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TITLE 17. TAXATION**ARTICLE I****GENERAL PROVISIONS**

[NOTE: Except as otherwise noted, the provisions of Article I, Title 17 was enacted on October 24, 2007 by Res. No. 31-2007.]

CHAPTER 1. GENERALLY**Sec. 17-1101. Title.**

It being necessary to strengthen the government of the Sac & Fox Tribe of the Mississippi in Iowa by exercising the specific grant of authority contained in Article X, Section (k), of the Tribe's Constitution to enhance the general well-being of members of the Tribe and others within the jurisdiction of the Tribe, and its confirmed inherent sovereignty to levy and collect taxes, license and regulate certain conduct within the jurisdiction of the Tribe, provide financing for the current expenses of the Tribal Government, and expand Tribal Government operations and services, the Tribe hereby adopts this Title 17.

Sec. 17-1102. Jurisdiction.

(a) This Title shall apply to all persons and property, personal and real, subject to the jurisdiction of the Tribe as established by Article I of the Constitution, the inherent sovereignty of the Tribe, and other applicable laws, regulations, and ordinances.

(b) Nothing in this Title shall be construed as a limitation on the Tribe's authority and power to enforce the terms of this Title in a manner permitted by law but not expressly provided herein.

(c) Nothing in this Title shall be construed as limiting, waiving or abrogating the sovereignty or sovereign immunity of the Tribe or jurisdiction of the Tribe or any adjudicatory authority established by the Tribe.

Sec. 17-1103. Definitions.

Unless the context requires otherwise or a different definition is provided for a particular Article or Chapter, as used in this Title:

(a) Casual sales means:

(1) Isolated or occasional sales of tangible personal property by the owner or the rendering, furnishing or performing of a service by the provider where the sale or service is not in the course of repeated and successive transactions of a like character; and

(2) The sale of all or substantially all of the tangible personal property or services held, or used by a retailer in the course of the retailer's trade or business, when the retailer sells or

otherwise transfers the trade or business to another person who shall engage in a similar trade or business.

(b) Gross receipts means the amount received in money, credits, property, or other consideration from sales at retail transacted within the jurisdiction of the Tribe, without any deduction on account of the cost of materials used, the cost of labor or services purchased, amounts paid for interest or discounts, or any other expenses whatsoever, nor shall any deductions be allowed for losses; provided, however:

(1) That in transactions in which tangible personal property is traded toward the purchase price of other tangible personal property the gross receipts are only that portion of the purchase price which is payable in money to the retailer if the following conditions are met:

(i) The tangible personal property traded to the retailer is the type of property normally sold in the regular course of the retailer's business; and

(ii) The tangible personal property traded to the retailer is intended by the retailer to be ultimately sold at retail or is intended to be used by the retailer or another in remanufacturing of a like item.

(2) That on all sales of a retail business, valued in money, when such sales are made under a conditional sales contract, or under other forms of sales wherein the payment of the principal sum thereunder will be extended over a period longer than sixty (60) days from the date of sale thereof, that only such portion of the sale amount thereof shall be accounted for the purpose of imposing the tax under Article II, as has actually been received in cash by the retail business during each calendar quarter.

(c) Gross taxable services means the total amount received in money, credits, property, or other consideration, valued in money, from services rendered, furnished, or performed within the jurisdiction of the Tribe, except where such service is performed on tangible personal property delivered outside the Tribe's jurisdiction or is used in processing of tangible personal property for use in taxable retail sales or services. However, the taxpayer may take credit in the taxpayer's return of gross taxable services for an amount equal to the value of services rendered, furnished, or performed when the full value of such services thereof is refunded either in cash or by credit. Taxes paid on gross taxable services represented by accounts found to be worthless and actually charged off for income tax purposes may be credited upon a subsequent payment of the tax due, but if any such accounts are thereafter collected by the taxpayer, a tax shall be paid upon the amounts so collected.

(d) Person or Taxpayer includes any individual, firm, co-partnership, joint venture, association, corporation, estate, trust, business trust, receiver, or any group or combination acting as a unit, other than the Tribe or one of its political subdivisions.

(e) Property used in processing means any tangible personal property which is intended to become an integral part of other tangible personal property to be sold ultimately at retail, by means of fabrication, compounding, manufacturing, or germination.

(f) Resale of tangible personal property used in connection with the performance of a service means property which is purchased for resale in connection with the performance of a service by a person who renders, furnishes, or performs the service if all of the following occur:

(1) The property is transferred to the user of the service in connection with the performance of the service in a form or quantity capable of a fixed or definite price value; and

(2) The sale is evidenced by a separate charge for the identifiable piece of property.

(g) Retailer includes every person engaged in the business of selling tangible personal property, taxable services, motor vehicle fuel, alcoholic beverages, cigarettes or tobacco products at retail, or the furnishing of gas, electricity, water and communication service sold at retail with the object of the gain, benefit or advantage, either direct or indirect; provided, however, that when in the opinion of the Tax Director it is necessary for the efficient administration of this Title to regard any salespersons, representatives, truckers, peddlers, or canvassers acting as agents of the dealers, distributors, supervisors, employers, or persons under whom they operate or from which they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors, employers, or persons, shall be treated as retailers for purposes of this Title.

(h) Retailer maintaining a place of business within the jurisdiction of the Tribe shall mean and include any retailer, required to obtain a Tribal business license, having or maintaining within the jurisdiction of the Tribe, directly or by a subsidiary, an office, distribution house, sales house, warehouse, or other place of business, or any agent operating within the jurisdiction of the Tribe under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent is located here permanently or temporarily.

(i) Sale means any transfer, exchange, or barter, conditional or otherwise, in any manner whatsoever, for a consideration.

(j) Sale at retail or retail sale means the sale of tangible personal property or services to a consumer or to any person for any purpose, other than for processing, for resale of tangible personal property or taxable services, or for resale of tangible personal property used in connection with taxable services. "Sale at retail" or "retail sale" shall mean and include sales of building materials, supplies, and equipment to owners, contractors, subcontractors or builders, for the erection of buildings or the alteration, repair, or improvement of real property, in whatever quantity sold, subject to the following:

(1) When the owner, contractor, subcontractor, or builder is also a retailer transacting retail sales of building materials, supplies, and equipment, such person shall purchase these items of tangible personal property without liability for the tax if the property will be subject to the tax at the time of resale or at the time it is withdrawn from inventory for construction purposes.

(2) The sales tax shall be due in the reporting period when the material, supplies, and equipment are withdrawn from inventory for construction purposes or when sold at retail.

(3) The tax shall not be due when materials are withdrawn from inventory for use in construction outside of the jurisdiction of the Tribe and the tax shall not apply to tangible personal property purchased and consumed by the manufacturer as building materials in the performance by the manufacturer or its subcontractor of construction outside the jurisdiction of the Tribe.

(4) The use within the jurisdiction of the Tribe of tangible personal property by the manufacturer thereof, as building materials, supplies, or equipment in the performance of construction contracts shall be construed as a sale at retail by the manufacturer who shall be deemed to be the consumer of such tangible personal property. The tax shall be computed upon the cost to the manufacturer of the fabrication or production thereof.

(k) Services means all acts or services rendered, furnished, or performed, except services performed on tangible personal property delivered outside the jurisdiction of the Tribe, services used in processing tangible personal property for use in taxable retail sales or services, or services for an employer for a valuable consideration. The tax shall be due and collectable when the service is rendered, furnished, or performed for the ultimate user thereof.

(l) Services used in the processing of tangible personal property include the reconditioning or repairing of tangible personal property of the type normally sold in the regular course of the retailer's business and which is held for sale.

(m) User means the immediate recipient of the services who is entitled to exercise a right of power over the product of such services.

(n) Treasurer means the elected Treasurer of the Sac & Fox Tribe of the Mississippi in Iowa or any duly authorized and appointed assistant, deputies or agents of said Treasurer charged with the administration or enforcement of this Title.

(o) Within the jurisdiction of the Tribe shall mean and include all persons and property, personal and real, subject to the jurisdiction of the Tribe as established by Article I of the Constitution, the inherent sovereignty of the Tribe, and other applicable laws, regulations, and ordinances.

(p) Revenue Department means the Tribal Tax Director, including duly authorized and appointed assistants, deputies or agents of the Tax Director, who shall carry out the day-to-day administration of this Chapter, and shall report directly to the Treasurer.

(q) Political subdivision includes any agency, department or instrumentality created by, or pursuant to, Tribal law for the purpose of discharging some function of Tribal Government, including, but not limited to, schools, housing authorities or any instrumentality thereof performing functions which are not in competition with the commercial sector.

Sec. 17-1104. Severability.

If any clause, sentence, paragraph, section, or part of this Title shall, for any reason be adjudicated by any Court of competent jurisdiction, to be invalid or unconstitutional, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which the judgment shall have been rendered.

Sec. 17-1105. Construction.

This Title shall be interpreted and applied in a manner consistent with all other laws, ordinances, resolutions, and regulations of the Tribe.

Sec. 17-1106. Amendments.

This Title may be amended only upon an affirmative vote of a majority of the Tribal Council.

Sec. 17-1107. Effect of Headings.

Headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any portion of this Title.

TITLE 17. TAXATION
ARTICLE II
RETAIL SALES AND SERVICES TAX

[NOTE: Except as otherwise noted, the provisions of Article II, Title 17 was enacted on October 24, 2007 by Res. No. 31-2007.]

CHAPTER 1. TAX IMPOSED

Sec. 17-2101. Tangible Personal Property.

There is imposed a tax of five percent (5%) upon the gross receipts from all sales of tangible personal property, consisting of goods, wares, merchandise, propane, building materials and equipment, except as otherwise provided in this Article II, sold at retail to consumers within the jurisdiction of the Tribe.

Sec. 17-2102. Gas, Electricity and Communication Services.

There is imposed a tax of five percent (5%) upon the gross receipts from the sale, furnishing or service of gas, electricity and communication service when sold at retail to consumers or users within the jurisdiction of the Tribe.

Sec. 17-2103. Taxable Services.

There is imposed a tax of five percent (5%) upon "gross taxable services" from enumerated services rendered, furnished, or performed within the jurisdiction of the Tribe, including:

Alteration and garment repair; armored car; automobile repair; battery, tire and allied; investment counseling; service charges of all financial institutions; barber and beauty; boat repair; car wash and wax; carpentry; roof, shingle, and glass repair; dry cleaning; pressing, dyeing, and laundering; electrical and electronic repair and installation; rental of tangible property, except mobile homes which are not tangible personal property; excavating and grading; farm implement repair of all kinds; flying services; furniture, rug, upholstery repair and cleaning; fur storage and repair; jewelry and watch repair; golf and country clubs and all commercial recreation, except gaming activities; house and building moving; household appliance, television, and radio repair; jewelry and watch repair; machine operators; machine repair of all kinds; motor repair; motorcycle, scooter, and bicycle repair; oilers and lubricators; office and business machine repair; painting, papering, and interior decorating; parking facilities; pipe fitting and plumbing; wood preparation; private employment agencies, excluding services for placing a person in employment where the principal place of employment of that person is to be located outside the jurisdiction of the Tribe; shoe repair and shoeshine; storage warehousing of raw agricultural products; telephone answering service; collection agencies; test laboratories, except tests on humans; termite, bug, roach, and pest eradicators; tin and sheet metal

repair; massage salons; weighing; welding; well drilling; wrapping, packing and packaging of merchandise other than processed meat, fish, fowl, and vegetables; wrecking service; wrecker and towing; cable television; campgrounds; carpet and upholstery cleaning; gun and camera repair; janitorial and building maintenance or cleaning; lawn care, landscaping and tree trimming and removal; security and detective services; tanning beds or salons; water conditioners and softening; limousine service; and tour bus service.

