LEGISLATION NO: _0111-21__  SPONSOR: Jamie Henio

TITLE: An Act Relating to the Resources and Development, Law and Order, Budget and Finance, and Naabik’íyáti Committees, and the Navajo Nation Council; Amending the Navajo Nation Sales Tax at 24 N.N.C. §601-624

Date posted: __July 09, 2021 at 4:27PM

Digital comments may be e-mailed to comments@navajo-nsn.gov

Written comments may be mailed to:

   Executive Director
   Office of Legislative Services
   P.O. Box 3390
   Window Rock, AZ 86515
   (928) 871-7586

Comments may be made in the form of chapter resolutions, letters, position papers, etc. Please include your name, position title, address for written comments; a valid e-mail address is required. Anonymous comments will not be included in the Legislation packet.

Please note: This digital copy is being provided for the benefit of the Navajo Nation chapters and public use. Any political use is prohibited. All written comments received become the property of the Navajo Nation and will be forwarded to the assigned Navajo Nation Council standing committee(s) and/or the Navajo Nation Council for review. Any tampering with public records are punishable by Navajo Nation law pursuant to 17 N.N.C. §374 et. seq.
DATE: July 9, 2021

TITLE OF RESOLUTION: AN ACT RELATING TO THE RESOURCES AND DEVELOPMENT, LAW AND ORDER, BUDGET AND FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES, AND THE NAVAJO NATION COUNCIL; AMENDING THE NAVAJO NATION SALES TAX AT 24 N.N.C. §601-§624

PURPOSE: The purpose of this legislation is to approve amendments to the Navajo Nation Sales Tax, as recommended by the Navajo Tax Commission.
PROPOSED NAVAJO NATION COUNCIL RESOLUTION

24th NAVAJO NATION COUNCIL – Third Year, 2021

Introduced by:

(Prime Sponsor)

Tracking No. 0111-21

AN ACT

RELATING TO THE RESOURCES AND DEVELOPMENT,

LAW AND ORDER, BUDGET AND FINANCE, AND NAABIK’ÍYÁTI’

COMMITTEES, AND THE NAVAJO NATION COUNCIL; AMENDING

THE NAVAJO NATION SALES TAX AT 24 N.N.C. §601-§624

BE IT ENACTED:

SECTION 1. AUTHORITY

A. The Resources and Development Committee is a standing committee of the Navajo Nation Council with the authority to review and make recommendations to the Navajo Nation Council regarding “taxation proposals affecting business or commercial activities, after consultation with the Navajo Tax Commission.” 2 N.N.C. §501(B)(4)(d).

B. The Law and Order Committee is a standing committee of the Navajo Nation Council empowered to review and make recommendations to the Navajo Nation Council regarding any proposed amendments to the Navajo Nation Code. 2 N.N.C. §601(B)(14).

C. The Budget and Finance Committee is a standing committee of the Navajo Nation Council authorized to provide oversight regarding the Navajo Nation’s budgeting, finance, taxes, and other related matters. 2 N.N.C. §300(C). The Budget and Finance Committee is also empowered to recommend to the Navajo Nation Council “resolutions designed to strengthen the fiscal and financial position of the Navajo Nation.” 2 N.N.C. §300(C)(3).
D. The Naabik’íyáti’ Committee is a standing committee of the Navajo Nation Council; as such, the Committee reviews all proposed legislation requiring final action by the Navajo Nation Council. 2 N.N.C. §164(A)(9).

E. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. §102(A). As such, the Council must review, and give final approval of, all amendments to Navajo Nation laws. 2 N.N.C. §164(A).

SECTION 2. FINDINGS

A. The Navajo Tax Commission was established by the Navajo Nation Council to review and study all sources of wealth and income within the Navajo Nation, in order to find possible Navajo Nation government revenues from the taxation of those sources. 2 N.N.C. §3351 and §3353(A)(1).


