Washoe Tribe of Nevada and California

Law & Order Code

TITLE 11 – TOBACCO EXCISE TAXES

[Last Amended 11/13/2009; Current Through 11/29/2009]

TABLE OF CONTENTS

11-10 TOBACCO EXCISE TAX AND TRIBAL TOBACCO OUTLETS 1
- **11-10-010 Purpose and Applicability 1**
- **11-10-020 Definitions 1**
- **11-10-030 Establishment of Tobacco Outlets 2**
- **11-10-040 Nature of Outlet 2**
- **11-10-050 Purchase by Tribe 2**
- **11-10-060 Excise Tax Imposed 2**
- **11-10-070 Responsibility for Collection of the Cigarette Excise Tax 3**
- **11-10-080 Remittance of Taxes to the Tribal Council 3**
- **11-10-090 Required Records 3**
- **11-10-100 Audit 3**
- **11-10-110 Use of Net Profits and Excise Tax Revenues 3**
- **11-10-120 Duties and Responsibilities of Tobacco Outlet 4**
- **11-10-130 Restricted Sales to Minors 4**
- **11-10-140 Civil Actions 4**
- **11-10-150 Power to Adopt Regulations 5**

Washoe Tribe of Nevada and California

Law & Order Code

TITLE 11 – TOBACCO EXCISE TAXES

[Last Amended 11/13/2009; Current Through 2/24/2010]

11-10 TOBACCO EXCISE TAX AND TRIBAL TOBACCO OUTLETS

11-10-010 Purpose and Applicability

(a) The purpose of this Chapter 11-10 is:

1. To promote economic growth on Washoe Tribal Lands
2. To provide increased services to residents of Washoe Tribal Lands.
3. To provide funds for Tribal government;
4. To regulate the sale of Tobacco Products on Washoe Tribal Lands.

11-10-020 Definitions

(a) "Cigarette" all rolled tobacco or substitutes therefore, which are wrapped in paper or any paper substitute other than tobacco.

(b) "Consumer" any person who is not a wholesale dealer or retail dealer who comes into possession of Cigarettes on Washoe Tribal Lands.

(c) "Manger" an individual employed by the Washoe Tribe to manage a Tribal operated Tobacco Outlet.

(d) "Net Profits" money remaining from the operation of a Tobacco Outlet, after deduction of excise tax revenues and all costs of doing business, as determined by the Tribal Council upon consultation with the Tribal Manager, and including reasonable costs for improvement and expansion.

(e) "Person" one or more individual(s), or any firm, association, partnership or corporation. The term shall not include the Tribe.

(f) "Retail Selling Price" the ordinary, customary, or usual price paid by the consumer for each Tobacco Product, less the excise tax levied by this Chapter 11-10.

(g) "Sale or to Sell" – any of the following:

1. To exchange, barter, possess or traffic in;
2. To solicit or receive an order for;
3. To keep or expose for sale;
4. To deliver for value;
5. To peddle;
6. To possess with intent to sell;
7. To transfer to anyone for sale or resale.

(h) "Tobacco Outlet" a Tribal retail sales business selling Tobacco Products on trust land within the boundaries of Washoe Tribal Lands.

(i) "Tobacco Products" Cigarettes, cigars, smoking tobacco, snuff, chewing tobacco, and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking.

11-10-030 Establishment of Tobacco Outlets

The Tribal Council may establish one or more Tobacco Outlets on Washoe Tribal Lands as the Council in its sole discretion deems necessary to provide adequate service to consumers of Cigarettes and Tobacco Products. Tobacco Products may not be sold on Washoe Tribal Lands other than by a Tobacco Outlet established by the Tribal Council.

11-10-040 Nature of Outlet

Each Tobacco Outlet established pursuant to this Chapter 11-10 shall be operated and managed by the Tribe pursuant to existing personnel policies and procedures.

11-10-050 Purchase by Tribe

All Tobacco Products sold on Washoe Tribal Lands shall be purchased wholesale by the Tribe and held for resale at Tribal Tobacco Outlets or other designated areas.

