the Tax Department in the tax period in which that tangible personal property is committed to the performance of a construction contract.
2. If the construction contractor, who is registered with the Tax Department, purchases tangible personal property from a vendor who does not have a valid Nevada sellers' permit, the liability for the use tax arises when the property is committed to a use other than retention for sale in the regular course of business.
3. A construction contractor may not purchase construction materials, supplies, or tools which are ordinarily used by a construction contractor in the performance of a construction contract under a resale certificate unless he is actually engaged in the business of selling the property without previously using it.
4. The tax does not apply to construction contractors who issue valid resale certificates to vendors for tangible personal property which is purchased for subsequent incorporation

into real property outside the Reservation in the performance of a construction contract to improve the real property outside the Reservation if the tangible personal property which is purchased for use in the performance of a construction contract within the Reservation.

5. If a construction contractor, who also holds a retailer permit, sells tangible personal property on which the sales or use tax has been paid on the purchase price but which has not been used, he may obtain a credit for the tax which was paid by taking a deduction pursuant to Pyramid Lake Tax Code 2.05.09.
6. Subcontractors must be registered with the Tax Department to receive a tax exemption letter. A construction contractor is responsible to notify their subcontractors about registering with the Tax Department.

#### 2.31.19 DESIGNERS

1. As used in this section, the term “designer” means a graphic designer or a commercial artist and designer who is primarily engaged in, and derives income from, providing stylized visual communication through the professional application of creative services which may be expressed in the form of graphic representations used for promotional, advertising or publication purposes, including, without limitation, commercial art and design for logos, stationery, advertisements, brochures, catalogs, newsletters, and magazines.
2. Purchases of tangible personal property by designers are subject to the sales tax if such property is acquired for use in the operation of the business. As an example of the application of this subsection, if a designer purchases office supplies, art supplies, computer equipment, computer software or other devices for use in the normal course of business and not to be transferred in the performance of a service, the designer is the consumer of the tangible personal property and must therefore pay the sales tax at the time of purchase.
3. In cases where a contract, commonly referred to in the industry as an “assignment” for graphic services is executed which requires the development of concepts and ideas, this constitutes the sale of professional services and sales tax does not apply. Drawings, visualizations and concept roughs which are prepared by the designer to convey ideas and concepts to clients will be treated as having been created incidentally in the performance of a service. As an example of the application of this section, if a company places an order for a designer to provide a corporate logo for use in promotional activities, the gross receipts from the consultation, concept and development, preliminary designs and first rendering of the final design are not subject to sales tax because the charge is for the services provided in producing and developing the design and the transfer of any tangible personal property is incidental to the performance of the services provided in the development of the design.



4. If a designer, in addition to providing creative services as described in subsection 3, also provides reproduction services, the designer is a retailer of the copies that are sold and the gross receipts derived there from are subject to the sales tax, except that, if a part of the charge for the copies is for services associated with the creation of the first rendering and that portion of the charge is separately stated on the invoice, the portion of the charge that is attributable to services is not subject to the sales tax. As an example of the application of this subsection, if a company commissions the design of a corporate logo for promotional and advertising activities, the cost of developing the first rendering of the final design is not subject to the sales tax because the charge is for the services provided in producing and developing the design and the transfer of any tangible personal property is incidental to the performance of the service of developing the design. In this example, if the company requires 10 additional copies of the logo, the gross receipts from the sale of those copies are subject to the sales tax.
5. The sales tax does not apply to any charges for supervision, consultation, research, postage, express, telephone and telegraph messages, transportation and travel expenses, or talent fees, if the charge is stated separately on the invoice or is part of the charge for other services.

#### 2.31.20      DESKTOP PUBLISHERS

1. As used in this section the term “desktop publisher” means a person who is in the business of producing original written or graphic material, or both, or refining, arranging, designing or otherwise modifying, editing, writing, rewriting or redesigning material, or any combination thereof.
2. Purchases of tangible personal property by a desktop publisher are subject to the sales tax if the property is acquired for use in the operation of the business. As an example of the application of this section, the purchase of a laser printer by a desktop publisher for use in that business is subject to the sales tax.
3. When a desktop publisher engages in the services described in subsection 1, the first rendering of the final design delivered to the client is not subject to the sales tax because it is the result of creative services. As an example of the application of this subsection, if a client furnishes information to the desktop publisher on computer media and the desktop publisher arranges and designs the material, provides a hard copy to the client for proofing, and makes any necessary corrections after which a final rendering is returned to the client on the original media, the transaction is not subject to the sales tax.
4. If a desktop publisher, in addition to providing the creative services described in subsection 1, also provides reproduction services, the desktop publisher is a retailer of the copies that are sold and the gross receipts derived therefrom are subject to the tax, except that, if a part of the charge for the copies is for services associated with the creation of the first rendering and that portion of the charge is separately stated on the invoice, the portion of the charge that is attributable to services is not subject to the

sales tax. As an example of the application of this subsection, if a desktop publisher provides a client with a presentation package for sales meeting and also offers for sale copies of the package, the cost of the presentation package is not subject to the sales tax because the charge is for the services provided in producing and creating the idea but the charge for providing the copies is subject to the sales tax.

5. The sales tax does not apply to any charges for supervision, consultation, research, postage, express, telephone and telegraph messages, transportation and travel expenses, or talent fees, if the charge is stated separately on the invoice or is part of a charge for other services.

#### 2.31.21 FLORISTS

1. The tax applies to the entire amount charged by a florist who receives an order from a customer for the delivery of flowers or other tangible personal property, including any charges for the delivery, except charges for transportation, shipping or postage which are stated separately on the applicable invoice or other billing document. The tax applies to the florist whether or not:
  - a. The florist business instructs another person to make the delivery;
  - b. The order is to be delivered in Nevada.
2. The tax does not apply to:
  - a. The amount received by a florist on the Reservation who makes a delivery pursuant to instructions received from another florist, whether or not the other florist is located on the Reservation.

#### 2.31.22 GARMENT, REPAIRERS ALTERERS, REMODELERS

1. Repairers, alterers, and remodelers of garments are consumers of the thread, buttons, linings and other similar items used in repairing, altering, and remodeling garments. Except as provided in subsection 2, the tax applies to the sales price of their purchases of those items.
2. A repairer, alterer, or remodeler who makes a separately stated charge for an item listed in subsection 1 is a seller making a retail sale of the item.
3. If the repairer, alterer, or remodeler furnishes additional fur or material in connection with his services and the fair retail price of the fur or material is not segregated on the invoice to the customer, the tax applies to the entire amount charged.

#### 2.31.23 HOSPITALS

1. A hospital which is maintained and operated by an organization which is exempt pursuant to NRS 372.325 is:
  - a. Not required to collect the sales tax on:
    - i. Tangible personal property furnished to inpatients in connection with the rendition of hospital services.
    - ii. Meals served to staff members and personnel.
  - b. The retailer of tangible personal property sold:
    - i. To outpatients.
    - ii. Through any pharmacy which it operates for any purpose other than the rendition of hospital services.
2. All other hospitals, including nonprofit and private hospitals, shall pay either the sales tax on purchases of tangible personal property of the use tax on storing, using, or consumer tangible personal property which they furnish to inpatients in connection with the rendition of hospital services. The tax will be measured:
  - a. By the charge for the property if it is separately stated; or
  - b. If the property and the hospital or medical services are not separately stated, by the cost to the hospital at the time of the acquisition of the property which was used for or transferred to the inpatient.
3. Cafes, restaurants, gift shops, and similar facilities which are operated by any type of hospital, are the retailers' tangible personal property which they sell. The hospital, concessionaire or other owner of the facility must report the sales, collect the sales tax from the patrons and pay the sales tax to the Tax Commission. This type of transaction is not considered to be within the scope of the primary function of a charitable hospital.

2.31.24      INTERIOR DECORATORS

1. Except as otherwise provided in subsection 2, any money collected by an interior decorator for professional services is exempt from sales tax.
2. An interior decorator who renders professional services and sells tangible personal property such as wall coverings, window treatments or furniture to a person shall list the price for the services and property separately on the invoice. If the amount charged for professional services is not listed separately on the invoice, the decorator shall remit sales tax on the total amount set forth on the invoice.
3. An interior decorator who renders professional services shall maintain records which support the charges for the services.

4. As used in this section, “professional services”
  - a. Includes consultation, layout, and the coordinator of furniture and fabrics, the selection or color schemes and paint and the supervision of painting.
  - b. Does not include overhead profit.

