

## TITLE 22 - TAXATION

### CHAPTER 1 - TOBACCO TAX

*Legislative History: The "Tobacco Tax Ordinance," Ordinance No. 95-149, was approved on April 12, 1995 and became effective retroactively on April 1, 1995; amended by Resolution No. 02-565 (amending Section 2.B.) on November 25, 2002.*

*Related History: Resolution No. 95-150, "Amending Transaction Privilege Tax Ordinance No. 3-81," was approved on April 13, 1995 and exempted the sale of tobacco product subject to tax levied by the Tobacco Tax Ordinance from taxes imposed under the Transaction Privilege Tax, Ordinance No. 03-81.*

**TOHONO O'ODHAM NATION  
TOBACCO TAX ORDINANCE**

**ORDINANCE NO. 95-149  
(Amended by Res. No. 02-565)<sup>1</sup>**

**SECTION 1:           Purpose**

**This Ordinance imposes a tax on the sale of tobacco products sold within the Tohono O'odham Nation for purposes of accomplishing the following:**

- 1.     to reduce the harmful impact upon the health of the members of the Tohono O'odham Nation caused by the use of tobacco products;**
- 2.     to reduce the use of tobacco products, particularly among the young people of this Nation;**
- 3.     to resist the attempts of the State of Arizona to impose state taxes upon on-reservation activities; and**
- 4.     to defray the necessary and ordinary expenses of the Tohono O'odham Nation.**

**SECTION 2:           Levy of Tobacco Tax**

- A.     There is levied and shall be collected by the Treasurer of the Nation, or the Chief Financial Officer of the Nation in lieu of an appointed Treasurer, a tax upon every person engaging in the business of selling tobacco products at retail within the Tohono O'odham Nation.**
- B.     Such tax is levied on the sale of tobacco products in the following amounts:**
  - 1.     On each cigarette, 5 cents.**
  - 2.     On smoking tobacco, snuff, fine cut chewing tobacco, cut and granulated tobacco, shorts and refuse of fine cut chewing tobacco, and refuse, scraps, clippings, cuttings and sweepings of tobacco, excluding tobacco powder or tobacco products used exclusively for agricultural or horticultural purposes and unfit for human consumption, 11.3 cents per ounce or major fraction thereof.**
  - 3.     On all cavendish, plug or twist tobacco, 2.8 cents per ounce or fractional part thereof.**

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<sup>1</sup> Amended made pursuant to Resolution No. 02-565 and effective at midnight on November 25, 2002.

4. On each twenty small cigars or fractional part thereof weighing not more than three pounds per thousand, 22.3 cents.
5. On cigars of all descriptions except those included in paragraph 4 of this subsection, made of tobacco or any substitute therefor, if manufactured to retail at not more than 5 cents each, 11.0 cents on each three cigars, but if manufactured to retail at more than 5 cents each, 11.0 cents on each cigar.

**SECTION 3:        Collection and Enforcement**

- A. Notwithstanding any provision of Ordinance No. 03-81 to the contrary, the tax levied by this Ordinance shall be due and payable to the Nation on the fifteenth day of each month following the month in which the taxable sales were made.
- B. Persons subject to the tax levied by this Ordinance shall otherwise comply with all requirements of Ordinance No. 03-81, including the licensing and reporting requirements.
- C. In addition to the reporting requirements of Ordinance 03-81, persons subject to the tax levied by this Ordinance shall submit to the treasurer of the Nation, or Chief Financial Officer of the Nation in lieu of an appointed Treasurer, with the payment of the tax imposed pursuant to this Ordinance, monthly written activity reports which account for all sales subject to taxation under this Ordinance.
- D. The Treasurer of the Nation, or Chief Financial Officer of the Nation in lieu of an appointed Treasurer, shall enforce the provisions of this Ordinance and shall collect the taxes due hereunder in accordance with applicable law including the provisions of Ordinance No. 03-81.

**SECTION 4:        Effective Date**

The Effective date of this Ordinance is April 1, 1995.