11-10-060 Excise Tax Imposed

(a) There is hereby levied and there shall be collected as hereinafter provided, a tax upon the purchase or possession of Cigarettes by a consumer within the boundaries of the Washoe Tribal Lands; and such tax shall be levied at the same rate as the city, county, and/or municipality in which the purchase or possession occurs.

(b) There is hereby levied and there shall be collected as hereinafter provided a tax upon the purchase or possession of all Tobacco Products other than Cigarettes, by a consumer within the boundaries of Washoe Tribal Lands;

and such tax shall be levied at the same rate as the city, county, and/or municipality in which the purchase or possession occurs.

(c) The Tribal Council may change the amount of the tax upon the purchase, use, consumption, handling, possession, or distribution of Cigarettes and other Tobacco Products as it deems desirable.

(d) The excise tax levied hereunder shall be added to the retail selling price of Tobacco Products sold to the consumer.

[Last Amended 11/13/2009, 304-WTC-2009; Effective Date 11/29/2009]

11-10-070 Responsibility for Collection of the Cigarette Excise Tax

It shall be the responsibility of every Manager of a Tobacco Outlet to collect the tobacco excise tax from every purchaser of Tobacco Products.

11-10-080 Remittance of Taxes to the Tribal Council

The taxes collected pursuant to this Chapter 11-10 shall be remitted to the Tribal Council according to a schedule which shall be established by the Tribal Council.

11-10-090 Required Records

Every Manger shall keep written records of the following:

(a) The number of packages of Cigarettes or other Tobacco Products received from the Tribe;

(b) The number of packages of Cigarettes or other Tobacco Products sold to consumers; and

(c) The amount of excise taxes collected.

11-10-100 Audit

All records required to be kept by this Chapter 11-10 shall be open to inspection and audit by a finance officer, the Tribal Council, or Tribal Manager at reasonable times and places, to insure compliance with this Chapter 11-10.

11-10-110 Use of Net Profits and Excise Tax Revenues

(a) All net profits derived from the operation of a Tobacco Outlet shall be the property of the Tribe. These profits, as well as the excise tax revenue collected pursuant to the Section 11-10-060 shall be used for the benefit of the Washoe Tribe.

(b) All excise tax revenues shall be appropriated to provide Tribal governmental services, including, but not limited to:

1. Police and fire protection;
2. Establishment of Tribal courts;
3. Road construction, repair, and maintenance;
4. Water, sewage, and garbage disposal;
5. Education of children;
6. Public health;
7. Development of Tribal enterprises which employ Tribal members;
8. Public recreation;
9. Senior citizens program; and
10. Other essential Tribal services.

(c) Net profits may be appropriated by the Tribal Council for governmental services or for any other purpose consistent with the promotion of the Tribe's interest, such as investment purposes.

11-10-120 Duties and Responsibilities of Tobacco Outlet

(a) The Tribal Manager will have direct responsibility to the Tribal Council for the efficient and profitable operation of a tobacco outlet.

(b) The Tribal Manager shall have authority to employ such persons as deemed necessary to efficiently operate a tobacco outlet. Employment will be in conformance with the Washoe Tribe's personnel policies and procedures.

(c) Without the express written consent of the Tribal Council sovereign immunity of the Tribe from suit will not be authorized, nor will authority to utilize tribal credit or create any liability on behalf oft he Tribe be authorized.

(d) Remuneration of persons employed in a tobacco outlet will be in accordance to the Washoe Tribe's pay plan.

(e) Liability insurance in the sum of at least $10,000 will be maintained on each tobacco outlet operated by the Washoe Tribe.

11-10-130 Restricted Sales to Minors

Tobacco Products may not be sold to any person under the age of 18 years.

11-10-140 Civil Actions

The Tribe may bring a civil action against a person to enforce compliance with this Chapter 11-10. The Tribal Court shall have exclusive jurisdiction over any

action arising from the sale of Tobacco Products or payment of the excise tax imposed by Section 11-10-060.

11-10-150 Power to Adopt Regulations

The Tribal Council shall have the power to adopt any regulations which are necessary to the efficient administration of the tobacco excise laws and Tobacco Outlets, as long as such regulations are not in conflict with the provisions of this Chapter 11-10.