

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Amending Transaction Privilege Taxes Ordinance, Adopting 22 Tohono O'odham Code Chapter 5, Hotel Occupancy Tax; Food and Beverage Tax, and Adopting 22 Tohono O'odham Code Chapter 4, Tax Administration and Enforcement)

RESOLUTION NO. 11-431

1 **WHEREAS, Article VI, Section 1(d)(4) of the Constitution of the Tohono O'odham Nation vests the**
2 **Legislative Council with the power to "to levy duties, fees, taxes and assessments on**
3 **any person, corporation or association residing or doing business within the Tohono**
4 **O'odham Nation"; and**

5 **WHEREAS, the Tohono O'odham Nation has established the Tohono O'odham Gaming Enterprise**
6 **to conduct gaming activities on the Nation (Charter of the Gaming Enterprise,**
7 **Resolution No. 93-311, as amended, 16 Tohono O'odham Code Chapter 2); and**

8 **WHEREAS, while the Gaming Enterprise manages and operates gaming facilities and related**
9 **entertainment, dining, hotel, parking, conference, and other facilities and property**
10 **at Desert Diamond Tucson, Desert Diamond Sahuarita, and Desert Diamond Why**
11 **(collectively, the "Properties"), the Nation's gaming facilities are wholly owned by the**
12 **government of the Tohono O'odham Nation (Ordinance for the Regulation of Gaming**
13 **Activities Within the Tohono O'odham Nation, Ordinance No. 93-01, as amended, 16**
14 **Tohono O'odham Code, Chapter 1 ("Gaming Ordinance"), Section 301; Tohono**
15 **O'odham Nation-State of Arizona Gaming Compact, Section 3(o)); and**

16 **WHEREAS, the Nation has made, and continues to make, major investments in the Properties;**
17 **provides fire protection and emergency medical services, law enforcement, and other**
18 **services to support the Properties; and has established, funds, and staffs the Tohono**
19 **O'odham Gaming Office, a tribal regulatory body with primary regulatory jurisdiction**
20 **over gaming activities on the Properties (Gaming Ordinance, Section 401); and**

21 **WHEREAS, the Gaming Office employs more than 70 inspectors and other staff and operates with**
22 **a multi-million dollar annual budget that is funded entirely by the Tohono O'odham**
23 **Nation; and**

24 **WHEREAS, the Nation also actively supports the Properties as a member of the Arizona Indian**
25 **Gaming Association, National Indian Gaming Association, and National Congress of**
26 **American Indians; by advocating before the United States Congress, the Department**
27 **of the Interior and other federal agencies, the Arizona Legislature and other state**
28 **entities; by employing and directing its legal, lobbying, communications, and other**
29 **staff; by defending tribal gaming interests in federal and state litigation; and by**
30 **negotiating and entering into the tribal-state gaming compact, compact amendments,**

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1 **and agreements; and**

2 **WHEREAS, the Nation continues to commit substantial additional resources in order to provide**
3 **services to, maintain, operate, and expand the Properties; and**

4 **WHEREAS, Article VI, Section 1(d)(4) of the Constitution of the Tohono O'odham Nation vests the**
5 **Legislative Council with the power to "to establish assessment, tax, fee or duty districts**
6 **or zones"; and**

7 **WHEREAS, the Properties are unique zones of commercial and other activity on the Nation; the**
8 **Properties represent the Nation's largest commercial capital and infrastructure**
9 **investments; employ more members and nonmembers than any other enterprise on**
10 **the Nation; experience the highest visitor traffic of any area on the Nation; are the**
11 **largest entertainment venues on the Nation; contain the only major hotel on the**
12 **Nation; directly compete with off-reservation enterprises; and are the most heavily**
13 **regulated commercial enterprise on the Nation, requiring a large tribal regulatory**
14 **staff and comprehensive body of tribal gaming regulation that complies with tribal,**
15 **state, and federal requirements; and**

16 **WHEREAS, although the Nation levies tobacco taxes and a general transaction privilege tax, hotel**
17 **rooms and food and beverage sales on the Properties are not currently taxed (Tobacco**
18 **Tax Ordinance, 22 T.O.C. Chapter 1; Transaction Privilege Tax, Ordinance No. 03-81,**
19 **as amended, 22 T.O.C. Chapter 2); and**

20 **WHEREAS, it is in the Nation's best interest to levy hotel occupancy and food and beverage taxes**
21 **on the Properties at rates similar to those levied by surrounding, off-reservation**
22 **jurisdictions; and**

23 **WHEREAS, the Legislative Commerce Committee, in consultation with the Nation's Treasurer and**
24 **legal staff, has developed 22 Tohono O'odham Code Chapter 5, Hotel Occupancy Tax;**
25 **Food and Beverage Tax, which is dated September 2011 and which is incorporated by**
26 **this reference; and**

27 **WHEREAS, the 22 Tohono O'odham Code Chapter 5 food and beverage taxes will be levied in a**
28 **uniform and nondiscriminatory manner on all the Properties, but will not be levied**
29 **within local restaurants and other small businesses operating outside the Properties;**
30 **and**

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1 WHEREAS, the Commerce Committee also recommends adopting 22 Tohono O'odham Code
2 Chapter 2, Transaction Privilege Tax amendments as dated September 2011, which are
3 incorporated by this reference, and which would amend outdated references to the
4 Papago Tribe and make other necessary amendments; and

5 WHEREAS, the Commerce Committee also recommends revising and moving the tax
6 administration and enforcement provisions currently appearing within Transaction
7 Privilege Taxes Ordinance Section 14 to a separate chapter within the Tohono
8 O'odham Code Title 22, Chapter 4, Tax Administration and Enforcement, as dated
9 September 2011 and which are incorporated by this reference; and

10 WHEREAS, these amendments would improve the enforcement and administration of the
11 Nation's tax laws, generate additional revenues to provide governmental services, and
12 defray the costs of providing services to, managing, operating, regulating,
13 maintaining, and investing in the Properties.