2.31.25 MOTOR VEHICLES ORIGINALLY BOUGHT FOR RESALE; USE OR LOAN OF MOTOR VEHICLE; SALE OF MOTOR VEHICLE

1. Except as otherwise provided in subsections 2 and 3, if a vehicle dealer who purchases and gives a resale certificate for a motor vehicle, uses or loans the motor vehicle to any person, the motor vehicle is taxable to the dealer and the measure of the tax is the purchase price of the motor vehicle by the dealer.
2. A use or loan described in subsection 1 is not taxable to the dealer if each use or loan of the motor vehicle by the dealer is:
  - a. Exempt from taxation pursuant to NRS 372.327; or
  - b. Made for the purpose of retention, demonstration, or display of the motor vehicle while holding it for sale in the regular course of business.
3. The loan of a motor vehicle by a vehicle dealer will be presumed to be made for the purpose of retention, demonstration or display of the motor vehicle while holding it for sale in the regular course of business if:
  - a. The motor vehicle is being operated with a special license plate issued by the Department of Motor Vehicles in accordance with NRS 482.320 and 482.330, inclusive;
  - b. The cumulative period of all the loans of the motor vehicle by the dealer is less than 180 days; and
  - c. The vehicle dealer maintains, and provide to the Tax Department upon request, a written record stating:
    - i. The vehicle identification number and stock number of the motor vehicle;
    - ii. The number of the special license plate; and
    - iii. Each date on which the special license plate was displayed on the motor vehicle.
4. If the motor vehicle is sold following its taxable use or loan pursuant to this section to a purchaser who receives delivery of the motor vehicle in this State, the sales tax applies to the sales price of the motor vehicle to the purchase without any deduction or credit for the use tax paid by the dealer pursuant to this section.

5. As used in this section:

- a. "Dealer" or "vehicle dealer" has the meaning ascribed to it in NRS 482.020.
- b. "Loan" means the gratuitous transfer of possession or control of a motor vehicle for a fixed or indeterminate term.
- c. "Motor vehicle" has the meaning ascribed to it in NRS 482.075.

2.31.26      OUTSIDE OPTOMETRISTS AND DISPENSING OPTICIANS

1. Oculists and optometrists are the consumers of ophthalmic materials including eyeglasses, frames and lenses used or furnished in the performance of their professional services in the diagnosis, treatment or correction of conditions of the human eye. The tax applies to the sale of the material to oculists and optometrists.
2. The tax applies to the entire charge made by a dispensing optician for eyeglasses and related products furnished in filling a prescription.

2.31.27      PHOTOGRAPHERS

1. As used in this section, "photographer" means a person who is primarily engaged in the creation of visual images that are formed by the chemical action of light or other radiation on sensitive film for which he or she receives consideration.
2. The services performed by a photographer in the creation of a visual image represent the rendering of professional services and are exempt from taxation. Such professional services include, with limitation:
  - a. Consultation, visualization, set-up, exposure, and processing;
  - b. The initial rendering of a visual image and the original proofs that are furnished by a photographer to a customer; and
  - c. The creation of a visual image by combining two or more existing photographs or visual images.
3. A photographer who sells tangible personal property to a customer, such as contact sheets, duplicates or enlargements, is considered a retailer with respect to such sales and the gross receipts from those sales are subject to the sales tax.
4. A photographer is the consumer of the tangible personal property that is used in rendering his or her professional services and shall pay the tax at the time he or she purchases such property. Such property includes, without limitation, photographic equipment and accessories, film and chemicals.

2.31.28      PREMIUMS, GIFTS, COMPLIMENTARY FOOD AND BEVERAGES

1. Tangible personal property which is delivered as a premium, together with other merchandise which is sold, if the obtaining of the premium by the purchaser is certain and not dependent upon chance or skill, shall be deemed a sale of both the premium and the merchandise. The tax applies to the gross receipts received from the purchaser for the goods and the premium except when the premium is delivered along with a tax-exempt item. In such as the tax applies to the gross receipts from the sale of the premium, which shall be deemed to be the cost of the premium to the retailer, in the absence of any evidence that the retailer received a larger sum for the premium.
2. The tax applies to tangible personal property which is purchased for resale and given away in the form of gifts, as a use of the property other than retention, demonstration or display, while holding it for sale in the regular course of business.
3. The tax applies to tangible personal property purchases for resale and given away in the form of complimentary foods and beverages as a use of the property other than retention, demonstration or display while holding it for sale in the regular course of business. The taxable cost of the complimentary food and beverage includes the cost of the food or beverage and other ingredients, including, but not limited to, napkins, straws, and condiments.

2.31.29      PRODUCERS

1. As used in this section, the term “producer” means a film or video producer, recording studio, postproduction edit facility, or audio record and mix facility, or any combination thereof.
2. The gross receipts of a producer from engaging in the business of applying creative services to the development and communication of an idea, concept, opinion, perspective, point of view, image, sound or message, are not subject to the sales tax.
3. Purchases of tangible personal property by a producer are subject to the sales tax if such property is acquired for use in the operation of the business and will not be resold in the normal course of the business. As an example of the application of this section, if a producer purchases capital equipment, materials, supplies or other devices for use in the business, the purchase is subject to the sales tax.
4. When a producer engages in rendering creative services by creating production materials or rendering creative production services, including the development of advertising materials on behalf of a client for delivery to the print or broadcast media, the gross receipts from such creative services are not subject to the sales tax if the charges for those services are separately stated on the invoice. The producer is the consumer, not the retailer, of any tangible personal property which is used incidentally in rendering the creative service. The sales tax applies to the purchase of tangible personal property by a producer. As an example of the application of this subsection,

if a postproduction facility creates an information video about a hotel and as a part of the creative process, the postproduction facility purchases various props, graphics, and stock footage, performs writing and research, and adds music and sound effects to communicate the idea, concept, opinion, perspective, point of view, image, sound or message, and then the postproduction facility prepares a film or tape of the finished concept, which the producer provides to the hotel, the sale of the first rendering videotape is not subject to the sales tax because the substance of the transaction is the expression of the idea, concept, opinion, perspective, point of view, image, sound or message, and the rendering of creative services. In this example, the postproduction facility must pay the sales tax at the time of purchase on all materials for use in the production of the videotape.

5. The gross receipts from any duplication, copying, or regeneration of the original expression of the idea, concept, opinion, perspective, point of view, image, sound or message beyond the first rendering are subject to the sales tax. As an example of the application of this subsection, if a postproduction facility creates an information video about a casino, the first rendering is not subject to the sales tax because the substance of the transaction was the performance of creative services but if the casino wishes to purchase 400 copies of the videotape, the gross receipts from the sale of each duplicate, copy or regeneration after the first rendering are subject to the sales tax.
6. The sales tax does not apply to any charges for supervision consultation, research, postage, express, telephone and telegraph messages, transportation and travel expenses, or talent fees, if the charge is stated separately on the invoice or is part of a charge for other services.

#### 2.31.30 PROPERTY USED IN MANUFACTURING

1. The tax applies to the sale of tangible personal property to persons who purchase it for the purpose of use in manufacturing, producing or processing tangible personal property and not for the purpose of physically incorporating it into the manufactured article to be sold. An example is a chemical used as a catalyst or otherwise to produce a chemical or physical reaction such as the production of heat or the removal of impurities.
2. The tax does not apply to sales of tangible personal property to persons who purchase it for the purpose of incorporating it into the manufactured article to be sold. An example is raw material which becomes part of the manufactured article.
3. When a manufacturer purchases the materials to fabricate or purchases complete dies, patterns, jogs, tooling, photo engravings or other manufacturing aids for the account of a customer who acquires title upon delivery, or upon the completion of the fabrication, the manufacturer will be regarded as having purchased the property either as an agency of or for resale to the customer. An example is when, pursuant to the purchase order of a customer, a manufacturer obtains a particular pattern, die or tool which is required to manufacture the goods desired by the customer and identifies the special tool separately

from the billing for the goods and either delivers it to the customer or holds it as bailee for the customer, it will be presumed that the manufacturer acquired the property as an agent of the customer or for immediate resale to him.

4. The tax applies either to the sale to the manufacturer as an agent of his customer or to the sale by the manufacturer to the customer.
5. In determining whether the manufacturer purchases the property as an agent of or for resale to his customer, the terms of the contract with the customer, the custom of usage of the trade and any other pertinent factors will be reconsidered.