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL**  
**(Enacting the Tobacco Tax Ordinance)**

**RESOLUTION NO. 95-148**

1  
2  
3 **WHEREAS, Article VI, Section 1(c) of the Nation's Constitution authorizes the**  
4  
5 **Legislative Council to enact ordinances as an exercise of the**  
6  
7 **inherent sovereign powers of the Nation; and**

8 **WHEREAS, Article VI, Section 1(d)(4) of the Nation's Constitution authorizes the**  
9  
10 **Legislative Council to levy taxes on any person, corporation or**  
11 **association residing or doing business within the Nation; and**

12  
13 **WHEREAS, in accordance with Resolution No. 94-119, it is in the Nation's**  
14  
15 **interests to adopt an ordinance for the levy of taxes upon the sale**  
16 **of tobacco products within the Nation.**

17 **NOW, THEREFORE, BE IT RESOLVED THAT:**

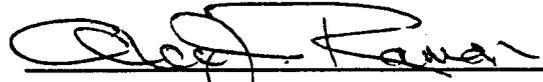
- 18  
19       **1. The Tobacco Tax Ordinance, in the form attached hereto, is**  
20       **hereby enacted as an ordinance of the Tohono O'Odham Nation**  
21       **and shall be designated Ordinance Number 95-149.**  
22  
23       **2. The Nation's Chairman is authorized and directed to take all**  
24       **reasonable and necessary steps to implement this Resolution and**  
25       **the Tobacco Tax Ordinance.**  
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28

**RESOLUTION NO. 95-148**  
**(Enacting the Tobacco Tax Ordinance)**

Page 2 of 3

The foregoing Resolution was passed by the Tohono O'Odham Legislative Council on the 5TH day of APRIL, 1995 at a meeting at which a quorum was present with a vote of 1,583.0 FOR; -0- AGAINST; -0- NOT VOTING; and 180.0 [08] ABSENT, pursuant to the powers vested in the Council by Section 1(c) & (d)(4) of Article VI of the Constitution of the Tohono O'Odham Nation, adopted by the Tohono O'Odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

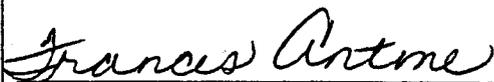
TOHONO O'ODHAM LEGISLATIVE COUNCIL



Alex J. Ramon, Legislative Chairman

11th day of April, 1995

ATTEST:



Frances Antone, Legislative Secretary

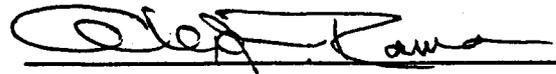
10th day of April, 1995

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'Odham Nation on the 11th day of April, 1995 at 10:22 o'clock, A.M., pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective upon his approval or upon his failure to either approve or disapprove it within 48 hours of submittal.

RESOLUTION NO. 95-148  
(Enacting the Tobacco Tax Ordinance)  
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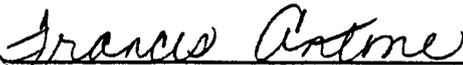
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TOHONO O'ODHAM LEGISLATIVE COUNCIL

  
Alex J. Ramon, Legislative Chairman

APPROVED on the 13 day of April, 1995  
 DISAPPROVED at 9:42 o'clock, 1.M.

  
SYLVESTER LISTO, Chairman  
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 13<sup>th</sup> day of  
April, 1995, at 10:48 o'clock, A.M.  
  
Frances Antone, Legislative Secretary

TOHONO O'ODHAM NATION  
TOBACCO TAX ORDINANCE

ORDINANCE NO. 95-149

SECTION 1: Purpose

This Ordinance imposes a tax on the sale of tobacco products sold within the Tohono O'odham Nation for purposes of accomplishing the following:

1. to reduce the harmful impact upon the health of the members of the Tohono O'odham Nation caused by the use of tobacco products;
2. to reduce the use of tobacco products, particularly among the young people of this Nation;
3. to resist the attempts of the State of Arizona to impose state taxes upon on-reservation activities; and
4. to defray the necessary and ordinary expenses of the Tohono O'odham Nation.

SECTION 2: Levy of Tobacco Tax

- A. There is levied and shall be collected by the Treasurer of the Nation, or the Chief Financial Officer of the Nation in lieu of an appointed Treasurer, a tax upon every person engaging in the business of selling tobacco products at retail within the Tohono O'odham Nation.