C. As explained by the Executive Director of the Office of the Navajo Tax Commission, the Commission has determined that, consistent with the Commission’s statutory purpose under Title 2 of the Navajo Nation Code, certain amendments to the Sales Tax are necessary and appropriate at this time. Exhibit A.

D. Specifically, in Resolution No. TAX-20-238 (Exhibit B attached hereto) the Navajo Tax Commission recommends the following substantive changes to the Navajo Nation’s Sales Tax (as shown in the Sub-Exhibit B-1 attached hereto):

1. an increase of the current maximum Sales Tax rate to 10% (an increase from a maximum rate of 6%);

2. the insertion of new definitions of “Agricultural Products” and “Agricultural Producers” and “Traditional” for the purpose of exempting the sales of Agricultural Products by Agricultural Producers who are engaged in Traditional Navajo agricultural, farming, and livestock activities conducted within the Navajo Nation (but this exemption would not apply to commercial Agricultural Producers);
3. removing from the definition of “Gross Receipts” the market value of employee benefits such as free or reduced cost meals, thereby exempting these from the Sales Tax;
4. removing from the definition of “Gross Receipts” those dollar amounts received as reimbursements for federal, state, or Navajo Nation taxes so long as proof is provided that the appropriate tax was already collected on the original expenditure, thereby eliminating double taxation of reimbursements;
5. including in the Sales Tax compressed or liquefied natural gas, kerosene, liquefied petroleum gas, butane, propane, non-fuel stove oil, and aircraft fuel;
6. narrowing of the definition of “Sale for Resale” in order to tax the selling of services, the sale of items for consumption by the buyer, and the sale of items that will be further processed, manufactured, or used for further commercial or industrial purposes;
7. related to item no. 7 above, the Commission recommends the insertion of a new definition of “Upstream Seller” for the purpose of clarifying what type of “Sale for Resale” is not taxed; i.e., sales by Upstream Sellers shall not be taxed so long as certain requirements are met, as set forth in the revised definition of “Sale for Resale;”
8. making the collection of gross receipts from the sale of tobacco products subject to the Sales Tax;
9. narrowing the tax exemption for sales from coin-operated vending machines so as to exclude car washes and laundromats, thereby taxing those businesses;
10. clarifying that persons may take a credit in the amount of any Sales Taxes paid to the Kayenta Township and the To’Nanees’Dizi'/Tuba City Chapter;
11. requiring Sale Tax filers to report their gross receipts on a cash basis rather than using an accrual basis;
12. providing that no Sales Tax return need be filed by those who are exempt, as determined by ONTC, because the Taxpayer has paid taxes to the Kayenta Township or the To’Nanees’Dizi'/Tuba City Chapter for sales located within the territorial boundaries of the Navajo Nation;
13. changing the time period for preserving Sales Tax records from 4 years to 7 years.
E. Notably, the proposed amendment to 24 N.N.C. §605(A) does not amend the Sales Tax as it applies to gross receipts collected from the sales of fresh fruits, fresh vegetables, filtered
bottled water, and nuts, nut butters, or seeds. The amendment merely moves the exemption for these sales to the appropriate section pertaining to exemptions, at 24 N.N.C. §609(C)(18).

F. The Navajo Nation Council has reviewed the proposed changes to the Sales Tax, as described in Sections 2(D)1-13 above, and finds that such amendments are in the best interest of the Navajo Nation because such changes will provide for the collection of additional needed revenue for the Navajo Nation to pay for governmental services.

SECTION 3. AMENDING THE SALES TAX (24 N.N.C. §601-§624)

The Navajo Nation Council hereby approves and adopts the amendments to the Sales Tax (at 24 N.N.C. §601-§624) as recommended by the Navajo Tax Commission in Resolution No. TAX-20-238 (and as shown in the redlined document attached hereto as Sub-Exhibit B-1) as follows:

Title 24 Navajo Nation Code
Chapter 6 Sales Tax

§601. SHORT TITLE
The tax imposed by this Chapter shall be called the “Sales Tax.”