Sec. 17-2104. Commercial Occupancy Tax.

There is imposed for the privilege of occupancy a Commercial Occupancy Tax upon every lease of real property, which is used for commercial purposes within the jurisdiction of the Tribe, at a rate equal to three percent (3%) of the monthly rent charged for such occupancy.

(a) The following terms when used in this subsection shall mean:

(1) Tenant includes any person operating as a lessee, sublessee, licensee or concessionaire in occupancy, within the jurisdiction of the Tribe.

(2) Landlord includes any person operating as a lessor or sublessor with the tenant or sub-tenant in occupancy.

(3) Rent includes the amount paid by any tenant for the right or permission to occupy the premises for commercial purposes, and shall include: any amount paid based on a share of profits; payments made by the tenant on behalf of the landlord for property taxes; water or sewer rents; charges for building services that the tenant could not personally provide independently of the landlord; building services provided pursuant to a lease; and business services; provided, that rent shall not include charges for utility services nor payments made by a tenant for leasehold improvements, repairs or maintenance performed as part of the lease or rental agreement.

(4) Commercial purpose includes the carrying on or exercising of any trade, business, profession, vocation, or the business of leasing or renting for consideration.

(b) The tax is computed on the monthly rent paid for the use or occupancy of land by a tenant or subtenant for commercial purposes.

(c) Whenever the tenant is also a sublessor of the premises, and the subtenant occupies or uses the premises for commercial purposes, the tenant's taxable rent is reduced by the amount received from the subtenant, with the subtenant responsible for the tax on the amount of rent paid to the sublessor.

(d) On or before the close of each calendar quarter, every landlord shall file a return with the Revenue Department, on a form and in accordance with the rules prescribed by the Revenue Department, showing the monthly rent paid during the calendar quarter, which return shall be accompanied by payment of the tax due for the period covered by the return.

(e) The leasing or renting of dwelling units, lodging facilities and trailer or mobile home spaces, which are intended primarily for leasing or renting to persons who reside in such units, facilities or spaces, as their principal or permanent places of residence, are not subject to the Commercial Occupancy Tax. Principal or permanent place of residence means a unit, facility or space leased or rented to a single tenant thirty (30) or more consecutive days, other than a hotel, motel, dude ranch, resort or campground.

(f) Upon resolution by the Tribal Council, the application of the Commercial Occupancy Tax to tenants who are members of the Tribe may be waived; provided, that a Tribal member who is a landlord shall collect any tax due, in the manner provided above.

Sec. 17-2105. Foreign Retailers.

There is imposed a tax of five percent (5%) upon the gross receipts of all retailers not maintaining a place of business within the jurisdiction of the Tribe from all sales of tangible personal property sold at retail to consumers within the jurisdiction of the Tribe that meet any of the following criteria:

(a) Solicit retail sales of tangible personal property by mail or otherwise, if the solicitations are continuous, regular, or systematic and if the retailer benefits from any banking, financing, debt collection, telecommunications, or marketing activities occurring or benefits from the location of authorized installation, servicing, or repair facilities, within the jurisdiction of the Tribe;

(b) Are owned or controlled by the same interests, that own or control a retail business engaged in the same or similar line of business within the jurisdiction of the Tribe; or

(c) Maintain or have a franchise or license operating under the retailer's trade name within the jurisdiction of the Tribe, if the franchisee or licensee is required to collect the tax imposed by this Article II.

Sec. 17-2106. Hotel Occupancy Tax.

There is imposed a five percent (5%) tax upon every charge for occupancy of a room or suite of rooms in a hotel located within the jurisdiction of the Tribe, which is regularly used and kept open as such for the lodging of guests, including a motel, apartment hotel, resort, or club.

Sec. 17-2107. Exemptions.

There is hereby specifically exempted from the provisions of this Article II and from computation of the amount of the tax imposed by it the following:

(a) The gross receipts from sales at retail to the Tribe, or one of its political subdivisions, to the United States, to the State of Iowa, or to any other Indian Tribe.

(b) The gross receipts from casual sales.

(c) The gross receipts from the sale of machinery or equipment used exclusively in the production of food, grass, feed and other agricultural products or in building or maintaining of farm and ranch roads and water facilities.

(d) The gross receipts from the sale of repair and replacement parts for machinery or equipment used exclusively on a farm or ranch, including tractor tires, tires used on motor vehicles not licensed for highway use and tires specifically designated by the manufacturer for farm use only.

(e) The gross receipts from the sale of fence wire, fence posts, pens, gates, vehicle-mounted fertilizer spreaders, cattle guards and chutes used in connection with raising livestock or producing agricultural products.

(f) The gross receipts from sales at retail to any prime contractors and subcontractors engaged in realty improvements contracts with the Tribe or any of its political subdivisions or wholly-owned economic enterprises.

(g) The gross receipts from the sale of objects of religious, ceremonial or historical importance to the Tribe or Tribal members.

CHAPTER 2. ADMINISTRATIVE PROVISIONS

Sec. 17-2201. Addition of Tax to Price of Sale or Charge for Services.

Every retailer shall add the tax imposed by Sections 17-2101 through 17-2107 to the sales price, service charge or rent, and when the amount of the tax is added: (1) it becomes part of the sales price, service charge or rent; (2) it is a debt of the customer to the retailer until paid; and (3) if unpaid, it is recoverable at law in the same manner as the original sales price, charge for services or rent. The taxes collected pursuant to this Article II by the retailer shall be remitted by the retailer to the Revenue Department in a manner and at intervals prescribed by the Revenue Department.

Sec. 17-2202. Schedule for Collection of Tax from Customer.

(a) The following schedule is hereby adopted as the basis for collection of the tax imposed by Sections 17-2101, 17-2102, 17-2103, 17-2105, and 17-2106:

\$.30	to	\$.49	-	\$.02
\$.50	to	\$.69	-	\$.03
\$.70	to	\$.89	-	\$.04
\$.90	to	\$ 1.09	-	\$.05

and on each additional dollar or fraction thereof an increment in the tax according to this schedule.

(b) It shall be unlawful for any retailer to advertise or hold out or state to any consumer, directly or indirectly, that the tax or any part thereof imposed by this Title will be assumed or absorbed by

the retailer or that it will not be considered as an element in the price to the consumer, or if added, that it or any part thereof will be refunded.

Sec. 17-2203. Returns and Payment of Tax.

(a) On or before the fifteenth (15th) of the month following the end of each calendar quarter, the retailer shall file a return with the Revenue Department which shall include the amount of gross receipts subject to the tax, the amount of gross receipts excluded and exempt from the tax and a calculation of tax due for the period covered by the return, in accordance with the forms and rules prescribed by the Revenue Department and as may be necessary for the proper administration and enforcement of this Title.

(b) If it is reasonably expected that a retailer's annual tax liability will not exceed one thousand dollars (\$1,000) for a calendar year, the retailer may request and the Treasurer may grant permission, in lieu of the quarterly filing requirement, to file the return and remit the taxes imposed upon the gross receipts of all sales subject to tax under Article II on a calendar basis, so that the return and tax become due and payable no later than January 31 following each calendar year in which the retailer is engaged in business.

TITLE 17. TAXATION
ARTICLE III
MOTOR VEHICLE FUEL TAX

[NOTE: Except as otherwise noted, the provisions of Article III, Title 17 was enacted on October 24, 2007 by Res. No. 31-2007.]

CHAPTER 1. GENERAL PROVISIONS

Sec. 17-3101. Definitions.

The definitions contained in Article I shall apply to provisions of this Article III according to their content, except the following words, terms, and phrases when used in this Article III shall have the meanings ascribed to them below.

(a) Consumer means any person purchasing motor vehicle fuel within the jurisdiction of the Tribe for use in a motor vehicle licensed for operation upon public roads or highways.

(b) Distributor means a person other than a retailer, who acquires motor vehicle fuel from a supplier for subsequent wholesale distribution in bulk or transport load by truck, railcar, or in a barrel, drum or other receptacle; provided, that a person may bring into the jurisdiction of the Tribe an amount not to exceed thirty gallons of motor vehicle fuel in the supply tank or another container directly connected to the motor vehicle without becoming a distributor.

(c) Motor vehicle fuel: shall mean the following:

(1) All products commonly or commercially known or sold as gasoline, including casinghead and absorption or natural gasoline, regardless of their classifications or uses, and any liquids which, when subjected to distillation in accordance with the standard method of test for distillation of gasoline, naphtha, kerosene, and similar petroleum products (American society for testing materials designation D-86), shows not less than ten percent distilled (recovered) below three hundred forty-seven degrees Fahrenheit and not less than ninety-five percent distilled (recovered) below four hundred sixty-four degrees Fahrenheit, but does not include aviation fuel. It includes agriculturally derived alcohol blended with gasoline, used in a pure state, or if blended with another agriculturally derived liquid.

(2) All combustible gases and liquids suitable for the generation of power in an internal combustion engine or motor. The term includes undyed diesel fuel and all special fuel blends. The term does not include liquid petroleum gas, compressed natural gas, natural gas which is not compressed natural gas, compounds or blends of fuels which are prepared and used strictly as racing fuels in motor vehicles operated solely off of public highways in organized racing events.

(3) The term does not include liquefied gases which would not exist as liquids at a temperature of sixty degrees Fahrenheit and a pressure of fourteen and seven-tenths pounds per square inch absolute; nor does it include compounds or blends of fuels which are prepared and used strictly as racing fuels in a motor vehicles operated solely off of public highway in organized racing events.

(d) Blends means on or more petroleum product, mixed with or without another product, regardless of the original character of the product blended, if the product obtained by the blending is suitable for the generation of power in an internal combustion engine or motor.

(e) Public road or highways means every street, road, drive, highway, or thoroughfare of any kind open to the public and intended or used for its enjoyment and for the passage of motor vehicles.

Sec. 17-3102. Tax Imposed.

(a) The rate of tax imposed on motor vehicle fuel shall be determined from time to time by resolution of the Tribal Council.

(b) The distributor shall remit the tax imposed by this Article III on the wholesale distribution of motor vehicle fuel to a retailer, and on direct sales of motor vehicle fuel to the consumer.