2.31.31        PRODUCING, FABRICATING AND PROCESSING DEFINED

1. Includes any operation which results in the creation or production of tangible personal property or which is a step in a process or series of operations resulting in the creation or production of tangible personal property.
2. Do not include any operation which constitutes merely the repair or reconditioning of tangible personal property to refit it for the use for which it was originally produced.
3. Charges for tangible personal property and the labor required for installation or application must be stated separately on the invoice. The tax is only applicable in the portion of the invoice that represents tangible personal property.

2.31.32        REPAIRING AND RECONDITIONING: GENERALLY

1. Repairmen are retailers of parts and materials furnished in connection with repair work in which the value of the parts and materials is substantial in relation to the total charge. Those repairmen who segregate on invoices and in their records, the fair retail selling price of the parts and materials from the charges for labor, installation and other service charges must collect the tax on the retail selling price of the parts and materials. If the labor and other service charges are not separately stated, the tax applies to the entire charge made to the customer.
2. The repairmen are consumers of parts and materials furnished in connection with repair work in which the value of the parts and materials is insubstantial in relation to the total charge if no separate charge is made for the parts and materials. To be considered a consumer of the parts and materials used in connection with the repair services rendered, the repairman must pay the tax on the purchase and must not give a resale certificate to his suppliers. Even though the value of the parts and materials is insubstantial in relation to the total charge, repairmen will be considered retailers, and not consumers, if a separate price is stated for the parts and materials.
3. If the method of repairing or reconditioning certain tangible personal property involves comingling property delivered to a repairman or reconditioner with similar property so that the customer received repaired or reconditioned property which may not be the



identical property delivered to the repairman or reconditioner but which is exactly the same kind of property or derived from exactly the same kind of property as that so delivered, the tax applies to the amount charged by the repairman or reconditioner for the repaired or reconditioned property.

2.31.33      REPAIRING AND RECONDITIONING: EXAMPLES OF PARTS AND MATERIALS WHICH ARE SUBSTANTIAL, INSUBSTANTIAL IN VALUE IN RELATION TO TOTAL CHARGE

1. Repairs to motor vehicles, airplanes, machinery, appliances, farm implements, boats, radios and television sets and the repair of furniture, involving expensive cushion filling, brocades or other materials for coverings, are jobs in which the parts and materials are substantial in value in relation to the total charge and must be separately stated and taxed.
2. Repairs to tires, tubes, clothing, watches, jewelry and shoes and the repair of a table by filling a dent with wood putty or filler, or sectioning of the wood with similar wood, staining and varnishing, are repair jobs in which the parts and materials are substantial in value in relation to the total charge and the tax must be paid on the purchase of the parts and materials by the repairman.

2.31.34      REPAIRING AND RECONDITIONING: SIGNS

1. Except as provided in this subsection, if labor is the greater part of the charge for the repair of a sign, the repairman may elect to pay the tax on the materials used by him rather than charge sales tax to the customer on the selling price of the materials. If materials are billed separately the sales tax applies to the selling price of the materials.
2. If materials constitute the greater part of the repair charge, the materials must be billed separately and the sales tax applies to the selling price of the materials.

2.31.35      REPLACEMENT PARTS and MATERIALS

1. The sale of tangible personal property by a retailer includes the furnishing, of replacement parts or materials to repair or replace the tangible personal property pursuant to provisions of a warranty or guaranty included in the contract of sale. Sales and use taxes do not apply to the purchase and use of replacement parts or materials by the retailer if the purchase and use of those parts or materials was made for the repair or replacement of tangible personal property pursuant to provisions of the warranty or guaranty.
2. If a lessor leases or rents tangible personal property to a:
  - a. Retailer who will furnish the tangible personal property to a customer; or

- b. Customer of a retailer pursuant to the provisions of a warranty or guaranty included in a contract of sale, the lessor must not include the gross receipts from that lease or rental of the tangible personal property in the gross receipts that are subject to the use tax. The lessor shall maintain documentation that indicates that the tangible personal property was leased or rented to a retailer, or the customer of a retailer, pursuant to the provisions of a warranty or guaranty included in a contract of sale.

2.31.36      SIGNS, SHOW CARDS AND POSTERS

1. The tax applies to the total charges for painting signs, show cards and posters, whether or not the materials are furnished by the painter or the customer, and whether or not the charge for labor is separately stated. The labor charges are fabrication labor charges and are subject to the tax.
2. The tax does not apply to charges for painting or lettering on real property. The painter or letterer is the consumer of the materials used in the work and the tax applies to him on the sales price of those materials.

2.31.37      VENDING MACHINES, OPERATOR TO OBTAIN PERMIT, REPORT AND PAY TAX; STICKERS REQUIRED

1. Each person who operates vending machines which dispense tangible personal property of a kind the gross receipts from the retail sale of which are subject to tax shall obtain a permit to engage in the business of selling tangible personal property and shall report and pay to the Tax Commission upon the gross receipts from the sales made through the machines.
2. One permit is sufficient for all the machines of one operator.
3. A sticker showing the name of the vendor and Pyramid Lake Sales Tax permit number must be affixed in a conspicuous place upon each vending machine.

2.31.38      VENDING MACHINES: SALES PRICE, COMPUTATION OF TAX

Each operator of vending machines shall establish the sales price of the items in the machines with the Tax Commission and if the Commission is satisfied that the sales price does not include the tax imposed, he may compute his tax on the basis of that sales price. If permission is granted to compute the tax on this basis, he shall post a notice of each vending machine notifying the public of this fact. The notice must be in substantially the following form: "The sales price of any item sold through this machine includes applicable Tribal sales tax."

2.31.39      PRODUCERS OF X-RAY FILM FOR DIAGNOSTIC USE

Producers of x-ray film for diagnostic use are the consumers of the materials and supplies used in the production of the film. The tax applies to the sale of the materials and supplies to the laboratory which produces the film whether it is operated by a physician, surgeon, dentist or other person.

## EXEMPTIONS

### 2.31.40 SEEDS AND PLANTS

1. The tax does not apply to sales of seeds, the products of which will be used as feed for any form of animal life of a kind the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of the purchaser's business.
2. The tax applies to sales of perennial plants, such as fruit trees and berry vines, whether or not the products will be sold or used as food for human consumption, unless the plants themselves, as distinguished from their products, are purchased for resale.

### 2.31.41 FOOD: PREPARED FOOD INTENDED FOR IMMEDIATE CONSUMPTION INTERPRETED

1. As used in NRS 372.284, the Commission will interpret the term "prepared food intended for immediate consumption" to:
  - a. Mean prepared food which is intended for immediate consumption.
  - b. Exclude if sold without eating utensils provided by the seller;
    - i. Two or more food ingredients mixed or combined by the seller for sale as a single item and sold by a seller who North America Industry Classification System (NAICS) primary classification is within Subsector 311, Food Manufacturing; in an unheated state by weight or volume as a single item.
  - c. Bakery items, including bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, Danish pastries, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas.
  - d. Food ordinarily requiring cooking, as opposed to heating, by the consumer before consumption.
2. For the purposes of this section "NAICS classification" means classification under the North American Industry Classification, 2007 Edition, which is hereby adopted by reference.

### 2.31.42 FOOD: RECORDS MAINTAINED BY RETAILERS

Retailers shall maintain records which separately indicate the amount of sales of items exempt from and subject to the tax.

### 2.31.43 NEWSPAPERS: SALES OF PROPERTY FOR RESALE; EXEMPT TRANSACTIONS

A sale to a publisher of tangible personal property which becomes part of a newspaper may be deducted in computing the measure of tax either:

1. As a sale for resale if the newspaper is to be resold; or
2. As an exempt transaction if the newspaper is to be distributed by the publisher without charge.

2.31.44      NEWSPAPERS: PAPER AND INK; PHOTOGRAPHS, TYPE METALS

1. Paper or newsprint and printer's ink are exemptions from the tax as ingredients or component parts of the newspapers.
2. Photographs which are reproduced in exempt newspapers are not ingredients or component parts of the newspapers.
3. The tax applies to sales of type metals to publishers.