§602. PURPOSE
The Navajo Nation Council hereby enacts this tax for the privilege of engaging in business activity within the Navajo Nation, and for purposes of defraying necessary governmental expenses at the national and local level incurred in providing for the public welfare.

§603. TAX IMPOSED
A tax is hereby imposed on the gross receipts of a person. The tax due for a period is determined by first calculating applicable gross receipts for a period, and then multiplying those gross receipts by the applicable tax rate.
§604. LEGAL INCIDENCE AND RESPONSIBILITY FOR PAYMENT

The person liable for the payment of the tax imposed by this Chapter is the person receiving the gross receipts from a sale.

§605. RATE OF TAX

A. The tax imposed by this Chapter is imposed at a rate of not less than two percent (2%), nor more than six ten percent (610%), which shall be specifically established by regulations promulgated by the Navajo Tax Commission. This tax shall not be imposed on the purchase of fresh fruits, fresh vegetables and filtered bottled water including nuts, nut butters, and seeds. Until another rate is established, the rate shall be five six percent (56%) of the applicable gross receipts from all retail sales (.056 x applicable gross receipts).

B. A majority of the registered voters of any governance-certified chapter may enact an ordinance imposing an additional tax rate in addition to the rate approved by the Navajo Tax Commission in accordance with paragraph A, above. This additional rate may be from one-quarter of one percent (.25%) to four percent (4%) and shall be set forth in the ordinance.

§606. ADMINISTRATION

All provisions of the Uniform Tax Administration Statute apply to this Chapter.

§607. DEFINITIONS

Subject to additional definitions (if any) contained in the subsequent sections of this Chapter, and unless the context otherwise requires, in this Chapter:

A. “Agricultural Producers” means Persons who are farmers, ranchers, growers, and producers, on agricultural lands within the Navajo Nation, who grow, harvest, raise, or prepare for market, and sell their own Agricultural Products within the Navajo Nation.

B. “Agricultural Products” means crops such as vegetables, fruits, grains, grasses, roots, and legumes, that are grown from cultivating the soil and harvested for use as food for humans and animals, as fiber for clothing and other products, or for production of fuel; livestock such as cattle, sheep, goats, buffalo, hogs, and poultry, raised for purposes of production of meat, dairy, eggs, and other food products for human consumption, or for production of wool, skins,
and pelts for clothing and other purposes; livestock such as horses and mules for work on a
ranch or farm; farm-raised fish; bees and honey; trees grown for production of fruit, lumber,
fuel, and fiber; flowers cultivated for sale; and other similar natural plant or animal products.

AC. “Consideration” means any money or other pecuniary benefit, goods, personal or real
property, services, or any combination thereof, which accrues as a right, profit, advantage, or
benefit to a person, or which reflects a payment, detriment, loss, or responsibility of a person.

BD. “Construction activity” means any building, altering, repairing, installing, or demolishing in
the ordinary course of business, whether a project is completed or not, any:

1. Road, highway, bridge, parking area, fence, livestock guard, gate, or related structure;
2. Building, stadium, or other structure;
3. Airport, railway, or similar transportation facility;
4. Park, trail, athletic field, golf course, or similar facility;
5. Dam, reservoir, canal, ditch, culvert, or similar facility;
6. Sewerage or water treatment facility, power plant, pumping station, natural gas
   compressing station, gas processing plant and gathering lines, coal gasification plant,
   refinery, distillery, blending, or similar facility;
7. Sewerage, water, coal, coal slurry, gas, or other pipeline;
8. Transmission line;
9. Radio, television, microwave, telephone, or other similar tower;
10. Water, oil, gasoline, fuel or other storage tank;
11. Shaft, tunnel, or other mining appurtenance;
12. Microwave station, or similar facility;
13. Leveling, clearing, or other preparation of land;
14. Excavating of earth;
15. Drilling of wells of any type, including seismograph shot holes or core drilling; or
16. Any similar work or activity.