**ORDINANCE NO. 95-149**

**Tobacco Tax Ordinance**

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B. Such tax is levied on the sale of tobacco products in the following amounts:

1. On each cigarette, 2 cents.
2. On smoking tobacco, snuff, fine cut chewing tobacco, cut and granulated tobacco, shorts and refuse of fine cut chewing tobacco, and refuse, scraps, clippings, cuttings and sweepings of tobacco, excluding tobacco powder or tobacco products used exclusively for agricultural or horticultural purposes and unfit for human consumption, 4.5 cents per ounce or major fraction thereof.
3. On all cavendish, plug or twist tobacco, 1.1 cents per ounce or fractional part thereof.
4. On each twenty small cigars or fractional part thereof weighing not more than three pounds per thousand, 8.9 cents.
5. On cigars of all descriptions except those included in paragraph 4 of this subsection, made of tobacco or any substitute therefor, if manufactured to retail at not more than 5 cents each, 4.4 cents on each three cigars, but if manufactured to retail at more than 5 cents each, 4.4 cents on each cigar.

**ORDINANCE NO. 95-149**

**Tobacco Tax Ordinance**

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**SECTION 3:           Collection and Enforcement**

- A. Notwithstanding any provision of Ordinance No. 03-81 to the contrary, the tax levied by this Ordinance shall be due and payable to the Nation on the fifteenth day of each month following the month in which the taxable sales were made.
- B. Persons subject to the tax levied by this Ordinance shall otherwise comply with all requirements of Ordinance No. 03-81, including the licensing and reporting requirements.
- C. In addition to the reporting requirements of Ordinance 03-81, persons subject to the tax levied by this Ordinance shall submit to the Treasurer of the Nation, or Chief Financial Officer of the Nation in lieu of an appointed Treasurer, with the payment of the tax imposed pursuant to this Ordinance, monthly written activity reports which account for all sales subject to taxation under this Ordinance.
- D. The Treasurer of the Nation, or Chief Financial Officer of the Nation in lieu of an appointed Treasurer, shall enforce the provisions of this Ordinance and shall collect the taxes due hereunder in accordance with applicable law including the provisions of Ordinance No. 03-81.

**ORDINANCE NO. 95-149**

**Tobacco Tax Ordinance**

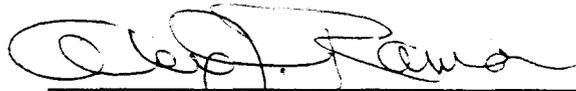
Page 4 of 4

**SECTION 4: Effective Date**

The Effective date of this Ordinance is April 1, 1995.

The foregoing Ordinance was passed by the Tohono O'Odham Legislative Council on the 5TH day of APRIL, 1995 at a meeting at which a quorum was present with a vote of 1,583.0 FOR; -0- AGAINST; -0- NOT VOTING; and 180.0 (08) ABSENT, pursuant to the powers vested in the Council by Section 1(c) & (d)(4) of Article VI of the Constitution of the Tohono O'Odham Nation, adopted by the Tohono O'Odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

**TOHONO O'ODHAM LEGISLATIVE COUNCIL**



Alex J. Ramon, Legislative Chairman

**ATTEST:**



Frances Antone, Legislative Secretary

ORDINANCE APPROVED this 17 day of April, 1995.



**SYLVESTER LISTO, Chairman  
TOHONO O'ODHAM NATION**

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL  
(Amending Transaction Privilege Tax Ordinance No. 3-81)**

**RESOLUTION NO. 95-150**

**WHEREAS, by Resolution No. 95-148 the Legislative Council enacted the Tobacco Tax Ordinance, Ordinance No. 95-149, which levies a tax upon every person engaging in the business of selling tobacco products within the Tohono O'Odham Nation; and**

**WHEREAS, the Legislative Council has determined that the Nation will be best served to exempt from the levy of taxes imposed under the Transaction Privilege Tax Ordinance, Ordinance No. 3-81, the sale of tobacco products which are subject to the tax levied by the Tobacco Tax Ordinance, Ordinance No. 95-149; and**

**WHEREAS, the Legislative Council has determined that in accordance with Resolution No. 94-319, the Nation will be best served to amend Section 5(B) (13) of the Transaction Privilege Tax Ordinance, Ordinance No. 3-81, to limit the ability of the State of Arizona to levy taxes upon on-reservation activities.**

**NOW, THEREFORE, BE IT RESOLVED THAT:**

**The Transaction Privilege Tax Ordinance, Ordinance No. 3-81, as amended by Resolution Nos. 224-84, 338-87, and 357-87, is hereby**

RESOLUTION NO. 95-150

(Amending Transaction Privilege Tax Ordinance No. 3-81)

Page 2 of 3

amended, effective April 1, 1995, by replacing subsection 5(B) (13)

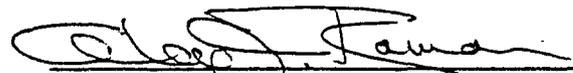
with the following:

13. The sale of tobacco products which are subject to the tax

levied by the Tobacco Tax Ordinance, Ordinance No. 95-149.