2.31.45      NEWSPAPERS: ADVERTISING BOOKS, MATS, AND MAT ACCESSORIES

1. Advertising mat service companies are the consumers of the mats and books which they supply to publishers. The tax applies to the sale to the companies of the mats or books, or if the companies prepare the mats or books, to the sale of the materials which become part of the mats or books.
2. Columnists and syndicator of columns, comic strips and photographs are the consumers of the mats which they supply to publishers. The tax applies to the sale of the mats to the columnist or syndicate.
3. Advertisers are the consumer of the mats which they furnish to newspapers for advertising purposes. The tax applies to the sale of the mats to the advertisers. If the advertiser acts through an advertising agency which acquires the mats for his account, the tax applies to the sale of the mats to the agency. If the advertising agency acts as the principal in obtaining and furnishing mats to advertisers, the sale to the agency is exempt as a sale for resale, and the sale by the agency is taxable.
4. A person who obtains mats for the purpose of providing newspapers with a ready means of preparing a cut of his photograph is the consumer of those mats, and tax applies to the sale of the mats to him.
5. When a newspaper publisher purchases blank mat stock which he makes into mats from engraving or type for use in the newspaper, he is the consumer of the stock and the tax applies to the sale of the stock to him. The tax also applies to sales of raw materials to a publisher or other plastic mat machine to produce the mats which he consumes.

6. A person who makes mats, either by the mat stock process or similar type process, and sells them to others, without also providing and advertising, news or other services, must pay the tax on the selling price of the mats to the consumers.
7. Sales to publishers of accessories or equipment necessary to the making of mats, such as chasers, holders, at backing and casting material for curved plates, are sales to consumers and the tax must be paid to the Tax Commission on the selling price of the accessories and equipment.
8. Persons who sell mats to consumers are required to pay to the Tax Commission the tax on the total selling price of the mats, including the charges for typography, cuts and other manufacturing aids necessary to produce and fabricate the mats, even though the aids do not become a component part of the mats.

2.31.46      SALES TO UNITED STATES: UNINCORPORATED INSTRUMENTALITIES;  
INCORPORATED INSTRUMENTALITIES

1. The tax does not apply to sales to:
  - a. The Departments of the U.S., such as the Department of Defense, and to the various unincorporated independent offices, agencies and establishments of the governments.
  - b. Corporations which are wholly owned either by the U.S. or by other corporations which are wholly owned by the U.S.
  - c. The tax applies to sales to such corporations as national banks, joint stock land banks, federal reserve banks, federal savings and loan associations and federal land banks, which are not wholly owned by the U.S. or which are not wholly owned by other corporations wholly owned by the U.S.

2.31.47      RELIGIOUS, EDUCATIONAL, AND CHARITABLE ORGANIZATIONS;  
CERTIFICATES OF EXEMPTION

1. A charitable or religious organization which desires to be exempt from the tax must file an application on a form prescribed by the Tax Department.
2. If the Tax Department so request, the organization must submit, with the application, copies of:
  - a. Its by-laws.
  - b. Its articles of incorporation.
  - c. Its financial information which provides verifiable sources of income and expenditures, which may include, without limitation, financial statements and independent audit reports.

- d. Certificates of exemption issued to it by a governmental agency;
  - e. If the application is for a charitable organization, an outline of its charitable activities, fund raisers and goals, and a copy of its business or strategic plan must be attached; and
  - f. Any other information which the Tax Department deems relevant.
3. Upon approval of an application, the Tax Department will issue a certificate of exemption. The certificate is valid for five years after issue and is not transferrable. The organization must notify the Tax Department of changes to the name, address, telephone number or responsible person of the organization. Each organization must apply for the renewal of its letter of exemption every five years. The Tax Department will mail a renewal application to the last known address of the organization at least 90 days before the expiration of the letter of exemption. Failure to receive a renewal application does not extend the validity of the exemption beyond the five years.
  4. The Tax Department may deny an application for exemption if it finds that:
    - a. The organization has failed to submit sufficient information on which to grant an exemption; or
    - b. The organization does not meet the requirements or exemption.
  5. The Tax Department may withdraw the certificate of exemption issued to any organization if the Department finds that:
    - a. The organization is no longer engaged in charitable or religious pursuits.
    - b. The organization has ceased to comply with the standards of exemption; or
    - c. The application contained false or misleading information.
  6. A charitable or religious organization may petition the Tax Commission for reconsideration of any action by the Tax Department denying or withdrawing a certificate of exemption. Upon reconsideration, the Tax Commission may grant or reissue the certificate of exemption if the organization has presented satisfactory evidence that it complies with the standards for exemption.
  7. As used in this section, “standards for exemption” means the criteria set out in the section.

2.31.48      FOOD SALES

Food sales of any nature is considered to be an “Occasional Sale” pursuant to Pyramid Lake Tax Code 2.31.01(5)(a) by the Tax Commission. This activity does not require a retailer permit as long as the individual or group does not have an established place of business.

2.31.49      FORM AND CONTENTS OF RESALE CERTIFICATE

1. Except as otherwise provided in PLTC 2.32.06, the following form of resale certificate is prescribed by the Tax Commission:

I hereby certify that I hold a valid physical/remote retailer permit number \_\_\_\_\_ issued pursuant to Section 2.32.13 through 2.31.15 of the Tax Code, that I am engaged in the business of selling \_\_\_\_\_; and that the tangible personal property described in the second paragraph of this certificate, which I purchased from \_\_\_\_\_, will be resold by me in the form of tangible personal property. I further certify that in the event any of the property is used for any purpose other than retention, demonstration, or display, while I am holding it for sale in the regular course of business, it is understood that I am required by the Tax Code to report it and pay the tax measured by the purchase price of the property.

Description of the property to be purchased: \_\_\_\_\_

\_\_\_\_\_

Purchaser: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Signature of Authorized Purchase

Dated: \_\_\_\_\_ at \_\_\_\_\_

2. For the description of the property to be purchased there may appear either
  - a. An itemized list of the property to be purchased for resale; or
  - b. A general description of the kind of property to be purchased for resale.
3. If the seller is not required to hold a permit because he sells only property of a kind the sale of which is exempt from the tax, or because he makes no sales on the Reservation, he should make an appropriate notation to that effect on the certificate in the space designated for the retailer permit number.
4. A separate certificate need not be taken for each sale. The Tax Commission will recognize blanket certificates if given in advance to cover all orders except those orders which specify otherwise. A certificate which describes the property to be purchased pursuant to paragraph (b) of subsection 2 is valid as a blanket certificate until it is revoked in writing.

5. The certificate must be maintained in the taxpayer's file.
6. The good faith of the seller will be questioned if he has knowledge of facts which give rise to a reasonable inference that the purchaser does not intend to resell the property, such as knowledge that a purchaser of particular merchandise is not engaged in the business of selling that kind of merchandise.

2.31.50        REMOTE RETAILER REGISTRATION

A retailer who does not maintain a place of business and has sufficient nexus to the Reservation shall register with the Tax Commission as a Remote Retailer pursuant to PLTC 2.31.14, authorizing him to collect the tax from purchasers, give receipts and pay the tax to the Tax Commission in the same manner as a physical retailer who maintains a place of business on the Reservation.

2.31.51        OVER-COLLECTION OF TAX

1. Any over-collection must, if possible, be refunded by the retailer to the person from whom it was collected.
2. If an audit deficiency exists involving any over-collection and the amount over-collected has not been paid to the Tax Department, the Tax Department will credit the retailer if it's furnished with satisfactory proof that a refund has been given. The Tax Department will not provide a credit for interest assessed on any over-collection that is not reported or that is under reported, but the Tax Commission may approve a credit of not more than 75 percent of the penalty assessed if a refund is given as required by subsection 1.
3. A retailer shall:
  - a. Use all practical methods to determine the amount to be refunded pursuant to subsection 1 and the name and address of the person to whom the refund is to be made.
  - b. Within 60 days after receiving notice from the Tax Department that a refund must be made, make an accounting to the Tax Department of all refunds paid. The accounting must be accompanied by any supporting documents required by the Tax Department.
4. An over-collection that cannot be refunded for any reason must be paid to the Tax Department.
5. As used in this section, "over-collection" means any money that is collected as tax on an exempt transaction or that exceeds the amount.