CE. “Employee” means a person in the service of another person under any contract of hire,
express or implied, oral or written, where the employer has the power or right to control and
direct the employee in the material details of how the work is to be performed.
DEF. "Enterprise" means any non-corporate business entity created by action of the Navajo Nation Council.

EG. "Fair market value" means the amount of consideration at which personal or real property or services would change hands via an arms-length transaction between a willing buyer and a willing seller, or a willing lessor and a willing lessee, neither of whom is under any compulsion to act.

"Fair market value" is to be determined on the basis of consideration in comparable sales, leasing, or rental transactions. If such information is not available, the Office of the Navajo Tax Commission may estimate the fair market value of the subject of a transaction according to procedures established by regulations.

FH. "Fresh fruits and fresh vegetables" means produce in fresh form generally considered as perishable fruits and vegetables, whether or not packed in ice or held in common or cold storage.

GI. "General contract" means any legal duty, obligation, or responsibility, express or implied, unilateral or bilateral, written or unwritten, which is entered into by a general contractor.

HJ. "General contractor" means a person primarily responsible for the performance of a construction project pursuant to a contract.

A "General contractor" may enter into subcontracts, but remains primarily responsible for the management, planning, supervision, coordination, and performance of the contract.

IK. "Gross receipts" means the total amount of money, credit, or any other pecuniary benefit or advantage, plus the fair market value of any other consideration, which is actually received during any period by any person from the sale or leasing of real or personal property of any kind, the sale of services of any kind, and any other productive activity of any kind, whether for profit or not, conducted wholly or partially within the Navajo Nation. "Gross receipts" does not include the salary, or wages, or the market value of employee benefits such as free or reduced cost meals, of an individual engaged as an employee.

"Gross receipts" includes those amounts received for any and all personal or real property which is an integral, but not necessarily a significant or primary, component of the service(s) rendered, regardless of the date, time, manner, and location of sale, delivery, or use of such personal or real property.
“Gross receipts” includes those amounts received for any and all services which are an integral, but not necessarily a significant or primary, component of the sale or delivery of personal or real property, such as those amounts received as payment or reimbursement for costs of putting personal or real property into a finished and marketable form, payment for delivery and set-up, and payment for warranty or service contracts, regardless of the date, time, manner, or location of performance of such services(s).

“Gross receipts” does not include amounts received as reimbursement for federal, state, or Navajo Nation taxes when the seller/taxpayer collects tax from buyer and taxpayer/seller provides proof it has paid the tax to the above-named taxing jurisdictions.

“Gross receipts” are recognized when seller receives the payment rather than when goods are delivered or services are received.

JL. “Manufacturing activity” means combining or processing components or materials into a finished product, whether manually or mechanically, for the purpose of resale in the ordinary course of business, but does not include construction activity.

JM. “Nut Butters” means ground nuts blended to make a paste or spread.

LN. “Nuts” means a fruit consisting of a hard or tough shell around an edible kernel.

MO. “Navajo Nation” means all areas within the territorial jurisdiction of the Navajo Nation government.

NP. “Performance” means the partial or complete fulfillment or accomplishment of a promise, contract, or other obligation according to the terms of such promise or contract.

OQ. “Period” means a calendar quarter.

PR. “Personal property” means any tangible property which may be seen, touched, weighed or measured, or is in any manner perceptible to the human senses, including, but not limited to, electricity, compressed or liquefied natural gas, kerosene, liquefied petroleum gas, butane, propane, non-fuel stove oil, fuel products used for the propulsion of aircraft, goods or merchandise of any kind, goods purchased for consumption or other use, goods purchased for incorporation into other personal or real property, and goods purchased for use in the performance of any service, whether or not such goods are consumable, movable, separable, affixed to, or incorporated into, other personal or real property, and whether or not such goods retain their original character upon final sale.
“Personal property” also means any intangible property which cannot be physically perceived by the human senses, such as patents, trademarks, copyrights, franchises, licenses, knowledge, information, ideas, advice, and other intangible items of value or legal rights of any kind.