The foregoing Resolution was passed by the Tohono O'Odham Legislative Council on the 5TH day of APRIL, 1995 at a meeting at which a quorum was present with a vote of 1.583.0 FOR; -0- AGAINST; -0- NOT VOTING; and 180.0 [08] ABSENT, pursuant to the powers vested in the Council by Section 1(c) & (d)(4) of Article VI of the Constitution of the Tohono O'Odham Nation, adopted by the Tohono O'Odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

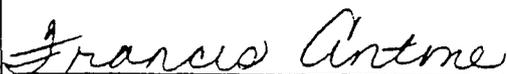
TOHONO O'ODHAM LEGISLATIVE COUNCIL



Alex J. Ramon, Legislative Chairman

11th day of April, 1995

ATTEST:



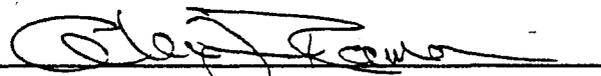
Frances Antone, Legislative Secretary

10th day of April, 1995

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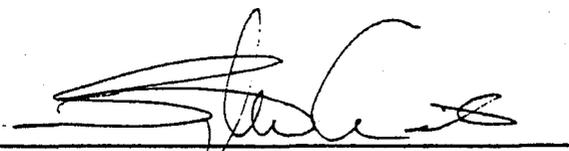
Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'Odham Nation on the 11<sup>th</sup> day of April, 1995 at 10:14 o'clock, A.M., pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective upon his approval or upon his failure to either approve or disapprove it within 48 hours of submittal.

TOHONO O'ODHAM LEGISLATIVE COUNCIL

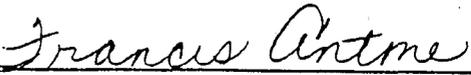
  
Alex J. Ramon, Legislative Chairman

APPROVED on the 13 day of April, 1995

DISAPPROVED at 9:51 o'clock, A.M.

  
SYLVESTER LISTO, Chairman  
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 13<sup>th</sup> day of April, 1995, at 10:49 o'clock, A.M.

  
Frances Antone, Legislative Secretary

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL  
(Amending Tobacco Tax Ordinance, Ordinance No. 95-149, to Increase Tax Rates)**

**RESOLUTION NO. 02-565**

1 **WHEREAS, by Resolution No. 95-148 the Legislative Council enacted the Tobacco Tax Ordinance,**  
2 **Ordinance No. 95-149, which levies a tax upon every person engaging in the business**  
3 **of selling tobacco products within the Tohono O'odham Nation; and**

4 **WHEREAS, one purpose of the Ordinance is "to resist the attempts of the State of Arizona to**  
5 **impose state taxes upon on-reservation activities" (Ordinance No. 95-149, Section**  
6 **1(1)); and**

7 **WHEREAS, because the Nation's tax is currently levied at a rate equal to the Arizona tobacco tax,**  
8 **the State of Arizona does not collect its tobacco tax on the Nation; and**

9 **WHEREAS, on November 5, 2002, Arizona voters approved Proposition 303, which will amend**  
10 **Arizona law to increase the state tax on tobacco sales; and**

11 **WHEREAS, in order to ensure that the State of Arizona is prevented from collecting the amount**  
12 **of the increased tax on the Nation and to accomplish the Ordinance's other purposes,**  
13 **it is necessary to amend Section 2(B) of the Tobacco Tax Ordinance to increase the tax**  
14 **rates therein as follows:**

