

TOHONO O'ODHAM CODE

TITLE 22 - TAXATION

CHAPTER 4 – TAX ADMINISTRATION AND ENFORCEMENT

Section 4101 Administration

(A) The administration of Title 22 of the Tohono O'odham Code is vested and shall be exercised by the Treasurer, who shall have full power, jurisdiction and authority to:

- (1) Collect the taxes, interest and penalties due under this title.
- (2) Adopt rules and regulations reasonably necessary to carry out the provisions of this title.
- (3) Issue administrative rulings in response to a written inquiry from taxpayers regarding the application of this title. The inquiries shall state with specificity the facts involved in the question. The rulings shall be determinative of subsequent treatment of the matter and may be relied upon by any taxpayer until a regulation related to the subject of inquiry is adopted. Any ruling remains in effect until a regulation related to the subject of the inquiry is adopted.
- (4) Appoint, as necessary, such agents and employees as may be authorized by law, who shall perform such duties as may be delegated to them that are consistent with this title.
- (5) Examine the books, records and papers of any person liable for any tax imposed by this title and, by administrative order, to require the production of books, records and papers which the Treasurer deems relevant or material to the examination.
- (6) Take evidence in oath or affirmation of any person who he or she believes is in possession of facts or information pertinent to the inquiry.

Section 4102 Enforcement. To enforce this title the Treasurer is authorized to:

(A) Order any taxpayer to cease all or some business activity within the lands of the Tohono O'odham Nation for a specified period of time for failure to comply with any of the following requirements:

- (1) to designate an individual;
- (2) to provide information or documents;
- (3) to file a return;

- (4) to allow access to equipment within its possession or control;
- (5) to furnish a surety bond or other security;
- (6) to comply with a duly issued subpoena; or
- (7) to comply with a lawful order of the Treasurer.

(B) Issue a lien on the property or rights to property of any taxpayer who fails to pay any taxes in accordance with this Chapter.

(1) The lien shall arise at the time the demand or assessment is made, shall attach to all property then owned and thereafter acquired by the taxpayer, and shall continue until the amount of the lien is satisfied or released.

(2) Provided that, with respect to a required return, a lien shall arise for any unpaid taxes at the time filing is due without further demand or assessment.

(3) If a lien is required as a condition for granting an extension or stay of payment, such lien shall arise according to the terms of the extension or stay.

(4) A lien shall be effective as against other parties upon notice being recorded in the Office of the Treasurer in a form available for inspection by the public.

(C) Satisfaction of Lien. Upon payment of the tax and penalty, the Treasurer shall file forthwith with the Tohono O'odham Judicial Court and the Treasurer, a satisfaction which shall be filed and recorded.

(D) Bankruptcy. If a taxpayer has filed for bankruptcy protection and has current or pending taxes due and payable, the taxpayer shall notify the Office of the Treasurer. Additionally, the Office of the Treasurer shall inform the Office of the Attorney General in order to file a claim to receive payment from the taxpayer.

(E) Appeals. Any taxpayer that is aggrieved by a final decision of the Treasurer under this Chapter may seek review by the Tohono O'odham Judicial Court pursuant to 6 Tohono O'odham Code Chapter 3, Article 3.

(F) Limited Waiver of Sovereign Immunity

(1) The Nation hereby waives its sovereign immunity only for the express purpose of providing for judicial review by the Tohono O'odham Judicial Court of the claims of taxpayers seeking judicial review of final decisions of the Treasurer under this chapter in the form of declaratory or injunctive relief.

(2) The Nation does not waive its sovereign immunity with regard to the award of monetary damages, costs of suit, including attorney's fees, or other monetary relief. In all such cases the immunity of the Nation is expressly preserved.