QS. “Sale” means any transaction, including a lease or rental, for consideration of any kind that results in the transfer of ownership and/or possession, delivery, use, or enjoyment of personal or real property, or the performance of any service.

A “Sale” includes circumstances where the title to personal or real property is retained as security for payment, and includes circumstances where no actual physical transfer of personal or real property or services occurs.

RT. “Sale for resale” means a sales transaction of tangible personal property made to a buyer for purposes of being resold within the Navajo Nation by the buyer in the ordinary course of business—any further sale, processing, manufacturing, or other commercial or industrial purposes, as distinguished from a retail sale.

“A Sale for resale” does not include the sale of services.

“A Sale for resale” does not include the sale of tangible personal property for consumption by the buyer, or to a buyer who is the end-use consumer or to the agent of the end-use consumer.

“A Sale for resale” does not include sale of tangible personal property for purposes of further processing, manufacturing, or other commercial or industrial purposes.

A transaction by an upstream seller shall only be considered a “sale for resale” if all of the following requirements are met: (1) the last seller for the last sale occurring within the Navajo Nation, or another seller in the supply chain, has paid the applicable Sales Tax to the Navajo Nation on a sale of the same tangible personal property; (2) the seller who paid the Sales Tax has obtained from the Office of the Navajo Tax Commission a valid Navajo Tax Exemption Certificate, and has provided the Certificate to the upstream seller; (3) the upstream seller filed a Return with the Office of the Navajo Tax Commission and attached a copy of the valid Navajo Tax Exemption Certificate pertaining to the sale in question; and (4) compliance with other requirements related to “sale for resale” set forth in the Sales Tax Regulations.

RU. “Seeds” means the grains or ripened ovules of fruits, vegetables, or plants such as sunflower seeds, flax seeds, pumpkin seeds, and mixed nuts without sugared candies.
“Services” means manual, mechanical, or intellectual labor performed, and includes other business activity that does not have physical characteristics.

“Subcontract” means any legal duty, obligation, or responsibility, express or implied, unilateral or bilateral, written or unwritten agreement, between a general contractor and a subcontractor.

“Subcontractor” means a person who takes from the general contractor a specific part of the work undertaken by the general contractor.

“Traditional” means Navajo culture, laws, philosophies, values, customs, practices, and methods, that have been passed down from one generation to the next either orally or in writing.

“Upstream Seller” means a person who sells tangible personal property to a buyer other than the end-use consumer, where the sale occurred within the Navajo Nation, and such buyer later resells the same property within the Navajo Nation.

“Water” means drinking water that has no added sugar or other artificial sweeteners. It includes artisan, fluoridated, mineral, purified, sparkling, spring, or sterile (distilled) water.

§608. NAVAJO NATION GOVERNMENT

A. Sales by corporations owned by the Navajo Nation government or any political sub-division thereof shall be fully subject to the tax imposed by this Chapter.

B. Sales by the government of the Navajo Nation, or political subdivisions or enterprises thereof, shall be subject to the tax imposed by this Chapter according to the following schedule:

1. For all periods during calendar years 2001 and 2002, the Navajo Nation government, political subdivisions, and enterprises shall not be subject to the tax;

2. For all periods during calendar year 2003, the Navajo Nation government, political subdivisions, and enterprises shall be subject to the tax at a rate equal to twenty-five percent (25%) of the rate imposed under § 605 of this Chapter;

3. For all periods during calendar year 2004, the Navajo Nation government, political subdivisions, and enterprises shall be subject to the tax at a rate equal to fifty percent (50%) of the rate imposed under § 605 of this Chapter;

4. For all periods during calendar year 2005, the Navajo Nation government, political subdivisions, and enterprises shall be subject to the tax at a rate equal to twenty-five percent (25%) of the rate imposed under § 605 of this Chapter;
subdivisions, and enterprises shall be subject to the tax at a rate equal to seventy-five percent (75%) of the rate imposed under § 605 of this Chapter;

5. For all periods during calendar year 2006 and all periods thereafter, the Navajo Nation government, political subdivisions, and enterprises shall be subject to the tax at a rate equal to one hundred percent (100%) of the rate imposed under § 605 of this Chapter.