14 NOW, THEREFORE, BE IT RESOLVED by the Tohono O'odham Legislative Council that it hereby
15 adopts (1) 22 Tohono O'odham Code Chapter 2, Transaction Privilege Tax amendments
16 as dated September 2011 (2) 22 Tohono O'odham Code Chapter 5, Hotel Occupancy
17 Tax; Food and Beverage Tax as dated September 2011, and (3) 22 Tohono O'odham
18 Code Chapter 4, Tax Administration and Enforcement as dated September 2011;
19 provided that this resolution shall become effective November 1, 2011.

20 The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 14TH Day
21 of SEPTEMBER, 2011 at a meeting at which a quorum was present with a vote of 2,780.60 FOR; -0-
22 AGAINST; [02] NOT VOTING; and [04] ABSENT, pursuant to the powers vested in the Council by
23 Section 1 (c)(d)(4)&(l) of Article VI of the Constitution of the Tohono O'odham Nation, adopted by
24 the Tohono O'odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant
25 Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June
26 18, 1934 (48 Stat. 984).
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28 TOHONO O'ODHAM LEGISLATIVE COUNCIL

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32 
Timothy Joaquin, Legislative Chairman

33
34 22 day of September, 2011
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1 ATTEST:

2 *Evonne Wilson*

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4 Evonne Wilson, Legislative Secretary

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6 20 day of September, 2011

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10 Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham
11 Nation on the 22 day of September, 2011 at 11:05 o'clock, A.M.,
12 pursuant to the provisions of Section 4 of Article VII of the Constitution and will become effective
13 upon his approval or upon his failure to either approve or disapprove it within 48 hours of
14 submittal.

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16 TOHONO O'ODHAM LEGISLATIVE COUNCIL

17
18 *Timothy Joaquin*
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20 Timothy Joaquin, Legislative Chairman

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25 APPROVED

on the 22 day of September, 2011

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27 DISAPPROVED

at 1:38 o'clock, P.M.

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29 *Ned Norris, Jr.*
30 NED NORRIS, JR., CHAIRMAN
31 TOHONO O'ODHAM NATION

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37 Returned to the Legislative Secretary on the 22 day of

38 September, 2011, at 2:00 o'clock, P.M.

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41 *Evonne Wilson*

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43 Evonne Wilson, Legislative Secretary

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ACTION: AMENDING TRANSACTION PRIVILEGE TAXES ORDINANCE, ADOPTING 22 TOHONO O'ODHAM CODE CHAPTER 5, HOTEL OCCUPANCY TAX; FOOD AND BEVERAGE TAX, AND ADOPTING 22 TOHONO O'ODHAM CODE CHAPTER 4, TAX ADMINISTRATION AND ENFORCEMENT

MOVED: COUNCILWOMAN FRANCES G. ANTONE

SECOND: COUNCILWOMAN FRANCES MIGUEL

DATE: SEPTEMBER 14, 2011

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 342.0	1. FRANCES MIGUEL (Roberta Harvey)	171.0	X			
	2. FRANCES G. ANTONE (Vernon Smith)	171.0	X			
CHUKUT KUK 302.2	1. ETHEL GARCIA (Sara Mae Williams)	151.10	X			
	2. BILLMAN LOPEZ ()	151.10	X	X		
GU ACHI 244.9	1. TIMOTHY L. JOAQUIN (Rose Johnson Antone)	122.45	X			
	2. CYNTHIA E. MANUEL (Louis L. Johnson)	122.45	X			
GU VO 226.7	1. GRACE MANUEL (Floyd Flores)	113.35	X			
	2. PAMELA ANGHILL (Angela Ortiz)	113.35	X			X
HICKIWAN 186.3	1. LOUIS R. LOPEZ (Michelle Ortega)	93.15	X			
	2. SANDRA ORTEGA ()	93.15	X			X
PISINEMO 200.7	1. CHESTER ANTONE <i>(Absent)</i> (Tony Murrietta) <i>(Present)</i>	100.35	X			
	2. EDWARD MANUEL (Gerald Fayuant)	100.35	X		X	
SAN LUCY 204.6	1. LORRAINE EILER ()	102.30	X			X
	2. JANA MONTANA (Gloria Ramirez)	102.30	X			
SAN XAVIER 215.8	1. HILARION CAMPUS ()	107.90	X			
	2. OLIVIA VILLEGAS-LISTON <i>(Absent)</i> (Eugene Enis) <i>(Present)</i>	107.90	X			
SCHUK TOAK 169.8	1. FRANCES B. CONDE ()	84.90	X			
	2. FREDERICK JOSE (Phyllis Cachora)	84.90	X			
SELLS 475.7	1. ARTHUR WILSON (Kimberly Mull)	237.85	X			X
	2. EVELYN B. JUAN MANUEL ()	237.85	X			
SIF OIDAK 211.9	1. NICHOLAS JOSE ()	105.95	X			
	2. MARY LOPEZ ()	105.95	X			
TOTAL		2,780.60	2,780.60	-0-	[02]	[04]