2.31.52      RECEIPT BY TAX COMMISSION OF REPORTS, RETURNS, AND REMITTANCES

1. Any report, return, or remittance which is transmitted through the United States mail shall be deemed to have been received on the date shown by the post office cancellation mark stamped upon the envelope containing it, or on the date it was mailed if proof satisfactory to the Tax Commission establishes that the document or remittance was timely deposited in the United States mail, postage prepaid and properly addressed to the Tax Commission.
2. A receipt for material sent by certified or registered mail, if different than the post office cancellation mark, will prevail if the date on the receipt is earlier than the cancellation date.
3. A record authenticated by the post office that the cancellation date on certain batches of mail was erroneous is proof satisfactory to the Tax Commission that the mailing was made on a date other than the post office cancellation date.
4. If it is known that the postal service was inoperative at a certain time due to strikes, riots, warfare, acts of God or other reasons, the Tax Commission will consider the circumstances, and if there is other evidence of timely mailing, will accept the evidence and deem the return or payment timely.
5. Under no circumstances will:
  - a. The cancellation date affixed by a postage meter in the possession of the taxpayer or other person; or
  - b. Statements by the taxpayer or his employees, be considered sufficient to refute the post office cancellation date as the date of mailing.

2.31.53      DISHONORED CHECKS

1. A check which was tendered within the due date prescribed by law but subsequently dishonored after the due date does not constitute timely payment.
2. If the check was not honored through the fault or error of the bank institution and the taxpayer can provide evidence to this effect, the payment will be considered made on the date tendered.

2.31.54      REDUCTION BY TAX COMMISSION OF PENALTY FOR FAILURE TO PAY TAX

1. The Tax Commission may reduce a late payment penalty that was imposed pursuant to PLTC if it finds that the proximate cause of the delayed payment was:

- a. Circumstances completely beyond the control of the person who was required to make the payment, or his agents; or
  - b. Justifiable negligence or inadvertence, and that the person making the payment has no history of habitually late payments.
2. Any application for reduction of late payment penalties must be filed in writing with the Commission setting forth circumstances which caused the delayed payment.
  3. In determining whether or not the circumstances which caused the delayed payment in any particular case were completely beyond the control of the person required to make the payment, the Tax Commission will consider only evidence which shows the delayed payment was proximately caused by fire, earthquake, flood or other acts of God; theft; or similar causes not directly related to actions of the person who was required to make the payment, whether intentional or negligent. If the Tax Commission finds that a delayed tax payment was caused by circumstances completely beyond the control of the person required to make the payment, or his agents, and that the tax was paid as soon as reasonably possible thereafter, the penalty imposed for the late payment will be reduced to a total of not more than 1 percent of the tax or the amount of the tax.
  4. If the Tax Commission finds that the cause of the delayed payment was justifiable negligence or inadvertence that the person making the late payment has no history of habitually late payments and that the payment was made as soon as reasonably possible thereafter, the penalty for the late payment will be:
    - a. Not more than 2 percent of the tax or the amount of the tax if the payment is not more than two days late.
    - b. Not more than 4 percent of the tax or the amount of the tax if the payment is not more than five days late.
    - c. Not more than 6 percent of the tax or the amount of the tax if the payment is not more than 10 days later.
    - d. Not more than 8 percent of the tax or the amount of the tax if the payment is not more than 15 days later.
    - e. Not more than 10 percent of the tax or the amount of the tax if the payment is not more than 15 days later.
  5. The Commission does not have the authority to waive the interest imposed by PLTC 204.006 2.06.02(2)(e) for the late payments of the tax.

2.31.55      LIEN UPON REAL PROPERTY AS SECURITY FOR PAYMENT

If a lien upon real property is given as security for the payment of the tax.

1. Upon the discontinuance of the business for which the security was required and the payment of all amounts due including taxes, penalties and interest, the Tax Commission will file a notice in the office of the county recorder removing the lien on the property.
2. If any amount due is not paid to the Tax Commission, the Tax Commission will request that judgment be entered against the person who pledged the property.
3. The taxpayer may furnish other security for the tax as prescribed by the Tax Commission and the Tax Commission will file a notice in the office of the county record removing the lien on the property.

2.31.56      LIABILITY OF SUCCESSOR UPON TERMINATION OF BUSINESS

1. The requirement that a successor or purchaser of a business or stock of goods withhold a sufficient amount of the purchase price to cover the tax liability of the seller arises only in the case of the purchase and sale of a business or stock of goods under a contract which provides for the payment to the seller or person designated by him of purchase price:
  - a. In money.
  - b. In property; or
  - c. Which provides for the assumption of liabilities.
2. The requirement does not arise in connection with other transfers of a business such as assignments for the benefit of creditors, foreclosures of mortgages and sales by trustees in bankruptcy.
3. The liability of the successor or purchaser of a stock of goods extends to all taxes, interest and penalties incurred during the operation of the business by the predecessor or any former owner, including:
  - a. Taxes on the sale of the business, even though the liability for the taxes was not then determined against him.
  - b. Interest to the date of payment of the taxes.
  - c. Penalties for nonpayment of taxes.
  - d. Penalties for negligence or intentional disregard of the statutes or regulations which govern the sale and use tax; and
  - e. Penalties for fraud or an intent to evade the tax determine and unpaid at the time of sale.
4. The purchaser of the business or stock of goods will be released from further obligation to withhold the purchase price if he:

- a. Obtains a certificate from the Tax Commission which states that no taxes, interest, or penalties due from a predecessor; or
- b. Makes a written request to the Tax Commission for a certificate and the Tax Commission does not issue the certificate or mail to the purchaser a notice of the amount of the taxes, interest and penalties that must be paid as a condition of issuing the certificate within 60 days after:
  - i. The Tax Commission received the request; or
  - ii. The records of the former owner were made available for audit, whichever period expires later, except that no period may exceed 90 days from the date on which the request was received.

## CHAPTER 2.42

### CIGARETTE TAX

#### 2.42.01 APPLICATION FOR SUBSIDIARY PLACE OF BUSINESS

1. A cigarette wholesaler may maintain a warehouse for keeping merchandise on hand at another place than the established principal place of business, by listing the subsidiary place of business with the Department.
2. Application must be made to the Tax Department for each subsidiary location and the application must specify the location by street and number.
3. The Tax Department will not approve an application for a license pursuant to this chapter if the applicant is not in compliance with PLTC 2.42.

#### 2.42.02 CONDITIONS FOR USE OF STAMPING MACHINE BY DEALER

1. The privilege of using a stamping machine to apply cigarette revenue stamps will be granted to license wholesale cigarette dealers upon written request to the Tax Department subject to compliance with the following terms:
  - a. Cigarette revenue stamps applied by machines must be approved by the Tax Department with the security codes provided by the manufacturer.
  - b. Only cigarettes bearing clear and legible cigarettes revenue stamps may be distributed by wholesale dealers.
  - c. Cigarette revenue stamps may only be applied by machines owned or leased by the licensed wholesale dealer for which a security code has been provided to the Tax Department.
  - d. All cigarette revenue stamps applied upon package must be of a special type devised and specified for the machines by the manufacturer. All cigarette revenue stamps must be applied on the bottom of the original package.
  - e. The design of the cigarette revenue stamp must be that particular design approved by the Tax Department.
  - f. All wholesale dealers permitted to use stamping machines must take every reasonable precaution to prevent the theft of, unauthorized use of, or tampering with the machines.
  - g. All repairs to the machine must be made by an authorized representative of the manufacturer.

- h. All equipment must be serviced and cleaned according to the instructions issued by the manufacturer of the machine.
  - i. All cigarette revenue stamps must be purchased from an authorized agent or representative of the Tax Department.
2. Upon the failure of any licensed wholesale dealer to fully comply with subsection 1, the permission to use the machines will be summarily withdrawn and the dealer will be required to affix water decal stamps until such time as he satisfies the Tax Department that the provisions of subsection 1 have been met and will be fully complied with in the future.

2.42.03        QUALIFICATIONS FOR EXEMPTIONS

For the purposes of the PLAC 2.42.010, a Tribal Member is exempt from the taxes on cigarettes imposed by the Pyramid Lake Tax Code, if he/she is:

1. A Tribal Member of the Pyramid Lake Paiute Tribe on which the retail dealer who sells cigarettes is located.

2.42.04        WHERE PYRAMID LAKE TAX COMMISSION IMPOSES EXCISE TAX WHICH IS EQUAL TO OR GREATER THAN THE STATE OF NEVADA

1. Any retail dealer who is located and sells and delivers cigarettes on the Pyramid Lake Reservation shall collect excise tax at a rate which is equal to or greater than the State of Nevada, pursuant to Pyramid Lake Administrative Code 2.42.06.
2. The Tribal cigarette tax must be applicable to at least all consumers who would otherwise be taxed under the Pyramid Lake Tax Code 2.42.18, inclusive, and be actually collected whether or not the retail establishment from which cigarettes are sold is owned by the Tribe.
3. If the retail price of cigarettes sold on the Pyramid Lake Reservation exceeds the wholesale price charged to the retail dealer by an amount which is equal to or greater than the State, the Tax Commission will impose and actually endorse the Tribal tax.