(c) The tax imposed by this Article III does not apply on a sale by a distributor to another distributor, on an export, or on a sale to an exempt consumer.

(d) All taxes, penalties and interest collected pursuant to this Article III shall be deposited in a special fund designated for construction, reconstruction, repair and maintenance of Tribal roads and cleanup of pollution from petroleum spills from underground storage tanks. A fixed percentage of the taxes collected pursuant to this Article III may be transferred to another government pursuant to a Tribal tax revenue-sharing agreement.

Sec. 17-3103. Tax Collection Allowance.

Any distributor who properly remits tax under this Article III shall be entitled to deduct and withhold from the amount of tax which would otherwise be due one and one-half percent to reimburse the distributor for the expense incurred on behalf of the Tribe in collecting and remitting motor vehicle fuel taxes, and for loss from evaporation, handling, spillage and shrinkage. This provision does not apply to additional tax assessed during an audit.

Sec. 17-3104. Disposition of Proceeds of Taxes.

The money received by the Revenue Department from the motor vehicle fuel taxes imposed by this Article III, after deducting the cost of administration and collection authorized by Tribal Council appropriation only, shall be credited to a motor vehicle fuel tax fund and used solely for snow removal

and the construction, improvement, maintenance and repair of roads, bridges, highways, public safety and subject to such other provisions and restrictions as provided by Tribal law.

CHAPTER 2. ADMINISTRATIVE PROVISIONS

Sec. 17-3201. Monthly Return and Payment of Tax by Distributors.

(a) The tax shall be paid in the first instance by the distributor upon the invoiced gallonage of all motor vehicle fuel placed into any tank or other container for use, sale, or delivery, excluding transportation, to a retailer or consumer within the jurisdiction of the Tribe. The distributor shall pass the tax on to the retailer and the retailer shall pass the tax on to the consumer.

(b) All sales or transfers of motor vehicle fuel made by a distributor to retailers or consumers within the jurisdiction of the Tribe shall be accompanied by a transportation bill of lading or a sales invoice which shall be given to the retailer or consumer upon delivery of fuel.

(c) Each distributor shall file a monthly report with Revenue Department no later than the fifteenth (15th) day of each calendar month covering motor vehicle fuel sold during the preceding calendar month. When the 15th day of the calendar month falls on a Saturday, Sunday or legal holiday, the due date shall be the first business day after the Saturday, Sunday or legal holiday. When the report is filed by mail, the report is timely if the envelope containing the report is postmarked by the United States postal service or other postal carrier before midnight of the due date.

(d) The distributor must file the return on the forms prescribed by the Revenue Department. At a minimum, the return must contain the following information:

- (1) A detailed schedule of motor vehicle fuel purchased, imported and exported.
- (2) A detailed schedule of motor vehicle fuel sold to any person eligible to purchase motor vehicle fuel without the tax imposed by this Article III.
- (3) A detailed schedule of motor vehicle fuel sold for resale, including a list of persons who purchased such fuel.
- (4) The total number of gallons of motor vehicle fuel sold subject to the tax imposed by this Article III.
- (5) The number of gallons of motor vehicle fuel in inventory at the beginning of the calendar month, the number of gallons in inventory at the close of the calendar month, and any gains or losses experienced.
- (6) The return must be signed by the distributor to be valid and must contain a written declaration that it is made and subscribed under penalties of perjury.

(e) Each distributor shall pay the tax due at the same time as the filing due date of the tax return.

Sec. 17-3202. Business License Required.

It shall be unlawful for any person to act as a distributor within the jurisdiction of the Tribe, unless such distributor obtains a Tribal Business License.

Sec. 17-3203. Records Required for a Period of Three Years.

Each retailer selling motor vehicle fuel at retail within the jurisdiction of the Tribe shall maintain and keep for a period of three years, records of all transactions together with invoices, delivery tickets, bills of lading, and such other records reasonably required by the Revenue Department. The records shall be open to inspection by the Revenue Department and Treasurer during normal business hours.

Sec. 17-3204. Refunds.

(a) When the retailer pays the tax imposed by this Article III and later makes a sale of the fuel to an agency of the United States government, the retailer may apply to the Treasurer for a refund of the tax in the manner prescribed by the Revenue Department. A refund claim must be filed during the calendar year, on or after January first and before July first of the next year following the year during which the sale was made. However, a claim for refund may be filed in the same calendar year if the claim for refund exceeds four hundred dollars (\$400).

(b) A retailer who has lost motor vehicle fuel due to a casualty loss or theft exceeding one hundred gallons, on which the fuel tax imposed by this Article III has been paid, shall be refunded the amount of tax on the lost gallons, based on proof of loss as required by the Treasurer. The claim for refund must be filed within thirty (30) days after the loss is discovered, unless the Treasurer grants an extension of time for cause.

(c) A distributor may apply for and obtain a refund for taxes paid the Tribe on any gallons of motor vehicle fuel sold to a party who fails to pay the distributor for the product and the taxes owed to the Tribe. Application for this refund shall be made within sixty (60) days of the occurrence of the delinquency. Upon application, all unpaid taxes of the delinquent party become due and owing. The application for refund may include all taxes credited to the delinquent party since the occurrence of the delinquency. To qualify for a refund, the distributor shall supply the Treasurer sufficient evidence and testimony to enforce any tax collection action by the Treasurer. Upon application of this refund, the Treasurer may make an assessment and take collection action against the purchaser of the fuel in accordance with the provisions of Article V. The distributor is only eligible for a refund for the taxes not paid by a customer once every three (3) years. The distributor is responsible for the tax on all sales to a delinquent purchaser that take place after the application for refund is made and is not eligible for further refunds.

(d) Any person who buys and uses motor vehicle fuel for a qualifying purpose other than use in motor vehicles or motorboats, and who paid the tax directly or indirectly through the amount of the tax

being included in the price of the motor vehicle fuel, or otherwise, may obtain a refund of the tax paid upon filing with the Revenue Department a claim for refund in the form and manner prescribed by the Revenue Department, and containing the information the Revenue Department shall require. By signing any such claim which is false or fraudulent, the applicant shall be subject to the penalties provided in this Title for knowingly making a false claim. The claim shall set forth the total amount of motor vehicle fuel so purchased and used by the applicant other than in motor vehicles or motor boats, and shall state when and for what purpose it was used. When a claim contains an error in computation or preparation, the Revenue Department is authorized to adjust the claim in accordance with the evidence shown on the claim or other information available to the Revenue Department. The Revenue Department, on being satisfied that the claimant is entitled to the payments, shall transmit it to the Treasurer for approval.

(e) Motor vehicle fuel bought and used for a "qualifying purpose" means motor vehicle fuel used in carrying on a trade or business, used on a farm or ranch situated within the jurisdiction of the Tribe, and used for an agricultural purpose. Motor vehicle fuel shall be treated as used for agricultural purposes only if used by the applicant in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including, but not limited to, the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife, on a farm or ranch of which the applicant is the owner, tenant, or operator.

TITLE 17. TAXATION**ARTICLE IV****CIGARETTE AND TOBACCO PRODUCTS EXCISE TAX**

[NOTE: Except as otherwise noted, the provisions of Article IV, Title 17 was enacted on October 24, 2007 by Res. No. 31-2007.] [NOTE: Except as otherwise noted, the provisions of Article IV, Chapter 4 Sec. 17-4410, Title 17 was enacted on June 30, 2016 by Res. No. 17-2016.]

CHAPTER 1. GENERAL PROVISIONS**Sec. 17-4101. Definitions.**

Definitions contained in Article I shall apply to provisions of this Article IV according to their content, except the following words, terms, and phrases when used in this Article IV shall have the meanings ascribed to them below.

(a) Cigarettes shall mean any roll for smoking made wholly or in part of tobacco, irrespective of the tobacco being flavored, adulterated, or mixed with other ingredients, where such roll has a wrapper or cover made of paper or any material, except where such wrapper is wholly or in the greater part made of natural leaf tobacco in its natural state.

(b) Distributor shall mean any person who purchases unstamped cigarettes or other tobacco products directly from the manufacturer thereof and stores, sells or otherwise disposes of the same within the jurisdiction of the Tribe, including the Tribe when it imports tobacco products into its jurisdiction. Cigarette distributor also includes any person who manufactures or produces, or causes to be manufactured or produced cigarettes or other tobacco products, and sells, stores, or distributes the same within the jurisdiction of the Tribe.

(c) Manager shall mean a person employed by the Tribe to manage a tobacco outlet.

(d) Tobacco Outlet shall mean a retail sales business established and operated by the Sac & Fox Tribe of the Mississippi in Iowa for the purpose of selling tobacco products within the jurisdiction of the Tribe, including tobacco outlets that are operated simultaneously with another business established by the Tribe or other business conducted on the same premises as the tobacco outlet.

(e) Tobacco Products shall mean cigars, snuff, chewing tobacco, and any other products made up or composed of tobacco in whole or in part, except cigarettes.

(f) Retail Selling Price shall mean the ordinary, customary or usual price paid by the consumer for each tobacco product, less the tax levied under this Article IV.

Sec. 17-4102. Tax Imposed.

(a) The rate of tax imposed on each package of cigarettes and the retail selling price of other tobacco products shall be recommended by the Revenue Department and determined by the Tribal Council.

(b) The excise taxes imposed by this Article IV shall be a tax upon the distribution and sale of cigarettes and other tobacco products by the Tribe only, and shall not constitute an assessment or license fee upon members of the Tribe or upon non-members doing business within the jurisdiction of the Tribe.

Sec. 17-4103. Incidence of Tax.

The Tribal Council may levy an additional tax upon the handling, distribution, sale, use, consumption, and possession of cigarettes and other tobacco products as it deems necessary.

Sec. 17-4104. Addition of Tax to Retail Selling Price.

(a) The amount of the tax imposed by this Article IV, as determined by the Tribal Council, shall be added to the retail selling price of every package of cigarettes sold by a tobacco outlet within the jurisdiction of the Tribe.

(b) The amount of the tax imposed by Article IV, as determined by the Tribal Council, shall be added to the retail selling price of every tobacco product sold by a tobacco outlet within the jurisdiction of the Tribe.

Sec. 17-4105. Stamps or Metering Machine Imprint Used to Evidence Tax Payment.

The payment of tax imposed by this Article IV shall be evidenced by the affixing of stamps or by the impression of an imprint by suitable metering machines approved by the Treasurer, to the packages containing the cigarettes as hereinafter provided.

CHAPTER 2. TOBACCO OUTLETS**Sec. 17-4201. Establishment of Tobacco Outlets.**

The Tribal Council may establish one or more tobacco outlets within the jurisdiction of the Tribe as the Council in its sole discretion deems necessary to provide adequate service to consumers of cigarettes and tobacco products.

Sec. 17-4202. Nature of Outlet.