C. In cases where a person is partially owned by the Navajo Nation government or any of its political subdivisions or enterprises, gross receipts shall be prorated if necessary.

§609. EXEMPTIONS AND EXCLUSIONS

A. Nothing in this Chapter shall be construed as imposing a tax on the gross receipts of a subcontractor, provided that:

1. The general contractor with whom the subcontractor has contracted has reported and paid all taxes due under this Chapter, or has assumed liability for payment of all taxes due under this Chapter by signing and issuing a certificate of exemption to the subcontractor; and,

2. The subcontractor must obtain from the general contractor a certificate of exemption issued to the general contractor by the Office of the Navajo Tax Commission. This certificate must be signed by the general contractor, and must indicate that the general contractor has reported and paid all taxes due under this Chapter, or has assumed liability for payment of all taxes due under this Chapter.

3. The Commission may by form or regulation provide for the proper issuance and filing of the certificate of exemption.

B. In calculating applicable gross receipts, a person may exclude those gross receipts on which any of the following Navajo Nation taxes have been paid:

1. Navajo Nation Oil and Gas Severance Tax; or

2. Navajo Tobacco Products Tax; or


C. The tax imposed by this Chapter does not apply to gross receipts generated directly by the following:

1. Sales for resale;

2. Sales of Agricultural Products related to by Agricultural Producers engaged in Traditional
Navajo agricultural, farming, and livestock activities conducted within the Navajo Nation. This exemption shall not apply to sales by commercial Agricultural Producers:

3. Sales, other than sales from an unrelated trade or business as defined in §§ 511 – 513 of the Internal Revenue Code, by any person operating exclusively for non-profit or charitable purposes, and recognized as such pursuant to § 501(C)(3) and 501(C)(19) of the United States Internal Revenue Code at the time of sale;

4. Sales by facilities engaged in childcare, foster care or adoption placement, or battered families and homeless shelters;

5. Sales of stocks, private or government-issued bonds, mutual funds, or other investments, including income received as dividends or interest;

6. Sales by itinerant salespersons;

7. Occasional sales by persons who are not regularly engaged in the business of selling personal or real property or services;

8. Sales by educational institutions, including primary and secondary schools, colleges, vocational, and job training programs;

9. Sales by hospitals and health-care organizations or facilities, such as nursing care institutions, residential care and mental health facilities, senior citizen care facilities or retirement homes, kidney dialysis facilities and blood banks, or other facilities which provide medical care and services;

10. Sales from coin-operated vending machines. This exemption shall not apply to coin-operated car washes and laundromats of any type;

11. Sales related to traditional Native American ceremonies or services;

12. Sales of prescription medicines, prosthetic devices, or other medical devices, including medical oxygen, monitoring devices, dentures, hearing aids, crutches, insulin syringes, blood sugar monitoring strips or devices, prescription eyeglasses and contact lenses, or any durable medical equipment primarily and customarily used for medical purposes and not useful in the absence of illness, injury, or other medical condition;

13. Sales related to funerals and human burials;

14. Sales paid for by coupons issued by the United States Department of Agriculture under the Food Stamp Act of 1977 (P.L. 95-113);
15. Sales paid for by vouchers issued under § 17 of the Child Nutrition Act (P.L. 95-627 and P.L. 99-669);

16. Sales of newspapers or other daily publications; or

17. Sales of mobile homes, motor homes, motor vehicles, tractors, and hauling trailers for private use, possession, or enjoyment, provided that such items are not resold or used in any business activity or service.