2.42.05        APPLICATION TO THE TAX COMMISSION FOR TAX REFUND ON CIGARETTES SOLD ON THE PYRAMID LAKE RESERVATION TO A TRIBAL MEMBER: ALTERNATE METHOD OF RECORDKEEPING

1. A retail dealer, who chooses the alternative provided in this section, shall maintain accurate records of all cigarettes received, sold or distributed by him and shall retain all receipts, freight bills, invoices and other documents necessary to substantiate his records.

2. The dealer shall maintain adequate evidence of:
  - a. The date of purchase or acquisition;
  - b. The quantity; and
  - c. The name, address and tribal membership status of each purchaser, of cigarettes claimed to be exempt from the Tribal cigarette tax on a sale to a Pyramid Lake Tribal Member who is exempt.
3. Retail dealers who choose to maintain records of the actual sales to Pyramid Lake Tribal Members under this section shall purchase or otherwise acquire all cigarette tax prepaid and may obtain a refund of the prepaid tax from the Tax Commission by providing from the records maintained under subsections 1 and 2, proof satisfactory to the Tax Department that the claimed purchased were in fact made on the Pyramid Lake Reservation by Indians who are exempt from the taxes imposed by Chapter 2.42 of the Pyramid Lake Tax Code.

#### 2.42.06 LEVY, RATE, AND COLLECTION OF TAX

The rate of Tribal Tax on Tobacco imposed is equal to the State rate per cigarette and may be calculated based on the norm of 20 cigarettes per pack, 10 packs per carton or 200 cigarettes to a carton. Any cartons containing more or less packs per carton or cigarettes per pack must be reported accurately to the Tax Commission.

Any changes of decreases or increases to the excise tax will be reflected in revisions to the Pyramid Lake Tax Code as they occur. All taxpayers will be informed in writing by the Tax Commission and supplied with a copy of the approved or amended revisions.

#### **SALES THROUGH VENDING MACHINES**

##### 2.42.07 PLACEMENT OF CIGARETTES IN VENDING MACHINES; INSPECTION OF MACHINES BY TAX DEPARTMENT

1. All packages or packets of cigarettes in each vending machine which has an opening or transparent panel through which a sampling of all of the brands of cigarettes are visible must be placed in the machine so that the cigarette revenue stamp is visible from the front of the machine.
2. On demand, an operator of cigarettes vending machines shall allow any authorized representative of the Tax Department to accompany any employee of the operator on his route, during business hours and on working days, and the employee or operator shall open vending machines in control of the operator for inspection by the representative of the Tax Department.

## ADMINISTRATION OF THE TAX

### 2.42.08      SECURITY FOR PAYMENT OF TAX

1. The Tax Department will accept an undertaking on obligation vesting in the Pyramid Lake Paiute Tribe an interest in real property which is located within the Pyramid Lake Reservation, constituting a lien on the real property pledged for the payment of the tax due pursuant to the Pyramid Lake Tax Code, Chapter 2.05 and 2.06 Administrative Provisions, in the amount prescribed by the Tax Department as security for the tax.
2. Upon the discontinuance of the business for which the security was required and the payment of all amounts due including taxes, penalties and interest, the Tax Department will file a notice in the office of the county recorder removing the lien on the property.
3. If any amount due is not paid to the Tribe, the Tax Department will request that judgment be entered against the person who pledged the property.
4. A taxpayer who has pledged property as security for the payment of the tax may furnish other security for the tax as prescribed by the Tax Department. If the taxpayer furnishes other security, the Tax Department will file a notice in the office of the county recorder removing the lien on the property.

### 2.42.09      RECEIPT BY THE TAX COMMISSION OF REPORTS, RETURNS, AND REMITTANCES

1. Any report, return or remittance to cover a payment required by Pyramid Lake Tax Code 2.42, which is transmitted through the United States mail, shall be deemed filed or received on the date shown by the postmark stamped upon the envelope containing it, or on the date it was mailed if other proof satisfactory to the Tax Commission establishes that it was timely deposited in the United States mail, postage prepaid and properly addressed to the Tax Department.
2. The date on a receipt for material sent by certified mail or registered mail, if different from the postmark, prevails if the date on the receipt is earlier than the date of the postmark.
3. A record authenticated by the post office that the postmark on certain batches of mail was erroneous is proof satisfactory to the Tax Commission that the mailing was made on a date other than the date of the postmark.
4. If it is known that the postal service was inoperative at a certain time because of strike, riot, warfare or act of God or for some other reason, the Tax Commission will consider the circumstances, and if there is other evidence of the timely mailing, will accept the evidence and deem the return or payment timely.



5. A postmark affixed by a postage meter in the possession of the taxpayer or other person outside the post office will be disregarded as proof of the date mailed whenever it is contradicted by an official postmark stamped on the envelope containing the payment. Unless corroborated, statements by a taxpayer or his employees are not sufficient to refute the postmark as the date of mailing.

2.42.10 DISHONORED CHECKS

1. Except as provided in subsection 2, a check to cover a payment required by Pyramid Lake Tax Code 2.05.08(4) which was tendered by the date prescribed by law but subsequently dishonored after that date does not constitute timely payment.
2. If the check was not honored through the fault or error of the banking institution and the taxpayer can provide evidence to this effect, the payment will be considered made on the date tendered.

**TAX ON OTHER PRODUCTS MADE FROM TOBACCO**

2.42.11 WHOLESALE DEALER TO NOTIFY THE TAX DEPARTMENT OF INTENT TO SELL TAXABLE PRODUCT

A wholesale dealer in products made from tobacco, other than cigarettes, shall notify the Tax Department of his intention to sell such products on the Reservation before making any sales. The notification must be given on a form provided by the Tax Department.

2.42.12 INDICATING TAX ON INVOICE: TAX NOT TO BE CHARGED TO RETAIL DEALER AS SEPARATE ITEM

A wholesale dealer in products made from tobacco, other than cigarettes, shall indicate on his invoices of sale the amount of the tax he is required to pay pursuant to Pyramid Lake Tax Code 2.43 as part of the total price of those products. This amount must not be charged to the retail dealer as a separate item.

2.42.13 PAYMENT OF TAX: MONTHLY RETURN

1. The tax imposed by PLTC 2.43 must be paid to the Tax Department on or before the end of the following month for sales made during the preceding month.
2. Each wholesale dealer shall submit with his payment a tax return on a form provided by the Tax Department. If a wholesale dealer does not make a taxable sale during the preceding month, he shall file a return with the Tax Department indicating this fact.
3. A record authenticated by the Post Office that the postmark on certain batches of mail was erroneous is proof satisfactory to the Commission that the mailing was made on a date other than the date of postmark.

4. If it is known that the postal service was inoperative at a certain time because of a strike, riot, warfare or act of God or for some other reason, the Commission will consider the circumstances, and if there is other evidence of timely mailing, will accept the evidence and deem the return or payment timely.
5. A postmark affixed by a postage meter in the possession of the taxpayer or other person outside of the post office will be disregarded as proof of the date mailed whenever it is contradicted by an official postmark stamped upon the envelope containing the payment. Unless corroborated, statements by a taxpayer or his employees are not sufficient to refute the postmark as the date of mailing.

## CHAPTER 2.44

### MARIJUANA

#### 2.44.01 DEFINITIONS

As used in this Chapter, unless the context otherwise requires, the definitions in Section 2.44 and in Chapter 16 of the Tribe's Law & Order Code, shall have the meanings ascribed to them in those sections.

#### 2.44.02 ISSUANCE OF LICENSE

Licensee issuance and/or renewal shall follow the scheduled in Chapter 16 of the Tribe's Law & Order Code and within Chapter 17 of the Tribe's Business Code, Title III.

#### 2.44.03 PROVISIONS REGARDING PAYMENT, COLLECTION, ADMINISTRATION AND ENFORCEMENT OF MARIJUANA TAXES

1. The excise tax on marijuana, as defined in Chapter 16 of the Tribe's Law & Order Code, also apply to the excise tax on marijuana.
2. A taxpayer as defined in PLTC Title II Tax Code, also apply to a marijuana cultivation facility.