Each tobacco outlet established by the Tribal Council shall be operated and managed for the Tribe by a manager employed by the Tribe.

Sec. 17-4203. Purchase by Tribe.

All cigarettes and tobacco products sold within the jurisdiction of the Tribe shall be purchased wholesale by the Tribe and held for resale at Tribal-owned tobacco outlets only.

Sec. 17-4204. Tobacco Products Federally Restricted Tribal Property.

The entire stock of cigarettes and tobacco products distributed hereunder shall remain restricted Tribal property owned and possessed by the Tribe until sale to the ultimate consumer.

CHAPTER 3. PROHIBITED SALES AND CONTRABAND**Sec. 17-4301. Sale of Unstamped Cigarettes and Tobacco Products Prohibited.**

(a) No manager shall sell, offer for sale, display for sale, or possess with intent to sell, any cigarettes or tobacco products within the jurisdiction of the Tribe which do not bear stamps approved by the Treasurer, evidencing the payment of the tax imposed by this Article IV.

(b) Any manager who shall sell, offer for sale, display for sale, or possess with intent to sell, any cigarette or tobacco products within the jurisdiction of the Tribe which do not bear stamps approved by the Tribal Treasurer evidencing the payment of the tax imposed by this Article IV, shall be guilty of a Class One (1) Misdemeanor.

Sec. 17-4302. Enforcement Powers of Tribal Treasurer.

The Treasurer is charged with the duty of enforcing the provisions of this Article IV, and is given the power of peace officers and authorized and empowered to: arrest any violator of the provisions of this Title; to enter complaints before any Court of competent jurisdiction; and to seize without formal warrant and use as evidence, any forged, counterfeited, spurious, or altered stamp found in possession of anyone in violation of this Title.

Sec. 17-4303. Unstamped Cigarettes and Tobacco Products as Contraband.

Any cigarettes or tobacco products found at any place within the jurisdiction of the Tribe without stamps affixed thereto approved by the Treasurer as required by this Article IV, unless such cigarettes or other tobacco products shall be in the possession of a manager in the original unopened shipping packages or unless they shall be in a course of transit from outside of the jurisdiction of the Tribe and consigned to the Tribe, are declared to be contraband goods and may be seized by the Treasurer, his/her agents, or employees, or by any peace officer of the Tribe, when directed by the Treasurer to do so, without a warrant.

Sec. 17-4304. Forfeiture of Contraband Cigarettes and Other Tobacco Products.

Any cigarettes or tobacco products seized under the provisions of this Article IV shall be confiscated and forfeited to the Tribe, and the Treasurer shall sell such confiscated property in the tobacco outlet. The proceeds from such sale shall be remitted to the Tribal Treasurer and included as income for the enforcement of this Article IV.

Sec. 17-4305. Restricted Sales to Minors.

A tobacco outlet may not sell any tobacco products to any person under the age of eighteen (18) years.

Sec. 17-4306. Unauthorized Sales of Tobacco Products.

The sale at retail of cigarettes or tobacco products by any person within the jurisdiction of the Tribe, other than the Tribe from tobacco outlets, is prohibited. Any person selling, offering for sale, displaying for sale, or possessing with intent to sell, any cigarette or tobacco products within the jurisdiction of the Tribe, other than from Tribal-owned tobacco outlets, shall be guilty of a Class One (1) Misdemeanor.

CHAPTER 4. ADMINISTRATIVE PROVISIONS**Sec. 17-4401. Manager Responsible for Collection and Remittance of Tax.**

The manager shall be responsible for the collection of the excise taxes imposed by this Article IV from every purchaser of cigarettes and tobacco products. The taxes collected pursuant to this Article IV shall be remitted by the manager to the Revenue Department in a manner and at intervals prescribed by the Revenue Department or the Tribal Council.

Sec. 17-4402. Monthly Returns by Managers.

On or before the fifteenth (15th) day of each month every manager shall render to the Revenue Department a verified report of all sales and deliveries on forms prescribed by the Revenue Department, showing the quantity sold or delivered to the tobacco outlet during the preceding month and the amount of stamps on hand at the end of the reporting period and such other information as the Treasurer shall require.

Sec. 17-4403. Stamps Secured By Tribal Treasurer.

The Treasurer shall secure stamps, of such design and denomination as she/he shall prescribe, suitable to be affixed to packages of cigarettes as evidence of the payment of the tax imposed by this Article IV. The Treasurer shall keep accurate records of all stamps provided to any manager or distributor.

Sec. 17-4404. Resale of Stamps Prohibited.

No manager or distributor shall sell or transfer any stamps issued under the provision of this Article IV. The Treasurer shall repossess any unused, uncanceled stamps under rules and regulations issued pursuant to this Article IV by the Treasurer.

Sec. 17-4405. Use or Possession of Counterfeit Stamps as Offenses.

Any person who shall fraudulently make or shall forge or counterfeit any stamp prescribed by the Treasurer under the provisions of this Article IV, or who shall cause or procure the same to be done, or who shall willfully publish, pass or render as true, any false, altered, forged, or counterfeit stamp, or who shall use more than once any stamp provided for and required by this Article IV, for the purpose of evading the tax thereby imposed, shall be guilty of a Class One (1) Misdemeanor.

Sec. 17-4406. Use of Approved Metering Machine Authorized By the Treasurer in Lieu of Stamps.

The Treasurer, if he/she shall determine that it is practicable to stamp by impression, packages of cigarettes or tobacco products by means of a metering machine may, in lieu of the affixing of stamps as provided by this Article IV, authorize any manager or distributor to use any metering machine approved by her/him.

Sec. 17-4407. Tribal Treasurer Appoints Assistants.

Subject to final approval of the Tribal Council, the Treasurer may designate and appoint one or more persons as her/his agent to provide stamps to a manager or distributor. It shall be the duty of such person to transmit to the Treasurer a report showing the number of stamps distributed, which shall be transmitted to the Treasurer on the first and fifteenth day of each calendar month.

Sec. 17-4408. Affixing of Stamps by Manager or Distributor.

Each manager or distributor shall affix or cause to be affixed to each individual package of cigarettes, to cartons containing more than one individual package of three, four, or five cigarettes sold or distributed by her/him, stamps of the proper denomination, as required by this Article IV. Such stamps must be affixed by a manager or distributor before the cigarettes or other tobacco products are transferred out of the premises of the tobacco outlet or from the distributor's possession.

Sec. 17-4409. Affixing of Stamps or Imprint By Manager.

Each manager upon opening any shipping package containing any unstamped cigarettes or other tobacco products for purposes of sale or delivery to consumers, shall immediately affix or imprint the tax stamps required by this Article IV.

Sec. 17-4410. Cigarettes Manufactured to be Distributed to Another Tribe or Distributor.

The provisions of this Article do not apply to cigarettes or tobacco products manufactured for or on behalf of another Tribe or to be distributed to another Tribe, Tribal distributor, or non-tribal distributor for products whose final retail sale is not intended and is not in fact sold on the Settlement.

[NOTE: Except as otherwise noted, the provisions of Article IV, Chapter 4 Sec. 17-4410, Title 17 was enacted on June 30, 2016 by Res. No. 17-2016.]

TITLE 17. TAXATION

ARTICLE V

PROVISIONS APPLICABLE TO ALL TAXES IMPOSED BY THIS TITLE

[NOTE: Except as otherwise noted, the provisions of Article V, Title 17 was enacted on October 24, 2007 by Res. No. 31-2007.]

CHAPTER 1. GENERAL PROVISIONS

Sec. 17-5101. Disposition of Proceeds of Taxes.

(a) The Treasurer shall establish a tax revenue account for the Tribe. Except for motor fuel taxes which shall be allocated as provided in Article III, the money received by the Revenue Department from the taxes imposed by this Title shall be credited by the Treasurer to the tax revenue account of the Tribe to be used in the provision of tribal governmental services, including, but not limited to:

- (1) Public health.
- (2) Law enforcement and fire protection.
- (3) Water, sewage, and garbage disposal.
- (4) Operation of central government, including functions of Tribal planning.
- (5) Operation of the Tribal Court.
- (6) Education, cultural development; maintenance of Tribal traditions.
- (7) Development of Tribal enterprises, recreational facilities and opportunities, and land acquisition.
- (8) Operations of the Revenue Department.

(b) The Revenue Department shall make recommendations concerning disposition of proceeds to the Treasurer, who will make recommendations to the Tribal Council, and the percent of tax proceeds allocated to each of the above categories shall be determined by the Tribal Council.

Sec. 17-5102. Sovereign Immunity of Tribe.

Without the express consent of the Tribe pursuant to appropriate action of the Tribal Council, no employee, officer or agent of the Tribe or a political subdivision of the Tribe is authorized to waive the sovereign immunity of the Tribe. Any written consent and action by the Tribal Council relating to the

sovereign immunity of the Tribe shall specify in detail the scope of authority. Such authority shall be limited by the Tribal Council in duration and scope. Any action taken by any person related to sovereign immunity, pursuant to authority vested in such person by the Tribal Council shall be in writing, related to a specific and expressly identified transaction, and limited to the particular transaction. Any written statement of any person concerning the Tribe's sovereign immunity shall be approved by the Tribal Council before it shall have any binding effect on the Tribe.

Sec. 17-5103. Suits Against the Revenue Department.

(a) The Revenue Department, as a governmental agency of the Tribe, its Commissioner, and employees shall be immune from any suit in law or equity while performing their lawful duties within the scope of the authority delegated to them, provided, that any person against whom the Revenue Department has assessed taxes, penalties, or interest and who has paid under written protest any taxes, penalties, or interest may bring an action in the Tribal Court after exhaustion of administrative remedies, to enjoin the Revenue Department from collecting any taxes, penalties, or interest assessed, or for the recovery of any taxes, penalties, or interest paid under written protest which the Tribal Court finally determines to have been wrongfully assessed or collected.

(b) Any authorized suit against the Revenue Department must be commenced by filing a petition in the Tribal Court within thirty (30) days of the date administrative remedies have been deemed exhausted in accordance with Section 17-6303.

(c) Review of Revenue Department actions in the Tribal Court shall be on the record made in the Revenue Department and not de novo, and shall be limited to the determination whether the action of the Revenue Department was not supported by the evidence, or was arbitrary, capricious, an abuse of discretion, beyond its authority, or otherwise contrary to applicable Tribal or federal law.

(d) The Tribal Court shall be empowered to affirm, reverse, or modify a Revenue Department action, or to remand the matter to the Revenue Department for further action, and it may stay the effect of an order suspending a right to engage in productive activity, pending the appeal.

(e) In no event shall the Tribal Court be authorized to award or order the payment of damages or to fashion any remedy except to enjoin the collection or order the return of the amount of the taxes, penalties, or interest in controversy unless an additional remedy is specifically provided by this Title.

(f) All amounts found to be wrongfully collected and refundable shall earn simple interest at a rate set by rulemaking as provided herein, to be calculated post-judgment only from and after the date of judgment, until refunded.

