

# **PRAIRIE ISLAND INDIAN COMMUNITY**

## **Sales and Use Tax Ordinance**

### **Section 1. Title**

This Ordinance shall be known as the Prairie Island Indian Community Sales and Use Tax Ordinance.

### **Section 2. Reservation of Rights**

The Prairie Island Indian Community hereby fully reserves the right to amend, alter, increase, or decrease taxes imposed herein, or repeal the provisions of this ordinance, and all rights and privileges granted or extended hereunder shall be subject to such reserved right.

### **Section 3. Definitions**

Unless otherwise required by the context, the following words and phrases shall have the following designated meanings:

- (1) “Gross receipts” means the total amount received in money, or otherwise, for all sales at retail as measured by the sales price.
- (2) “Person” means any individual, firm, partnership, joint venture, association, corporation, municipal corporation, cooperative, estate or trust.
- (3) “Retail sale” means a sale, for any purpose, other than resale, in the regular course of business.
- (4) “Retailer” includes every person engaged in making sales at retail as here in defined.
- (5) “Sale” includes, but is not limited to, each of the following transactions:
  - (a) Any transfer of title or possession, or both of tangible personal property, for a consideration in money or by exchange or barter.
  - (b) The furnishing for a consideration of lodging and related services, by a hotel, marina or recreational vehicle park.
  - (c) The furnishing, preparing or serving for a consideration of foods, meals, or drinks.
  - (d) The granting of the privilege of admission to places of amusement, recreational areas, athletic events, or athletic facilities.
  - (e) The furnishing for consideration of parking services, whether contractual or hourly.

- (f) The furnishing for consideration of laundry or dry cleaning services not including services provided by coin operated facilities operated by the customer.

**Section 4. Imposition of General Sales Tax**

There is hereby imposed a tax of six and seven-eighths percent (6.875%) upon the gross receipts from all sales including sold at retail on the Prairie Island Indian Reservation.

**Section 5. Special Surcharge Tax**

- (1) There is hereby imposed a special surcharge tax of four percent (4%) on the furnishing of lodging by a hotel.

**Section 6. Minimum Tax**

In computing the tax to be collected as the result of any transaction amounts of less than one-half of one cent may be disregarded and amounts of tax of one-half cent or more may be considered an additional cent.

**Section 7. Impact of the Tax**

The impact of the tax as imposed by this ordinance is declared to be on the consumer and shall be added to the purchase price of the property sold and received from the consumer. The tax required to be collected by the retailer constitutes a debt owed by the retailer to the Prairie Island Indian Community and shall be recoverable at law in the same manner as other debts. Purchases made on behalf of the Prairie Island Indian Community are exempt from tax.

**Section 8. Exemptions from Sales Tax**

The following are specifically exempted from taxes imposed in this ordinance:

- (1) The gross receipts from the sale of personal property which is to become real property as a result of incorporation, attachment or installation following its acquisition.
- (2) The gross receipts from the sale of residential heating fuels, including but not limited to, fuel oil, coal, wood, steam, propane gas, natural gas, and L.P. gas sold to residential customers for residential use.

**Section 9. Occasional Sales**

The gross receipts from isolated or occasional sales not made in the normal course of business of selling that kind of property are exempt.

## **Section 10. Enforcement**

The Tribal Tax Commission, consisting of the Tribal Council Treasurer, Tribal Council Assistant Secretary/Treasurer, and Tribal Revenue Director, shall enforce all provisions of this ordinance. The Tax Commission may prescribe rules and regulations not inconsistent with the provisions of this ordinance.

## **Section 11. Application for Retailer Permit**

Every retailer or person engaging in business within the Reservation whose receipts are subject to sales tax shall file with the Tax Commission an application for a sales tax permit(s). Every application for such a permit shall be made upon a form prescribed by the Tax Commission and shall set forth the name under which the application transacts or intends to transact business, the location of the place(s) of business, and such other information as the Tax Commission may require. The application shall be signed by the owner, if a natural person; in the case of an association or partnership, by a member or partner thereof; or in the case of a corporation, by an executive officer thereof or some person specifically authorized by the corporation to sign the application, to which shall be attached the written evidence of his authority. The applicant must have a sales tax permit for each place of business.

## **Section 12. Issuance of Retailer Permit**

The Tax Commission shall grant and issue to each applicant a non-assignable permit for each place of business on the Reservation. It shall at all times be conspicuously displayed only at the place for which issued. Permits shall be valid and effective until revoked by the Community.

## **Section 13. Revocation**

Whenever the holder of a permit fails to comply with any provisions of this ordinance or any rules or regulations prescribed by the Tax Commission or whenever the holder of a permit shall file returns showing no tax due for four consecutive quarters, the Tax Commission, upon giving a ten day notice of the time and place of hearing and conducting a hearing, may revoke the permit for cause.

## **Section 14. Payment of Tax**

Every retailer shall submit to the within 15 calendar days after the end of each calendar month a report on such form as the sales and gross amount of sales taxes collected during that calendar month. Every retailer shall pay the gross sales tax collected during a calendar month to the Tax Commission at the same time as the report for that calendar month is submitted.

**Section 15. Penalties**

Every retailer who fails to collect the taxes imposed by this Ordinance shall be liable for the full amount of the tax owed plus interest at the statutory rate until paid. Willful failure to collect or pay over the taxes imposed by this Ordinance shall make the retailer liable for an individual penalty of 100 percent of the taxes due plus interest of the statutory rates until paid.

**Section 16. Revenue Distribution**

All revenues derived from taxes, penalties and interest from this Ordinance and received by the Prairie Island Indian Community shall be deposited into the Tax Receipts Fund of the Prairie Island Indian Community and shall be expended only as the Tribal Council may direct by formal resolution.

**Section 17. Judicial Review**

The Prairie Island Mdewakanton Dakota Community Tribal Court is hereby granted exclusive subject matter jurisdiction over any cause of action which may arise from the implementation of the provisions of this ordinance.

**Section 18. Rescission of Prior Law**

This ordinance shall rescind and replace any and all prior ordinances, resolutions, and agreements relating to the imposition of sales and use taxes.

**Section 19. Severability**

If any section or any part of this ordinance, or the application thereof to any party, person, or entity or to any circumstance, shall be held invalid for any reason whatsoever, the remainder of the section or ordinance shall not be affected thereby, and shall remain in full force and effect as though no part thereof had been declared to be invalid.

**Section 20. Sovereign Immunity**

Nothing in this ordinance shall mean or be construed to be a waiver of the Community's sovereign immunity.

**Section 21. Effective Date**

This Ordinance shall be effective at 12:01 a.m. on November 1, 1996.

Adopted by Resolution 96-10-24-99.