#### 2.44.04 MARIJUANA AND MARIJUANA PRODUCTS SOLD AT RETAIL MARIJUANA STORE SUBJECT TO SALES TAX; SUBMISSION OF RETURNS AND PAYMENTS

Marijuana and marijuana products sold pursuant to Chapter 16 of the Tribe's Law & Order Code are subject to sales tax when sold at a retail marijuana store. Returns and payments must be submitted as provided in the Tribe's Tax Code.

#### 2.44.05 MONTHLY FILING OF RETURNS; PAYMENT OF TAX; MAINTENANCE OF DOCUMENTATION AND VERIFICATION OF PAYMENT; SUBMISSION OF FINANCIAL STATEMENT UPON REQUEST; CALCULATION OF FAIR MARKET VALUE AT WHOLESALE

1. Each taxpayer shall, on or before the last day of the month immediately following each month for which the taxpayer is subject to the imposition of the excise tax on marijuana, file with the Tax Department a return on a form prescribed by the Tax Commission and remit to the Tax Department any tax due for the month covered by the return. Each such taxpayer shall file a return even if the taxpayer has no liability for the tax.
2. Each taxpayer shall pay the excise tax on marijuana to the Tax Department upon the first sale of marijuana or marijuana products to a marijuana cultivation facility, marijuana product manufacturing facility, retail marijuana store or a consumer.

3. If a marijuana cultivation facility sells marijuana to another marijuana cultivation facility and pays to the Tax Department the excise tax on the sale, the excise tax imposed by PLTC Chapter 2.44 is not required for any subsequent wholesale sale of that marijuana.
4. Each marijuana cultivation facility and retail marijuana store shall keep all supporting documentation for verification that the excise tax imposed by PLTC Chapter 2.44 was paid on the first wholesale sale of marijuana.
5. The Tax Department may require a marijuana establishment to submit a financial statement as determined to be necessary by the Tax Department to ensure the collection of any taxes which may be owed by the marijuana establishment.
6. The Tax Department will calculate the fair market value at wholesale using the reported sales or transfer of marijuana in each category of marijuana described in this subsection using the methodology described. The fair market value at wholesale of:
  - a. Marijuana bud must be calculated on the basis of the total weight of all marijuana bud that is sold, excluding the inadvertent inclusion of an inconsequential amount of marijuana bud in a sale of marijuana trim.
  - b. Marijuana trim must be calculated on the basis of the total weight of all marijuana trim that is sold, including the total weight of an inconsequential amount of marijuana bud which is inadvertently included.
  - c. Immature marijuana plants must be calculated on the basis of the total number of immature marijuana plants sold.
  - d. Whole wet marijuana plants must be calculated on the basis of the total weight of the entire whole wet marijuana plant. A marijuana cultivation facility shall maintain records of the time each batch containing whole wet marijuana plants is harvested and weighed which contain the weight of each plant, are in writing and are created contemporaneously with the harvesting and weighing. To determine the total weight of the whole wet marijuana plant:
    - i. The plant must not undergo any further processing, including, without limitation, drying the plant and subsequently selling separately the marijuana bud and marijuana trim from the plant, before being weighed; and
    - ii. The plant must be weighed within two hours after the harvesting of the batch containing the plant and without any further processing of the plant, including without limitation, increasing the ambient temperature of the room in which the plant is held or drying, curing or trimming the plant. If the whole wet marijuana plant is not weighed within two hours after the harvest of the batch containing the plant or is subjected to further processing, the fair market value

at wholesale of the plant must not be calculated using this paragraph and must be calculated using paragraph a or b.

- e. Marijuana seeds must be calculated on the basis of the total number of seeds sold.
- f. Any other category of marijuana must be determined by the Tax Department on a case-by-case basis.

7. As used in this section:

- a. "Excise tax on marijuana" has the meaning ascribed to it in PLTC Chapter 2.44 and Chapter 16 of the Tribal Law & Order Code.
- b. "Taxpayer" has the meaning ascribed to it in the Pyramid Lake Title II Tax Code.

2.44.06 NOTIFICATION TO DEPARTMENT IF MARIJUANA ESTABLISHMENT IS CLOSING; IMMEDIATE SURRENDER OF PERMIT(S) UPON CLOSING

If a marijuana establishment is closing, the authorized person identified for the establishment must notify the Department of the closing at least 15 days before the marijuana establishment is closed, and the marijuana establishment must surrender its permit(s) to the Department immediately upon closing.

## CHAPTER 2.53

### LIVE ENTERTAINMENT TAX

#### 2.53.01 DEFINITIONS

As used in this Chapter, unless the context otherwise requires, the words and terms defined in PLTC 2.53, inclusive, have the meanings ascribed to them in those sections.

#### 2.53.02 APPLICABILITY OF TAX; ADMISSION CHARGE TO FACILITY; EXCEPTIONS

1. An admission charge is subject to the tax imposed by PLTC 2.53 when the admission charge is paid in exchange for admission to a facility where taxable live entertainment is provided, regardless of when the live entertainment actually commences and regardless of whether the patron is present for any portion of the live entertainment. Applies to each sale of an admission that affords a patron the right to enter, or have access to, a facility where live entertainment is provided, unless the taxpayer establishes that the person has received a full refund of the amount paid for the admission.
2. The tax imposed by PLTC 2.53 does not apply to:
  - a. An admission charge paid after the conclusion of the last performance of the taxable live entertainment.
  - b. Any amount of consideration paid in addition to the admission charge to have access to a table, seat or chair within a facility where live entertainment is provided.
  - c. Entertainment provided by a patron(s) who receive a prize for participation in a contest between patrons.

#### 2.53.03 DETERMINATION OF MAXIMUM CAPACITY BY DEPARTMENT; PRESUMPTION WHEN MAXIMUM OCCUPANCY NOT DESIGNATED ON PERMIT; REBUTTAL OF PRESUMPTION BY TAXPAYER

1. The Tax Department shall determine the maximum occupancy of a facility where live entertainment is provided.
2. If there is no permit designating the maximum occupancy of a facility where live entertainment is provided, the Tax Department must presume that the actual seating capacity of the facility is at least 200 persons and less than 7,500 persons. To rebut this presumption, the taxpayer must establish, the reasonable satisfaction of the Tax Department, that the actual seating capacity of the facility is less than 200 persons or at least 7,500 persons. In determining whether the taxpayer has successfully rebutted the presumption, the Tax Department shall consider all evidence provided by the tax

payer, including, without limitation, evidence of actual attendance, the number of admissions sold or offered for sale, the square footage of the facility, the physical needs or requirements of the patrons in relation to the nature of the live entertainment provided and any other evidence tending to establish the actual seating capacity of the facility.

2.53.04      COMPUTATION OF AMOUNT OF TAX DUE; GENERALLY

1. If the taxable event is an admission to a facility where live entertainment is provided, the Tax Department shall apply the tax rate to the total admission charge less the sum of any tax imposed by the United States upon or with respect to an admission charge to live entertainment, whether imposed upon the taxpayer or the patron.
2. If the taxable event is the live entertainment provided by an escort who is escorting a person or persons at one or more locations, the Tax Department shall apply the tax rate to the total amount, expressed in terms of money, of consideration paid for the service of escorting the person or persons at one or more locations.
3. The tax must be paid on all taxable admission charges and amounts paid for the service of escorting a person or persons at one or more locations, regardless of whether the taxable amounts are paid in case or through an extension of credit. Any required minimum purchase of food, beverages or merchandise must be accounted for solely as part of the total amount paid for the admission charge.
4. The amount of any fees imposed in connection with the use of credit cards or debit cards which is excluded from taxation must be determined from the actual amount imposed, collected and retained by the independent financial institution and not from an estimate of that amount.
5. The tax must be paid on all the proceeds received by a taxpayer, in exchange for the sale of an admission to a facility, including, without limitation, the proceeds of any service charge or other fee or charge, other than a fee excluded from the tax that is imposed and received by, or on behalf of, the taxpayer.
6. The tax on any taxable admission to a facility where live entertainment is provided which is sold as a component of a package must be computed in accordance with the following provisions:
  - a. The average retail value of the admission must be prorated against the average retail value of all components of the package, and the tax must be paid on the sum obtained by multiplying the resulting prorated fraction by the actual price paid for the package.
  - b. Any value advertised to the public as the retail value of a component of a package is rebuttably presumed to constitute the actual retail value of that component.