Sec. 17-5104. Constitutional Exemptions from Tax.

There are hereby specifically exempted from the provisions of this Title, and from the computation of the amount of the tax imposed by it, persons or transactions which this Tribe is prohibited from taxing under the laws of the Tribe or under Tribe's Constitution, or the laws of the United States.

Sec. 17-5105. Adoption of Regulations.

No rule or regulation prescribed by the Revenue Department shall be effective until and unless such rule or regulation is deemed by the Treasurer as necessary to the efficient administration and enforcement of this Title, and a certified copy of said rule or regulation bears the signature of the Treasurer.

CHAPTER 2. ADMINISTRATIVE PROVISIONS**Sec. 17-5201. Determination of Tax in Absence of Return.**

If a return is required by this Title, or if a return when filed is incorrect or insufficient and the maker fails to file a corrected or sufficient return within twenty days (20) after the same is required by notice from the Treasurer, the Treasurer shall determine the amount of tax due from such information as the Revenue Department may be able to obtain and, if necessary, may estimate the tax on the basis of external indices, such as stock on hand, rentals paid by the person, or other factors. The Revenue Department shall give notice of such determination to the person liable for the tax. Such determination shall finally and irrevocably fix the tax unless the person against whom it is assessed shall, within thirty (30) days after giving of notice of such determination, apply to the Treasurer for a hearing. At such hearing evidence may be offered to support such determination or to prove that it is incorrect. After such hearing the Treasurer shall give notice of the determination to the person liable for the tax. A request for hearing an administrative appeal before the Treasurer, pursuant to Section 17-6202, must be made within thirty (30) days of the date any taxes, penalties and interest are assessed, in the manner described herein, and paid under written protest.

Sec. 17-5202. Treasurer's Certificate as Prima Facie Evidence of Failure to File Return or Pay Tax.

The certificate of the Treasurer to the effect that a tax or amount required to be paid by this Title has not been paid, shall be prima facie evidence thereof.

Sec. 17-5203. Credit or Refund of Erroneous Overpayment.

(a) If it shall appear that an amount of tax, penalty, or interest has been paid which was not due under the provisions of this Title, whether as the result of a mistake of fact or an error of law, then such amount shall be credited against any tax due or to become due, under this Title from the taxpayer who made the erroneous payment, or such amount shall be refunded to such person by the Treasurer.

(b) A claim for credit or refund, as provided above, shall be filed with the Revenue Department within three years after such erroneous payment was made or said claim shall be forever barred.

Sec. 17-5204. Refunds Established by Administrative or Court Proceedings.

(a) Whenever any taxpayer shall establish in administrative or Tribal Court proceedings that they are entitled to a refund of any taxes, penalties, or interest previously paid, the Treasurer shall immediately cause a certified copy of the order and transcript of any administrative action, or judgment of the Tribal Court to be filed with the Tribal Council.

(b) Upon receipt of such order and transcript, or judgment of the Tribal Court, the Tribal Council shall appropriate to the Treasurer such amounts, as may be necessary to pay such refund, from otherwise unappropriated money in the tax revenue account. The Treasurer shall thereafter issue a refund to the taxpayer.

(c) When it appears reasonably certain, in the discretionary judgment of the Treasurer, that the taxpayer to whom a refund is due will incur further tax liability within the next twelve months after such refund is due in an amount in excess of such refund, the Treasurer may credit the amount of such refund, with lawful interest, against the future liability of the taxpayer, provided, that any amounts not used within twelve months shall be refunded at the request of the taxpayer.

Sec. 17-5205. Return Information and Investigations Confidential.

(a) The following terms used in this Section 17-5205 mean:

(1) Return information means any information collected, prepared or received by the Revenue Department or Treasurer which relates to a return, including the nature or amount of a taxpayer's income, receipts, deductions, net worth, tax liability, or deficiencies, or any part of any written determination or background file documents relating to such information. The term does not include data in a form which cannot be associated with or otherwise identify, directly or indirectly, a particular taxpayer; and

(2) Return means all tax returns, tax reports or claims for refund which are filed with the Revenue Department or Treasurer.

(b) All return information received by the Revenue Department or Treasurer pursuant to this Title, or from any investigation conducted under the provisions of this Article V, shall be confidential, and shall be used only as necessary to enforce the provisions of this Title. It shall be unlawful for any employee or officer employed by the Revenue Department or under the supervision of the Treasurer to divulge any Return Information in any manner, except in accordance with a proper judicial order or as otherwise provided by Tribal law, and such officer or employee who divulges such information in violation of this provision shall be subject to immediate dismissal.

(c) Returns and Return Information may be disclosed to the following:

- (1) The taxpayer who is required to submit the information to the Revenue Department, or the taxpayer's designee appointed in writing;
- (2) Officers, employees or legal representatives of the Revenue Department or Treasurer, but only to the extent necessary to carry out their official duties; and
- (3) Any agency, body, commission, or legal representative of the Tribe charged with the administration of this Title for the purpose of, and only to the extent necessary in, the administration of this Title.

CHAPTER 3. ENFORCEMENT, VIOLATIONS AND PENALTIES

Sec. 17-5301. Penalties for Failure to Pay.

Any person subject to tax under this Title who fails to pay such tax within the time prescribed shall be subject to a penalty of five percent (5%) of the amount of the underpayment. An additional penalty will be assessed of one-half percent (1/2%) of the underpayment for each full month payment is overdue, but not to exceed thirty-six percent (36%) of the underpayment.

Sec. 17-5302. Penalties for Failure to File.

If any person subject to tax under this Title fails to file a return by the time due, a penalty of ten percent (10% of the tax due for the assessment date or period, but not less than \$100, will be assessed against the taxpayer. An additional penalty of one-half percent (1/2%) of the tax due, but not less than \$100, will be assessed for each full month the return is overdue. The additional penalty will not exceed twenty-four percent (24%) of the tax due.

Sec. 17-5303. Records Required.

It shall be the duty of every manager, retailer or person required to make a return and pay tax under this Title, unless stated otherwise, to preserve such records of the gross proceeds of sales as the Treasurer may require and it shall be the duty of every retailer to preserve for a period of three (3) years all invoices and other records of goods, wares, or merchandise for resale and of services provided. All books, invoices, and other records shall be open to examination at any time by the Treasurer and her/his duly authorized agents and shall be made available within the jurisdiction of the Tribe for such examination upon reasonable notice to investigate the character of the business, in order to determine the amount due under the provisions of this Title.

Sec. 17-5304. Jeopardy Assessment of Taxes.

(a) If the Treasurer believes that the collection of taxes will be jeopardized by delay, the Treasurer may immediately make an assessment of the estimated tax and penalty, and make payment due thereof from the taxpayer. If such payment is not made, a lien may be filed and a distress warrant issued.

The Treasurer shall be permitted to accept a bond from the taxpayer to satisfy collection until the amount of tax legally due shall be determined and paid.

(b) When a jeopardy assessment or any other assessment has been made by the Treasurer, the property seized for collection of the tax shall not be sold until the time has expired for filing an appeal of the assessment with the Tribal Court. If an appeal has been filed, no sale shall be made unless the taxes remain unpaid for a period of more than thirty (30) days after final determination of the appeal by the Tribal Court.

Sec. 17-5305. Tax Lien on Property of Taxpayer.

(a) Whenever any taxpayer is liable to pay a tax assessed or penalty imposed and refuses or neglects to pay the same, that amount, including any interest or costs that may accrue in addition thereto, shall be a lien in favor of the Tribe upon all real or personal property and rights to such property belonging to said taxpayer.

(b) The Clerk of the Tribal Court shall prepare and keep in his/her office a book to be known as "index of tax liens", so ruled to show in appropriate columns the following data, under the names of the taxpayers, arranged alphabetically:

- (1) Name of the taxpayer;
- (2) Name "Sac & Fox Tribe of the Mississippi in Iowa" as claimant;
- (3) Date notice of lien was received;
- (4) Date of notice;
- (5) Amount of lien then due; and
- (6) Date the lien was satisfied.

(c) In order to preserve a lien imposed by this Section 17-5305 against subsequent mortgages, purchasers, or judgment creditors for value and without notices of the lien, on any property situated within the jurisdiction of the Tribe, the Treasurer shall file with the Clerk of the Tribal Court, a notice of said lien, signed by the Treasurer or his/her deputy and in such form as she/he shall elect, but containing the information prescribed in paragraph (b) of this Section 17-7404 for the Clerk of Court's index.

(d) The Clerk of Tribal Court shall endorse on each notice of lien the day, hour, and minute when received and preserve the same, and shall forthwith record said lien, and said lien shall be effective from the time of the indexing thereof.

(e) Upon payment of a tax as to which the Treasurer has filed notice with the Clerk of Courts, the Treasurer shall forthwith file with the Clerk of Courts a satisfaction of said tax and the Clerk

of Courts shall enter said satisfaction on the notice on file in his/her office and indicate said fact on the index aforesaid.

(f) After a notice of lien has been filed in accordance with this Section 17-5305, the Treasurer may at any time issue a distress warrant and deliver said warrant to the Chief of Police. Immediately upon receipt of the warrant, the Chief of Police shall proceed to collect the tax by seizure and sale of personal property within the jurisdiction of the Tribe and shall remit the tax so collected to the Treasurer.

(g) When the Chief of Police is unable to find property of the taxpayer which may be seized and sold, he/she shall within thirty (30) days after the receipt of the warrant, endorse upon the face of the warrant the word "uncollectible" and return the warrant to the Treasurer.

Sec. 17-5306. Civil Action.

In the case of failure to pay the tax, any interest thereon, or penalty due, the amount of such tax, interest or penalty shall constitute a debt due to the Tribe and may be collected in an action of debt brought by the Treasurer in Tribal Court. No exemptions from any execution of a judgment so obtained shall be permitted, except those made absolute by the exemption statutes of the Tribe.

Sec. 17-5307. Penalty for False Returns with Intent to Evade Tax.

(a) Any manager required to make a return under this Title who makes any false or fraudulent return in attempting to defeat or evade the tax imposed by this Title shall be guilty of a Class One (1) Misdemeanor.

(b) Any person subject to any tax imposed by this Title who attempts to defeat or evade the tax shall be guilty of a Class One (1) Misdemeanor.

Sec. 17-5308. Violation of Requirements.

(a) Any person who willfully violates any provision of this Title, or any rule or regulation issued hereunder shall be guilty of a Class One (1) Misdemeanor, unless otherwise stated.

(b) Any person engaged in business within the jurisdiction of the Tribe, and subject to a tax imposed by this Title, who fails to make and furnish any return required to be made, or who shall make the return required but shall fail to pay the tax or any part thereof when due, or who willfully violates any rule or regulation of the Treasurer or his/her agents for the purpose of examination, or refuses to furnish other records required shall be guilty of a Class A Misdemeanor.

Sec. 17-5309. Classification of Offenses.