18. Sales of fresh fruits, fresh vegetables, filtered bottled water, nuts, nut butters, and seeds.

D. Nothing in this Chapter shall be construed as imposing directly upon the United States a tax which is prohibited by federal law.

E. Through December 31, 2005, a person may exclude from gross receipts any amount received from a transaction on which the Hotel Occupancy Tax has been paid.

§610. CREDITS

A person may take a credit against the tax imposed by this Chapter for taxes paid pursuant to any nondiscriminatory excise—sales or gross receipts tax imposed by Kayenta Township and 'To' Nanees' Dizi' / Tuba City Chapter any duly established township or local government subunit, provided that revenues from such excise tax are utilized to provide essential governmental services.

§611. RESERVED

§612. FILING OF RETURN

A. Each person must file a return indicating all sales from applicable gross receipts, which shall be reported on a cash basis as opposed to on an accrual basis, and the tax due under this Chapter for each period by the fifteenth day of the second month after the end of each calendar quarter. Returns are due on May 15, August 15, November 15, and February 15 of each calendar year.

B. The Commission may by form or regulation require that other information, records or relevant documents which it deems necessary for the proper and efficient administration of this Chapter be included with the return, and that the return be signed by a specified person.
C. No return need be filed by any person who is exempt under § 609, provided that the Office of the Navajo Tax Commission may require such person to file the information necessary to establish its exempt status.

D. No return need be filed by any person who is claiming a credit under § 610, provided that the Office of the Navajo Tax Commission may require such person to file the information necessary to establish its eligibility for the credit.

E. In the case of the exemption provided for in § 609(A), the filing by a person of a proper Certificate of Exemption with the Office of the Navajo Tax Commission shall constitute a claim for exemption.

§613. PAYMENT OF TAX
Payment in full of the taxes owed for a particular period is due on the same date that the completed return for that same period is due. The Office of the Navajo Tax Commission, however, may require payment of any taxes due on a monthly basis.

§614. RECORDKEEPING
A. Each person shall keep all records which pertain to or relate in any manner to all sales from any business activity engaged in at any time by such person. Such records shall be maintained separately for each reporting period during which a person is engaged in business activity.

B. Records required to be kept must be preserved for seven (7)four years beyond the end of the period to which the records relate.

§615. RESERVED
§616. RESERVED
§617. RESERVED
§618. RESERVED
§619. RESERVED

§620. ALLOCATION OF REVENUE
After allocation to permanent or special revenue funds as required by Navajo Nation law, and
allocation to the Tax Administration Suspense Fund as required by the fiscal policy adopted by
the Navajo Tax Commission for such Fund, the net revenue from this Chapter shall be disbursed
as follows:

A. To the extent that any amount is collected pursuant to Section 605(B) above, that amount shall
be transmitted by the Office of the Navajo Tax Commission to the chapter in a timely manner
to be expended in accordance with the ordinance referred to in Section 605(B), above.

B. Except as otherwise provided in subsections (C) or (D), fifty percent (50%) of the revenue
collected shall be deposited into the General Fund of the Navajo Nation, sixteen point six,
six… percent (16.6666%) of the revenue collected shall be deposited into the Judicial/Public
Safety Facilities Fund, eight point three, three… percent (8.3333%) of the revenue collected
shall be deposited to the Scholarship Fund, and eight point three, three… percent (8.3333%)
of the revenue shall be deposited to the Economic Development Fund to be appropriated
pursuant to a fund management plan approved by the Budget and Finance Committee of the
Navajo Nation Council, and Council, and the remaining sixteen point six, six… percent
(16.6666%) of the revenue shall be deposited to the Fire and Rescue Services Fund to
be appropriated pursuant to a fund management plan approved by the Budget and Finance
Committee of the Navajo Nation Council.