- 15 **"B. Such tax is levied on the sale of tobacco products in the following amounts:**
- 16 **1. On each cigarette, ~~2~~ 5 cents.**
  - 17 **2. On smoking tobacco, snuff, fine cut chewing tobacco, cut and granulated**  
18 **tobacco, shorts and refuse of fine cut chewing tobacco, and refuse, scraps,**  
19 **clippings, cuttings and sweepings of tobacco, excluding tobacco powder or**  
20 **tobacco products used exclusively for agricultural or horticultural**  
21 **purposes and unfit for human consumption, ~~4.5~~ 11.3 cents per ounce or**  
22 **major fraction thereof.**
  - 23 **3. On all cavendish, plug or twist tobacco, ~~1.1~~ 2.8 cents per ounce or fractional**  
24 **part thereof.**
  - 25 **4. On each twenty small cigars or fractional part thereof weighing not more**  
26 **than three pounds per thousand, ~~8.9~~ 22.3 cents.**
  - 27 **5. On cigars of all descriptions except those included in paragraph 4 of this**  
28 **subsection, made of tobacco or any tobacco substitute therefor, if**  
29 **manufactured to retail at not more than 5 cents each, ~~4.4~~ 11.0 cents on each**

RESOLUTION NO. 02-565

(Amending Tobacco Tax Ordinance, Ordinance No. 95-149, to Increase Tax Rates)

Page 2 of 3

1 three cigars, but if manufactured to retail at more than 5 cents each, 4-4  
2 11.0 cents on each cigar." ; and

3 WHEREAS, the Legislative Council Commerce and Budget and Finance Committees have  
4 reviewed these proposed amendments and recommend their adoption.

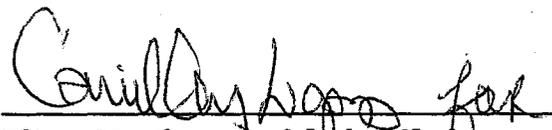
5 NOW, THEREFORE, BE IT RESOLVED by the Tohono O'odham Legislative Council that it  
6 hereby approves the above amendments to Section 2(B) of the Tobacco Tax  
7 Ordinance, Ordinance No. 95-149.

8 BE IT FURTHER RESOLVED these amendments shall become effective at midnight on November  
9 25, 2002.

10 BE IT FINALLY RESOLVED that the Tobacco Tax Ordinance shall be reprinted in its entirety  
11 showing a revision date of November 25, 2002.

12 The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 25<sup>TH</sup> Day  
13 of NOVEMBER, 2002 at a meeting at which a quorum was present with a vote of 2,417.5 FOR; -0-  
14 AGAINST; -0- NOT VOTING; and [04] ABSENT, pursuant to the powers vested in the Council by  
15 Section 1 (c)(1), (2) and (d)(4) of Article VI of the Constitution of the Tohono O'Odham Nation,  
16 adopted by the Tohono O'Odham Nation on January 18, 1986; and approved by the Acting Deputy  
17 Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act  
18 of June 18, 1934 (48 Stat. 984).

19  
20 TOHONO O'ODHAM LEGISLATIVE COUNCIL

21  
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23  
24 Rita A. Martinez, Legislative Chairwoman

25  
26 25<sup>th</sup> day of November, 2002

27  
28 ATTEST:

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31  
32 Julianna Saraficio, Acting Legislative Secretary

33  
34 25 day of November, 2002.

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36  
37 Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'Odham  
38 Nation on the 25<sup>th</sup> day of November, 2002 at 4:56 o'clock, P.M.,  
39 pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective  
40 upon his approval or upon his failure to either approve or disapprove it within 48 hours of  
41 submittal.

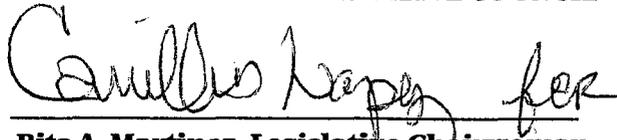
**RESOLUTION NO. 02-565**

**(Amending Tobacco Tax Ordinance, Ordinance No. 95-149, to Increase Tax Rates)**

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**TOHONO O'ODHAM LEGISLATIVE COUNCIL**



**Rita A. Martinez, Legislative Chairwoman**

**APPROVED**

on the 25<sup>th</sup> day of November, 20 02

**DISAPPROVED**

at 4:59 o'clock, P.M.



**EDWARD D. MANUEL, Chairman**

**TOHONO O'ODHAM NATION**

Returned to the Legislative Secretary on the 25 day of

November, 20 02, at 5:03 o'clock, P.M.

  
**Julianna Saraficio, Acting Legislative Secretary**