(a) Class One (1) Misdemeanor shall mean a fine in an amount not to exceed Five Thousand Dollars (\$5,000).

(b) Class A Misdemeanor shall mean a fine in an amount not to exceed One Thousand Dollars (\$1,000).

(c) No provision of this Title shall prohibit the Tribal Court from imposing any penalty deemed more appropriate than a fine, under the circumstances of a particular case. Such penalty may include for example: commitment to a rehabilitation program, work for the benefit of the Tribe or restitution.

TITLE 17. TAXATION**ARTICLE VI****AUTHORITY, ADMINISTRATIVE APPEALS AND COLLECTIONS**

[NOTE: Except as otherwise noted, the provisions of Article VI, Title 17 was enacted on October 24, 2007 by Res. No. 31-2007.]

CHAPTER 1. GENERAL PROVISIONS**Sec. 17-6101. Appointment of the Tax Director.**

The Tribal Council shall appoint the Tax Director who shall carry out the day-to-day administration of this Title. The Tax Director shall report directly to the Treasurer, and shall be the person responsible for oversight of staff, and all other matters necessary to effectively fulfill the duties and responsibilities of the Revenue Department and Treasurer, all as further defined in this Title.

Sec. 17-6102. General Powers of the Treasurer.

The Treasurer shall generally be charged with the administration and enforcement of all Tribal tax laws. Incidental to the administration or enforcement of the Tribe's tax laws, the Treasurer shall have the authority to:

- (a) Retain staff, create positions, and job responsibilities within the Tax Department; oversee the Tax Director's performance of his/her duties; and make staffing recommendations to the Tribal Council.
- (b) Assess, collect and issue receipts for such taxes as are imposed in this Title and to bring actions on behalf of the Tribe in Tribal Court or any other court of competent jurisdiction for the collection of Tribal taxes, penalties and interest, and the enforcement of the Tribal Tax Laws, and all such actions shall be styled: The Sac & Fox Tribe of the Mississippi in Iowa *ex rel.* Treasurer vs. _____ ;
- (c) Administer oaths, conduct hearings, and, by subpoena, to compel the attendance of witnesses and the production of any books, records, and papers of any taxpayer relating to the enforcement of this Title;
- (d) Make, or cause to be made by its agents or employees, an examination or investigation of the place of business, equipment, facilities, tangible personal property, and the books, records, papers, voucher, accounts, documents, or other financial records of statements of any taxpayer, upon reasonable notice, during normal business hours, or at any other time agreed to by said taxpayer, or at any time pursuant to a search warrant signed by a judge of the Tribal Court;

(e) Examine, under oath, either orally or in writing any taxpayer or any agent, officer, or employee of any taxpayer, or any other witness in respect to any matter relative to this Title;

(f) Exercise all other authority delegated or conferred upon it by law, or as may be reasonably necessary in the administration or enforcement of this Title;

(g) Either before or after commencement of any action for the recovery of taxes, penalties, and interest due the Tribe, but prior to final judgment thereon, compromise and settle such claims for an amount less than the total amount due, provided that such compromise and settlement shall be approved by the Treasurer only when, in its judgment, such action is in the best interest of the Tribe, and provided further, that no settlement shall be made unless the delinquent taxpayer pays the principal amount of the taxes due to the Tribe.

(h) Serve as hearing officers for any administrative proceeding which is authorized or contemplated herein.

Sec. 17-6103. Rulemaking Authority.

(a) The Revenue Department shall have the authority to prescribe, promulgate, and enforce written rules and regulations not inconsistent with this Title to provide for its internal operational procedures; or to interpret or apply any provisions of this Title as may be necessary to ascertain or compute the tax owing by any taxpayer; or for the filing of any reports or returns required by this Title; or as shall be reasonably necessary for the efficient performance of its duties, or as may be required or permitted by law; or rules governing the conduct of hearings before the Commission regarding any matters arising pursuant to this Title.

(b) The Revenue Department shall have the authority by rule to adopt and promulgate a schedule of fees and charges for services rendered relating to:

(1) The production, copying, and certification of transcripts and of any records of the Revenue Department.

(2) The production, copying, and certification of transcripts for appeal and other services involving the furnishing of copies of proceedings, files, and records of the Revenue Department.

(3) The issuance of licenses or permits where such are required by the rules of the Revenue Department for the administration of this Title, in the absence of any other charge levied by this Title.

(4) The issuance of any duplicate license, fee, stamp, or other evidence of payment of taxes to replace an original.

(5) The provision of miscellaneous services to the public such as, but not limited to, Notary Public, and similar services.

(c) Those rules and regulations the Revenue Department deems necessary to administer this Title shall be promulgated only upon thirty (30) days notice of the proposed rulemaking action, which shall be provided to the Tribal Council and posted at the Tribal offices.

(1) The notice shall specify the purpose of the proposed regulation, the draft language of the proposed regulation and the factors the Revenue Department has considered in its determination to enact the proposed regulation, and the address at which the Revenue Department shall receive comments.

(2) During the notice period the Revenue Department shall receive comments regarding the proposed regulation at the designated mailing address.

(3) The comments received by the Revenue Department shall be considered by the Commission at a meeting open to all interested persons, and the Revenue Department shall make a final determination regarding the need for the proposed regulation, the language of the proposed regulation, and the effective date of the proposed regulation on the basis of all the information available to the Revenue Department. Any final determination of the Revenue Department shall be recorded in writing.

(4) All rules and regulations issued or approved by the Revenue Department shall be available to any person making a request for such at a cost of reproduction and other costs as identified by the Revenue Department.

(d) In all cases, such fees and charges shall be reasonable and shall not exceed an amount reasonably necessary to compensate the Revenue Department for providing such services. All such fees and charges shall be credited to the Tribal tax revenue account.

(e) No rule or regulation of the Revenue Department shall be of any effect until and unless a certified copy of said rule or regulation bears the signature of the Tribal Treasurer.

(f) The Tribal Court shall take judicial notice of all rules of the Tribal Treasurer.

CHAPTER 2. ASSESSMENT AND APPEALS

Sec. 17-6201. Finality of Assessment.

(a) If any taxpayer against whom the Revenue Department has assessed taxes, penalties, or interest pursuant to any tax law of the Tribe fails to file an administrative appeal pursuant to Section 17-6202 and the rules and regulations prescribed by the Revenue Department within thirty (30) days of the date any taxes, penalties or interest assessed by the Revenue Department are paid under written protest, then the assessment, without further action of the Revenue Department, shall become final.

(b) In all instances where the proposed assessment of taxes, penalties or interest has been permitted to become final, a certified copy of the assessment may be filed in the office of the Clerk of

Court of the Tribal Court, and upon being so filed, the Clerk of Court shall enter same upon the judgment docketed in the same manner as provided for civil judgments. When an assessment is so filed and docketed, it shall have the same force and be subject to the same law as a judgment of the Tribal Court, and accordingly it shall constitute a lien on any property of the taxpayer located within the jurisdiction of the Tribe; and execution may issue and proceedings in aid of execution may be had the same as on civil judgments of the Tribal Court. The remedies provided in this paragraph shall be in addition to other remedies provided by the Tribal Council.

Sec. 17-6202. Administrative Appeals

Any taxpayer against whom the Revenue Department has assessed taxes, penalties, or interest pursuant to this Title, and who has paid under written protest any taxes, penalties, or interest assessed by the Treasurer who believes those taxes, penalties, or interest to be wrongfully assessed or collected, may appeal in writing for a hearing before the Treasurer under such rules and regulations as the Treasurer may prescribe. No proceeding instituted by the Revenue Department to collect a tax liability may be stayed because of a request made by a taxpayer to adjust or abate an assessment alleged to be clearly erroneous.

Sec. 17-6203. Exhaustion of Administrative Remedies.

Administrative remedies shall be deemed exhausted:

- (a) Upon a final decision of an appeal pursuant to Section 17-6202 of this Title.
- (b) If the Treasurer shall fail to schedule and hold a hearing on the merits of the administrative appeal within ninety (90) days after receipt of a written request for a hearing, unless a delay is requested or approved by the taxpayer.
- (c) If the Revenue Department shall fail to issue a written decision on said appeal within thirty (30) days of the hearing on the merits of the taxpayer's administrative appeal.

CHAPTER 3. COLLECTION PROCEDURES AND ACTIONS

Sec. 17-6301. Collection of Taxes.

The Treasurer is hereby authorized to bring any necessary action in any appropriate Court for the collection of any taxes, penalties or interest assessed and unpaid. Such action shall be civil in nature and all penalties and interest shall be in the form of civil damages for non-payment. Any civil remedies, including but not limited to garnishment, attachment, and execution, shall be available for the collection of any monies due the Sac & Fox Tribe of the Mississippi in Iowa. The Treasurer may request an attorney employed by the Sac & Fox Tribe of the Mississippi in Iowa to bring any necessary action for the collection of any taxes, penalties, or interest assessed and unpaid with the approval of the Tribal Council. Provided, that the bringing of suit or enforcement proceedings shall not constitute a waiver of the sovereign immunity of the Tribe, and further provided that the Treasurer shall never be compelled to assert a claim for taxes in litigation by way of counterclaim or otherwise. The amount of any tax imposed by this Title shall be assessed by the Revenue Department within three (3) years after the date any return

was to be filed, or if payable by stamp, anytime after such tax became due. No proceeding may be brought by the Treasurer without a timely assessment, unless the taxpayer has filed a false return, no return, or has attempted to evade taxes owed, under which circumstances an assessment may be brought at anytime.

Sec. 17-6302. Seizure.

The Treasurer by and through the members and staff assigned thereto, is authorized, when accompanied by a police officer, to seize any property which is declared contraband by any provision of this Title, or upon which any tax levied is in excess of sixty (60) days past due under the same conditions, limitations and exceptions as evidence of crimes may be searched for and seized, provided, that within ten (10) days of such seizure, the Treasurer shall cause to be filed an action against said property alleging the nonpayment of tax or other lawful reason for such seizure and forfeiture, and upon proof, the Tribal Court shall order such property forfeited for nonpayment of taxes and title thereto vested in the Tribe, provided further, that any person claiming ownership, the right to possession or other interest in said property may intervene in said action and raise any defenses which he or she may have, and such person shall be served with process if they are known prior to the beginning of the action, provided further, that such person may redeem said property at any time prior to the entry of a final judgment of forfeiture by depositing all taxes, penalties, and interest assessed or owing with the Court.

Sec. 17-6303. Public Sale of Forfeited Property.

(a) Upon final order of forfeiture entered by a judge of the Tribal Court, the Revenue Department shall circulate an inventory of said property to all divisions of the Tribal Government. Any agency of the Tribal Government may submit a request to the Tribal Council that such portion of said property as they can use be retained for the benefit of the Tribe. The Tribal Council shall determine which property will be retained and shall order the Revenue Department to conduct a public sale of the remainder, or to destroy any property which is illegal to possess in all circumstances.