C. Fifty percent (50%) of the revenue collected from retail establishments located in the Navajo
Nation shall be deposited into a trust fund to be appropriated pursuant to a plan of operation
developed by the Office of Navajo Government Development and approved by the Budget
and Finance Committee of the Navajo Nation Council; sixteen point six, six… percent
(16.6666%) of the revenue collected shall be deposited into the Judicial/Public Safety
Facilities Fund to be appropriated pursuant to a fund management plan approved by the
Budget and Finance Committee of the Navajo Nation Council; eight point three, three…
percent (8.3333%) of the revenue collected shall be deposited into the Scholarship Fund to be
appropriated pursuant to a fund management plan approved by the Budget and Finance
Committee of the Navajo Nation Council and eight point three, three… percent (8.3333%) of
the revenue collected shall be deposited into the Economic Development Fund to be
appropriated pursuant to a fund management plan approved by the Budget and Finance
Committee of the Navajo Nation Council, and the remaining sixteen point six, six… percent
(16.6666%) of the revenue shall be deposited to the Fire and Rescue Services Fund to be appropriated pursuant to a fund management plan approved by the Budget and Finance Committee of the Navajo Nation Council.

D. Sixty-percent (60%) of the revenue collected from the Sales Tax revenue associated with construction of public water and wastewater systems shall be deposited into the Navajo Tribal Utility Authority Emergency Reserve Fund and the Navajo Tribal Utility Authority Replacement Reserve Fund in accordance with a fund management plan approved by the Budget and Finance Committee of the Navajo Nation Council. Monies from those funds will be expended in accordance with the fund management plan. Twenty percent (20%) of the revenue collected shall be deposited into the Judicial/Public Safety Facilities Fund to be appropriated pursuant to a fund management plan approved by the Budget and Finance Committee of the Navajo Nation Council; ten percent (10%) of the revenue collected shall be deposited into the Scholarship Fund to be appropriated pursuant to a fund management plan approved by the Budget and Finance Committee of the Navajo Nation Council; and ten percent (10%) of the revenue collected shall be deposited into the Economic Development Fund to be appropriated pursuant to a fund management plan approved by the Budget and Finance Committee of the Navajo Nation Council.

§621. NO CONFLICT WITH LOCAL GOVERNANCE ACT
The provisions of this Chapter and corresponding regulations shall not be construed inconsistently with the Local Governance Act, 26 N.N.C. §§1 – 2008.

§622. SEVERABILITY
If any provision of this Chapter, as amended, or its application to any person or circumstance, is held invalid by a final judgment of a court of competent jurisdiction, the invalidity shall not affect other provisions or applications of the Chapter which can be given effect without the invalid provision or application, and to this end, the provisions of this Chapter are severable.

§623. EFFECTIVE DATE
This Chapter shall become effective January 1, 2013 in accordance with 2 N.N.C. § 221(B).
§624. REPEALS

All laws or parts of laws (or attachments thereto) which are inconsistent with the provisions of this Chapter are hereby repealed, including, without limitation, any law purporting to waive any right of taxation by the Navajo Nation.

The Office of the Navajo Tax Commission is authorized to prepare a final, clean version of the Sales Tax as amended herein, with no stricken or underlined wording shown.

SECTION 4. EFFECTIVE DATE

This Act shall be effective upon its approval pursuant to 2 N.N.C. §221(B).

SECTION 5. CODIFICATION

The provisions of this Act that amend the Navajo Nation Code shall be codified by the Office of Legislative Counsel. The Office of Legislative Counsel shall incorporate such amended provisions in the next codification of the Navajo Nation Code.

SECTION 6. SAVINGS CLAUSE

If any provision of this Act is determined invalid by the Supreme Court of the Navajo Nation, or by any District Court of the Navajo Nation without appeal to the Navajo Nation Supreme Court, the portions of this Act not determined invalid shall remain as the law of the Navajo Nation.