- c. If no average retail value can be established for a component of a package, the cost of the component to the taxpayer must be used to carry out subparagraph (1).
  - d. This subsection does not prohibit a taxpayer from paying, at the option of the taxpayer, the tax on the full retail value of the admission component of a package.
7. The amount of any charge or fee excluded from the tax must be determined from the actual amount imposed, collected, and retained by the taxpayer, and not from an estimate of that amount.
  8. As used in this section, "package" means any aggregation of rights to rooms, food, refreshments, merchandise, entertainment, services, or other items which is advertised to the public as a single unit and sold for a single price.

2.53.05            COLLECTION OF TAX DUE

The tax imposed by Chapter 2.53 must be collected by:

1. A taxpayer from a ticket broker or patron at the time of the sale of an admission to a facility where taxable live entertainment is provided.
2. A ticket service provider from a patron at the time of the sale of an admission to a facility where taxable live entertainment is provided.

2.53.06            SCOPE OF EXEMPTION FOR NONPROFIT ORGANIZATIONS;  
ASSESSMENT AND COMPUTATION OF TAX BY DEPARTMENT

1. For the purposes of Chapter 2.53, live entertainment is provided by or entirely for the benefit of a nonprofit organization if the proceeds of the admission charges to the facility where the live entertainment is provided become the property of the nonprofit organization. The proceeds of the admission charges do not become the property of a person other than a nonprofit organization as long as the person retains not more of the proceeds than is necessary to cover the direct, supportable costs of hosting, promoting or sponsoring the event at which the live entertainment is provided.
2. Except as otherwise provided in Chapter 2.53 of the PLTC, inclusive, unless live entertainment is provided by or entirely for the benefit of a nonprofit organization and the number of tickets to that live entertainment which are offered for sale or other distribution to patrons is less than 7,500 the Department shall assess the compute the excise tax in accordance with PLAC 2.53 inclusive.
3. For the purpose of determining the number of tickets to live entertainment which are offered for sale or distribution to patrons pursuant to Section 2.53 of the PLTC:
  - a. A single ticket providing admission to more than one live entertainment event constitutes a ticket for each such event.



- b. A live entertainment event that is part of an offering of multiple live entertainment events and that requires a separate ticket for admission constitutes a separate live entertainment event.

2.53.07      DOCUMENTATION REQUIRED FOR EXEMPTION OF NONPROFIT ORGANIZATION

1. Any person who claims to be a nonprofit organization exempt from the provisions of PLTC 2.53, or any person who claims to provide live entertainment entirely for the benefit of such a nonprofit organization, has the burden of proving by a preponderance of the evidence that the person is exempt from the tax imposed by PLTC 2.53.
2. Any person who claims to be a nonprofit organization exempt from the provisions of PLTC 2.53 or any person who claims to provide live entertainment entirely for the benefit of such a nonprofit organization, shall, upon the request of the Department, provide to the Department:
  - a. Such records as the Department deems necessary to demonstrate that the person who claims to be a nonprofit organization or the organization for whose benefit the person provided live entertainment:
    - i. Meets the criteria to qualify as a religious organization pursuant to 26 U.S.C. § 501(c) or
    - ii. Has qualified as a tax exempt organization pursuant to 26 U.S.C. § 501(c); or
    - iii. Is organized or existing under the provisions of Chapter 2.53 of PLTC.
  - b. Documentation to support the number of tickets for admission to the live entertainment offered for sale or other distribution to patrons, either directly or indirectly through a partner, subsidiary, client, affiliate, or other collaborator.

2.53.08      OVER-COLLECTION OF TAX: DUTIES OF TAXPAYER AND DEPARTMENT; REFUND TO PATRON; PAYMENT OF OVER-COLLECTION TO DEPARTMENT UNDER CERTAIN CIRCUMSTANCES

1. As used in this section, “over-collection” means any amount collected as a tax on live entertainment that is exempt from taxation or any amount in excess of the amount of the applicable tax as computed in accordance with PLTC 2.53.
2. Any over-collection must, if possible, be refunded by the taxpayer to the patron from whom it was collected.
3. A taxpayer shall:
  - i. Use all practical methods to determine any amount to be refunded and the name and address of the person to whom the refund is to be made.

- ii. Within 60 days after reporting to the Department that a refund must be made, make an accounting to the Department of all refunds paid. The accounting must be accompanied by any supporting documents required by the Department.
- 4. If a taxpayer is unable for any reason to refund an over-collection, the taxpayer shall pay the over-collection to the Department.
- 5. If an audit of a taxpayer reveals the existence of an over-collection, the Department shall:
  - i. Credit the over-collection toward any deficiency that results from the audit, if the taxpayer furnishes the Department with satisfactory evidence that the taxpayer has refunded the over-collection as required by subsection 2.
  - ii. Within 60 days after receiving notice from the Department that a refund must be made, seek an accounting of all refunds paid. The accounting must be accompanied by any supporting document required by the Department.

## CHAPTER 2.60

### Tax Exemptions

#### 2.60.01 TRIBAL MEMBER

All Pyramid Lake Tribal Members will use their Pyramid Lake Paiute Tribal Enrollment card as proof of exemption.

#### 2.60.02 LEGAL SPOUSE OF TRIBAL MEMBER

Current legal spouses of a Tribal Member of the Pyramid Lake Paiute Tribe are entitled to a Sales Tax-Exempt Card. However, the Tribal Member must contact the Tax Department and upon completion of an application, the Tax Department will issue a Spouse Card.

Upon proof of certification of marriage, the Tax Department will issue a Spouse Card. The number issued on these cards will not be the same as enrollment numbers and these cards will have an expiration date to be renewed every two years.

#### 2.60.03 PROOF OF LEGAL SPOUSE OF A TRIBAL MEMBER

When a Tribal Member requests a Spouse Card for his/her spouse, one of the following must be provided with the application:

1. Marriage License – a marriage license certificate from the county clerk, or from a judge of the Pyramid Lake Tribal Court, pursuant to 3.05.230 of the Pyramid Lake Law and Order Code.
2. Tribal Custom Marriage – a certificate of a Tribal custom marriage signed by an official of a Reservation pursuant to the Pyramid Lake Law and Order Code 3.05.110; 3.05.200; 3.05.230(a)(b)(c)(d)(e); and 3.05.240(a)(b)(c)(d).

#### 2.60.04 INFORMATION CONTAINED ON THE SPOUSE CARD

1. Spouse Exempt Card.
2. Name of spouse and name of the Tribal Member.
3. Mailing and physical address.
4. Number.
5. This card serves to exempt the above-stated person from Sales Tax on purchases made within the Pyramid Lake Reservation.
6. Authorized signature.

7. Expiration date (when applicable).

20.60.05      WIDOWED SPOUSE CARD

A non-Tribal member who was legally married to a Pyramid Lake Tribal member who is deceased, may be issued a Spouse Tax Exempt card. The non-Tribal member spouse must continue to reside on the Pyramid Lake Reservation.

1. Widowed Spouse Card. A widow(er) of a deceased Pyramid Lake Tribal member may request for a Spouse Sales Tax exempt card be issued. A widow(er) of a Pyramid Lake Tribal member will be eligible for a Spouse Card until he/she is remarried or leaves the Pyramid Lake Reservation.

2.06.06      ABUSE OR IMPROPER USE OF THE SPOUSE CARD

The Spouse Card serves to benefit the Tribal Member and their spouses and abuse or improper use will not be tolerated by the Tax Commission.

This card serves to benefit ONLY the person stated on the card, any of the businesses stated on letter 1A may ask for proper identification (driver's license, picture I.D., military card) to verify the carrier of the card is the same person stated on the card.

The business where a Spouse Card is presented shall report names and numbers of cards being improperly used in their establishments, to the Tax Department. These businesses reserve the right to refuse use of a Spouse Card, based on misuse. If a business refuses the use of a Spouse Card, the purchaser must pay the Sales Tax.

2.60.07      PARENT OR LEGAL GUARDIAN USE OF TAX-EXEMPT CARD

A non-Tribal Member who is the parent or legal guardian of a minor Tribal Member (under 18 years of age) may use the minor child Tax Exempt Card or Pyramid Lake Enrollment Card for purposes of Sales Tax exemption. Exemptions should be used on behalf of the minor child and SHALL NOT be used for tobacco and liquor.

## CHAPTER 2.61

### FUEL TAX

#### 2.61.01 TAXES ON FUEL

Taxes on fuel shall be administered and collected in accordance with the provisions of the Intergovernmental Fuel Agreement between the State of Nevada and the Pyramid Lake Paiute Tribe, a copy of which is on file with the Tax Department.