(b) The property to be sold shall be sold at public auction at the Tribal Office. Not less than twenty (20) days notice of such sale shall be posted in the Tribal Office and published at least twice in a newspaper of general circulation not less than ten (10) days prior to such sale. All funds received at such sale after payment of the cost of sale shall be deposited in the Tribal tax revenue account.

(c) The Revenue Department may, from time to time, conduct such sales when the Revenue Department determines that sufficient property has accumulated to make such sale profitable and shall conduct such sales upon direction of the Tribal Council.

(d) The seizure, forfeiture, and sale of contraband property shall not reduce or eliminate the tax liability of any person from whom such property was seized. The seizure, forfeiture, and sale of any other property shall reduce the tax liability of the person from whom such property was seized, provided, that such person shall receive credit for any excess monies derived from such sale.

Sec. 17-6304. Exempt Property.

The following property shall be exempt from garnishment, attachment, execution and sale for the payment of taxes, penalties, and interest due to the Tribe:

(a) Tools, equipment, utensils, or books necessary to conduct a business or trade, but not including stock or inventory;

(b) Actual trust or restricted title to any lands held in trust by the United States or subject to restrictions against alienation imposed by the United States, but not including income from trust property or leasehold and other possessory interests in such property;

(c) Any dwelling used as the actual residence of the taxpayer including up to five (5) acres of land upon which such dwelling is located whether such dwelling is owned or leased by the taxpayer;

(d) Household goods, furniture, wearing apparel, personal effects but not including entertainment items, works of art, and other recreational or luxury items; and

(e) All objects of religious, ceremonial or historical importance to the Tribe or Tribal members.

TITLE 17. TAXATION

ARTICLE VII

BUSINESS AND PROFESSIONAL LICENSES

[NOTE: Except as otherwise noted, the provisions of Article VII, Title 17 was enacted on October 24, 2007 by Res. No. 31-2007.]

CHAPTER 1. GENERAL PROVISIONS

Sec. 17-7101. Definitions

Unless the context requires otherwise or a different definition is provided for a particular Section, as used in this Chapter:

- (a) “Applicant” means a person applying for a business or professional license.
- (b) “Business” includes occupant businesses and non-occupant businesses, as defined in this Chapter.
- (c) “Business license” includes occupant business licenses and non-occupant business licenses, as defined in this Chapter.
- (d) “Health care provider” means: Physicians, dentists, medical residents or interns, hospital personnel and administrators, psychologists, psychiatrists, mental health professionals, nurses, home health aides, health care practitioners, chiropractors, osteopaths, pharmacists, optometrists, podiatrists, emergency medical technicians, ambulance drivers, undertakers, coroners, medical examiners, alcohol or drug treatment personnel, and other persons performing a healing role or practicing the healing arts.
- (e) “Professional” means a health care provider, attorney or legal advocate, social worker, professor, teacher, person working with children at a daycare or school, engineer, accountant, realtor, land surveyor, architect, boxer, mediator, or arbitrator, and any other professional deemed by regulation adopted by the Tax Director to require a license
- (f) “Member” means an enrolled member of the Sac & Fox Tribe of the Mississippi in Iowa.
- (g) “Non-occupant business” means a person, other than an occupant business, which provides or holds itself out to provide any goods or services for hire or compensation upon the Settlement; except that occupant business shall not include a person who is employed for wages or salary, or a person seeking such employment for himself or herself;
- (h) “Non-occupant business license” means the license required by this Chapter for a non-occupant business.

- (i) “Occupant” means a person who:
- (1) has a mailing or street address for business mail which is on the Settlement;
 - (2) holds any non-residential land assignment;
 - (3) uses any portion of a Tribal land assignment as an office, place of distribution, sales or sample room or place, warehouse or other place of business.

(j) “Occupant business” means an occupant of the Settlement which provides or holds itself out to provide, to others either on or off the Settlement, any goods or services for hire or compensation; except that occupant business shall not include:

- (1) the Tribe or any department or subdivision thereof;
- (2) a person who is employed for wages or salary, or a person seeking such employment for himself or herself.

(k) “Occupant business license” means the license required by this Chapter for an occupant business.

(l) “Person” when applied to a business license means any individual, firm, partnership, joint venture, association, corporation, municipal corporation, trust, business trust, receiver or any group or combination acting as a unit and the plural as well as the singular in number, but does not include the Tribe or any agency or department of the Tribe. “Person”, when applied to a professional license means a natural person.

CHAPTER 2. BUSINESS LICENSING

Sec. 17-7201. Business License Required.

(a) It shall be unlawful for any retailer, distributor, wholesaler or other person subject to this Title to provide or hold itself out as providing any goods or services for hire or profit, except as stated in subsection (b) unless the business is a business operated by the Tribe or has a current business license issued by the Tribe.

- (b) A business may engage in the following activities without a business license:
- (1) services for which a Tribal gaming license is required and obtained, unless that same business also provides services to the Tribe, a Tribal business, or to Tribal members, in which case a license is required;
 - (2) services for which any other license issued under current or future Tribal Code provisions is required and obtained; or
 - (3) production of home-based crafts by a Tribal member.

Sec. 17-7202. Requirements for Obtaining a Business License.

An applicant must:

- (a) submit a completed application for a business license;
- (b) pay the applicable application fee;
- (c) provide any supplemental information reasonably requested by the Revenue Department;
- (d) establish that applicant will not be engaged in activity barred under Section 17-7204; and
- (e) be found fit, by the Revenue Department, to hold a business license.

Sec. 17-7203. Application for Business License.

(a) The Revenue Department shall, within 30 days of enactment of this Chapter, create an application for business license form. That form shall be constructed so that, when properly completed by the applicant, the applicant's responses will provide the Revenue Department with:

- (1) applicant's name, name under which it will be doing business on the Settlement, address, and phone number;
- (2) the name, address, and phone number of any person not included in subsection (1) who holds more than a 10% interest in the applicant or more than 10% of the shares of stock in the corporation;
- (3) if applicable, the jurisdiction of incorporation and date of incorporation;
- (4) information sufficient to determine whether applicant or any person identified in subsection (2) has: had a prior license revoked or denied; any outstanding Tribal Court judgments; or ever been convicted of any felony or crime involving dishonesty or false statement;
- (5) applicant's designation of the business classification, fee category and licensing fee, listed in Section 17-7206, which applicant believes should apply to its activities;
- (6) a brief description of the nature, scope, and number of employees of applicant's intended on-Settlement business activity;
- (7) if applicant is wholly owned by more than one member, the name and ownership interest (expressed in percentages which must total 100%) of each member;
- (8) if applicant will be an occupant business, the name of the person holding the land assignment; the date the assignment was made;

(9) any other information which the Revenue Department, in its discretion, believes should be provided by all applicants for business licenses.

(b) The application form shall include a provision that applicant expressly enters into a consensual relationship with the Tribe, sufficient to establish Tribal Court jurisdiction over applicant for applicant's business activities.

(c) The application form may be modified or revised from time to time in the Revenue Department's discretion.

(d) The Revenue Department may create supplemental application forms, applicable to some license applications, as deemed appropriate by the Revenue Department.

Sec. 17-7204. Prohibition on Specified Business Activity.

A business may not perform, and a business license shall not be issued, when an applicant seeks to conduct any of the following:

- (a) dealing in objects of antiquity;
- (b) the manufacture, sale, gift, transportation, drinking or storage of intoxicating liquors or beverages;
- (c) activity which will harm the Tribe's land ownership interests; or
- (d) activity which will create significant adverse impact upon residents of the Settlement or members.

Sec. 17-7205. Duty or Authority to Deny Licenses to Certain Persons.

(a) The Revenue Department shall deny a business license to any person who is excluded from the Settlement or who employs any person who is excluded from the Settlement;

(b) The Revenue Department shall have discretionary authority to deny a business license to any applicant where a person who holds more than a 10% interest in the applicant or more than 10% of the shares of stock in the corporation:

- (1) had a prior license revoked;
- (2) had a prior application for license denied; or
- (3) has been convicted of a crime which involved dishonesty or false statement, regardless of the punishment.

(c) Any applicant whose application for a business license has been denied by the Revenue Department may appeal the denial in writing to the Treasurer.

Sec. 17-7206. License Application Fee.

(a) The current annual fee to apply for a business license is:

<u>Major Business Classifications</u>	<u>Amount – Member and Occupant</u>	<u>Amount – Member & Non-Occupant</u>	<u>Amount – Non-member & Occupant</u>	<u>Amount – non member & non-Occupant</u>
Retail Trade	\$25.00	\$50.00	\$75.00	\$100.00
Wholesale Trade	\$50.00	\$75.00	\$100.00	\$125.00
Manufacturing	\$50.00	\$75.00	\$100.00	\$125.00
Transportation off Settlement	\$50.00	\$75.00	\$100.00	\$125.00
Services	\$50.00	\$75.00	\$100.00	\$125.00
Finance, Insurance and Real Estate	\$75.00	\$125.00	\$175.00	\$225.00
Agricultural	\$50.00	\$75.00	\$125.00	\$200.00
Communication, Gas and Utility Service	\$75.00	\$100.00	\$125.00	\$150.00
Mining	\$100.00	\$150.00	\$500.00	\$500.00
Construction	\$50.00	\$100.00	\$150.00	\$200.00

(b) The business license application fee is non-refundable.

(c) Where an applicant seeks to engages in business in multiple business categories for which there are different fees, the applicant shall pay only the highest application fee.

(d) Although a partnership, joint venture, corporation, or similar entity is not a member, it shall be entitled to pay the application fee for members if all of its shares or other ownership interests are held by members. To qualify for the reduced fee for entities wholly owned by members, the applicant must establish that the entity is wholly owned by members.

(e) To qualify for the reduced fee for members, applicant must establish membership.

(f) The Tribal Council and the Revenue Department shall review the license fees at least once every two years to determine whether modification of the license application fees should be made, such that:

(1) The license application fee charged to non-members who are also non-occupants remains approximately equal to the costs to the Tribe for licensing and regulating such businesses;

(2) The license application fee charged to non-members who are also occupants remains set at an amount which:

- (i) approximately equals the costs to the Tribe for licensing and regulating such businesses; and
- (ii) reasonably compensates the Tribe for the use of the Tribally owned and assigned land;
- (3) Consistent with the Tribe's policy of encouraging members to engage in business activities, the application fee for members shall be approximately half of the fee for non-members.

Sec. 17-7207. License Application Fee–Exemption for Nonprofit Organizations.

No business license requirement or charge shall be imposed upon an organization whose sole activities are raising funds for charitable, scientific, educational, or religious purposes; nor shall any fee be charged to any school, athletic or educational organization, that may charge fees for admission to sporting events, social dances, or similar activities, provided, that receipts from such activities do not accrue to the personal benefit of any individual, corporation or group, other than to fund charitable, scientific, educational, or religious activities.

CHAPTER 3. PROFESSIONAL LICENSE

Sec. 17-7301. Professional License Required.

(a) A professional may not provide or hold himself/herself out as providing any goods or services, whether for a fee or not, unless the professional has a current professional license issued by the Tribe.

- (1) A gaming license is the required professional license to provide any service for which such license is required under Title 11.
- (2) Admission to the bar of the Sac and Fox Tribe of the Mississippi in Iowa is the required professional license for services as an attorney or legal advocate.
- (3) For all other professionals, the professional must obtain a license issued under Chapter 3 of this Article.

(b) A person licensed as a professional may engage in the licensed profession for hire or profit without a separate business license issued under Chapter 2 of this Title.

Sec. 17-7302. Requirements for Obtaining a Professional License.

An applicant must:

- (a) submit a completed application for a professional license;
- (b) pay the applicable application fee;

- (c) provide any supplemental information reasonably requested by the Revenue Department;
- (d) establish that applicant will not be engaged in activity barred under section 17-7204;
- (e) be found fit, by the Revenue Department, to hold the type of professional license requested.

Sec. 17-7303. Application for Professional License.

(a) The Revenue Department shall, within 30 days of enactment of this Article, create an application for professional license form. That form shall be constructed so that, when properly completed by the applicant, the applicant's responses will provide the Revenue Department with:

- (1) applicant's name, address, and phone number;
- (2) a list of all other professional applications applied for, received, or held from the Tribe or any other jurisdiction.
- (3) information sufficient to determine whether applicant has: had a prior license revoked or denied; any outstanding Tribal Court judgments; or ever been convicted of any felony or crime involving dishonesty or false statement;
- (4) a brief description of the nature and scope of applicant's intended on-Settlement professional activity;
- (5) if applicant will be operating from an on-Settlement address, the name of the person holding the land assignment from which the professional will operate and the date the assignment was made;
- (6) if a background investigation will be required, all information and releases of information sufficient to conduct such an investigation; and
- (7) any other information which the Revenue Department, in his discretion, believes should be provided by all applicants for the type of professional license requested.

(b) The application form shall include a provision that applicant expressly enters into a consensual relationship with the Tribe, sufficient to establish Tribal Court jurisdiction over applicant for applicant's professional activities.

(c) The application form shall include a provision requiring that if a license is granted the applicant will provide written notice to the Revenue Department of any changes in the applicant's licensing status in any other jurisdiction, of any changes in the name or location of the business, or of any other material changes or additions to the information provided in the application.

(d) The application form may be modified or revised from time to time in the Revenue Department's discretion.

(e) The Revenue Department may create supplemental application forms, applicable to some license applications, as deemed appropriate by the Revenue Department.

Sec. 17-7304. Duty or Authority to Deny Licenses to Certain Persons.

(a) The Revenue Department shall deny a professional license to any person who is excluded from the Settlement or who employs any person who is excluded from the Settlement or who is employed by such a person;

(b) The Revenue Department shall have discretionary authority to deny a professional license to any applicant who:

- (1) had a prior license revoked;
- (2) had a prior application for license denied;
- (3) has not paid a Tribal Court judgment;
- (4) has been convicted of a crime which involved dishonesty or false statement, regardless of the punishment;
- (5) is dishonest or untrustworthy in business matters; or
- (6) is not trained or competent to provide the services for which the license is requested.

Sec. 17-7305. Professional License Application Fee.

(a) The annual fee to apply for a professional license is \$200.00 if a background check is required by this Code and \$100.00 if no background check is required, provided that \$100.00 of the application fee shall be waived when the applicant submits with the application proof that the applicant is solely seeking to perform professional services as an agent of a government, an agent of any corporation, partnership, or other entity which is wholly owned by an Indian tribe or consortium of Indian tribes, or as an agent of an charitable organization which is tax exempt under 25 U.S.C. § 501(c)(3). The application fee shall be waived where the applicant is seeking licensure solely to perform services as an employee of the Tribe.

(b) The license application fee is non-refundable.

(c) Where an applicant seeks to engage in multiple professions, the applicant must submit a separate application and separate application fee for each license sought.

(d) The Tribal Council and the Revenue Department shall review the license fees at least once every two years to determine whether modification of the license application fees should be made, such that the license application fee charged remains set at an amount which approximately equals the costs to the Tribe for licensing and regulating such profession.

CHAPTER 4. LICENSE ADMINISTRATION**Sec. 17-7401. Enforcement and Administration Responsibility.**

The Revenue Department is hereby charged with the day-to-day administration of the provisions of this Article. The Revenue Department shall perform the following administrative services when appropriate: collect and record fees; maintain records and files; issue and receive application forms; notify applicants of acceptance or rejection as determined by the Revenue Department; issue licenses; issue duplicate licenses upon submission of a written request by the licensee attesting to loss of or failure to receive the original and payment by the licensee of the established fee; notify licensees of renewal dates at least thirty (30) days before the expiration date of their licenses; compile and maintain a current register of licensees; answer routine inquiries; maintain files relating to individual licensees; and provide inspection, enforcement, and investigative services regarding all licenses issued.

Sec. 17-7402. Disposition of Funds.

License application fees payable under this Chapter shall be credited to a general account of the Tribe to be used in the provision of Tribal governmental services, as determined by the Tribal Council.

Sec. 17-7403. Expiration and Renewal of License.

Licenses will be renewed annually on the fifteenth (15th) day of January next succeeding its issue, if Licensee has submitted a request for license renewal and annual application fee and the Revenue Department determines that the licensee is fit to continue under such license. If the license is not renewed on or before January 15th, the license shall lapse. In addition to annual application fees required for the reinstatement of the lapsed license, the Revenue Department shall impose a delayed renewal penalty that shall be paid if a license has lapsed for more than sixty (60) days prior to renewal, in the amount equal to 25% of the annual license application fee.

Sec. 17-7404. Assignment or Transfer of License.

Any license issued by the Revenue Department is valid only for the person in whose name the license is issued, and is not assignable or transferable except that a business license can be assigned or transferred solely under the following circumstances:

(a) In the case of death, bankruptcy, receivership, or incompetency of the licensee, or if for any other reason whatsoever the business of the licensee shall pass to another by operation of law, the Tax Director may in his/her discretion transfer the license for the remainder of the calendar year, to the executor, administrator, trustee, receiver, or person upon whom the license has devolved;

(b) Any executor, administrator, trustee, receiver or other person to whom the licensed business has passed, shall, upon application to the Tax Director, be entitled to an assignment or transfer of such license for the remainder of the year, upon payment of a transfer fee of \$10.00.

Sec. 17-7405. Engaging in Business or Profession Without a License.

The Revenue Department may issue an order for a violation of this Article, if there is probable cause

to believe a person engaged in a business or profession for which a license is required by this Article without first obtaining any license required by this Article. The order may require such person to cease and desist from professional activities and business on the Settlement without a license required by this Article. The order may impose a civil penalty, up to the greater of \$1,000.00 or twenty percent of the gross income derived by such person from the activities for which licensure was required.

Sec. 17-7406. Suspension or Revocation of License.

(a) The Treasurer shall have the authority to issue an order summarily suspending, without hearing or prior notice, a license when the Treasurer believes that the licensee's activities pose a clear and immediate danger to the health and safety of persons within the jurisdiction of the Tribe. A licensee may appeal such order to the Tribal Court, for the limited purpose of determining whether there were grounds for suspending the license without a prior hearing. Such appeal shall be heard on an expedited basis.

(b) The Treasurer shall have the authority to issue an order suspending or revoking a license issued under this Article after a hearing where the Treasurer determines that the license holder:

- (1) made a material misstatement on the license application;
- (2) has engaged in any activity barred by Section 17-7204 or has otherwise engaged in business related activities which violate any applicable Tribal, federal, or state laws;
- (3) has not paid a Tribal Court judgment which stemmed from a business transaction or professional activity;
- (4) has been convicted of a crime which involved dishonesty or false statement, regardless of the punishment;
- (5) is dishonest or untrustworthy in business or professional matters.
- (6) does not have a right to the use of the land on which the business or profession is conducted;
- (7) has had a similar license suspended or revoked by any other jurisdiction; or
- (8) ceases to act in the capacity for which the license was issued.

(c) Where pre-suspension notice and opportunity to be heard are required, the Treasurer shall provide that notice, in writing, by personal delivery or by mail addressed to the licensee's last known address, at least ten days before hearing. The notice shall state the reason or reasons for the suspension or revocation, and specify the date, time, and place for a hearing before the Treasurer.

Sec. 17-7407. Violations; Civil Penalties.

(a) The Treasurer shall have the authority to issue an order imposing civil penalty against any licensee if there is probable cause to believe the licensee:

- (1) made a material misstatement on the license application;
- (2) engaged in any activity barred by Section 17-7204 or otherwise engaged in business- or profession-related activities which violate any applicable Tribal, federal, or state laws;
- (3) continued to conduct business after a license was suspended or revoked;
- (4) continued to engage in a profession after a license to engage in that profession had been suspended or revoked;
- (5) continued to conduct business or engage in a profession without a license after being ordered to cease and desist;

(b) The amount of the civil penalty shall be not more than \$5,000.00 per violation. Each separate business transaction shall be a separate violation. In determining the amount of the penalty, the Treasurer shall give due consideration to the size of the business, the gravity of the violation, the licensee's good faith, and the history of previous violations.

Sec. 17-7408. Abatement of Proceedings.

No disciplinary proceeding or action by the Treasurer is barred or abated by the expiration, transfer, surrender, renewal continuance, or extension of any license issued pursuant to the provisions of this Chapter.

Sec. 17-7409. Review of Orders of Violations and Orders Imposing Civil Penalties.

(a) Any order issued by the Treasurer must be in writing. The order shall constitute an appealable agency action under SAC & FOX TR. OF MISS. CODE, Title 2, Administration, Article 4, and, except as otherwise provided in this Chapter, subsequent review shall be governed by SAC & FOX TR. OF MISS. CODE, Title 2, Administration, Article 4, chapters 5 and 6.

(b) After an order assessing a civil penalty has become final, the Treasurer may institute a civil action in Tribal Court to recover any civil penalty assessed. In such collection action, the validity and appropriateness of the Treasurer's order imposing the civil penalty shall not be subject to judicial review.

Sec. 17-7410. Reinstatement of Authority to do Business.

The authority to do business or engage in a profession within the jurisdiction of the Tribe which has been revoked shall not be reinstated by the Treasurer until any tax due the Tribe has been paid. Reinstatement of the authority to do business or engage in a profession within the jurisdiction of the Tribe shall be authorized at the discretion of the Treasurer or order of the Tribal Court.

Sec. 17-7411. Appeal.

An appeal from any decision made by the Treasurer pursuant to this Chapter may be taken by a taxpayer to the Tribal Court. Unless otherwise provided, notice of appeal must be filed within thirty (30) days after notice of any decision made by the Treasurer pursuant to this Chapter. All appeals shall be subjected to de novo review by the Tribal Court.