

PUEBLO OF ISLETA

P.O. BOX 1270 ISLETA, NM 87022

April 17, 2008

Via Hand-Delivery

Superintendent
SOUTHERN PUEBLOS AGENCY
P. O. Box 26567
Albuquerque, NM 87125-6567

Re: Request for Expedited Secretarial Approval
Chapters 4 and 5 to Pueblo of Isleta Tax Ordinance
Adopted by Resolution No. 2008- 120

Dear Acting Superintendent:

Pursuant to Article V, Section 2(f), and Article X, of the Constitution of the Pueblo of Isleta, I enclose a copy of Resolution No. 2008- 120 adopting a Lodger's Tax and a Pueblo Enterprise Sales Tax as new Chapters of the Pueblo's Tax Ordinance. These new taxes were adopted by the Pueblo's Tribal Council on April 15th, 2008. Since these taxes will be borne largely by non-members of the Pueblo, these Tax Ordinance Chapters are being submitted for Secretarial Approval in accordance with Article V, Section 2(f) of the Pueblo's Constitution.

The Tribal Council adopted these taxes to provide a predictable and certain stream of revenue to fund tribal governmental operations and purposes, and reduce the reliance of the Pueblo on enterprise profits to provide such funding. These taxes and the terms on which they will be imposed are consistent with federal law and similar to taxes which have been enacted by other tribes and Pueblos in New Mexico and elsewhere.

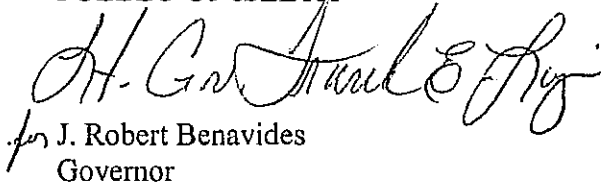
We request expedited Secretarial Approval for these tax laws to facilitate planning and preparation for the opening of the Isleta Casino & Resort Hotel scheduled for July, 2008. In order to properly set up accounting and billing systems for the hotel and other enterprises of the Pueblo prior to the intended effectiveness of these taxes on July 1, 2008, prompt Secretarial Approval is required.

Superintendent
April 17, 2008
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Thank you in advance for your attention to this matter and consideration of our request for expedited approval. If you have any questions or wish to discuss any aspects of this matter, please contact my office.

Sincerely,

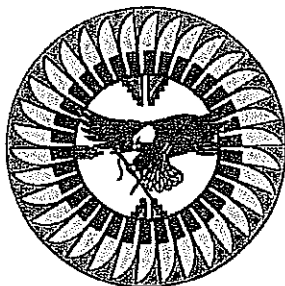
PUEBLO OF ISLETA



J. Robert Benavides
Governor

Enclosures

Property Pueblo of Isleta
www.isletapueblo.com



PUEBLO OF ISLETA

P.O. Box 850
ISLETA, NM 87022

RESOLUTION NO. 2008- 120

ADOPTING LODGER'S TAX AND

PUEBLO ENTERPRISE SALES TAX

(CHAPTERS 4 AND 5 OF THE PUEBLO OF ISLETA TAX ORDINANCE)

WHEREAS, pursuant to Article V, Section 2(f), of the Pueblo's Constitution, the Tribal Council is authorized to levy and collect taxes, fees, and assessments on the members of the Pueblo, and subject to approval by the Secretary of the Interior, upon non-members of the Pueblo living or doing business on the lands of the Pueblo;

WHEREAS the Tribal Council has determined that in order to establish a predictable and dependable revenue stream to fund tribal governmental operations and purposes independent of the business profits of tribal enterprise, and as an exercise of the Pueblo's sovereign governmental taxing authority, it is appropriate to impose a Lodger's Tax and Pueblo Enterprise Sales Tax on patrons of Isleta Casino & Resort and other tribal enterprises on the terms and conditions described in the new Chapters 4 and 5 to the Pueblo's Tax Ordinance attached hereto and adopted hereby; and

WHEREAS, since these taxes will lie primarily on non-members of the Pueblo, notwithstanding that the incidence of the tax will be directly on Pueblo enterprises, this Resolution and the Tax Ordinance Chapters attached shall be submitted for approval by or on behalf of the Secretary of the Interior in accordance with the Pueblo's Constitution,

NOW, THEREFORE, BE IT RESOLVED that the Lodger's Tax and Pueblo Enterprise Sales Tax, which shall be designated as Chapters 4 and 5 of the Pueblo's Tax Ordinance, respectively, are hereby adopted in the form attached; and

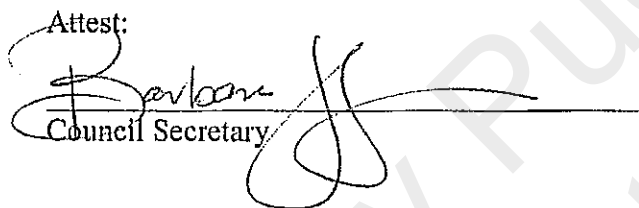
BE IT FURTHER RESOLVED that the Governor is hereby authorized and directed to submit this Resolution and the Tax Ordinance Chapters adopted hereby to the Superintendent of the Southern Pueblos Agency for approval in accordance with Article X of the Pueblo's Constitution. The Lodger's Tax and Pueblo Enterprise Sales Tax adopted hereby shall become effective upon the earlier of (i) their approval by or on behalf of the Secretary of the Interior, or (ii) the expiration of one hundred and twenty (120) days following receipt of this Resolution by the Superintendent of the Southern Pueblos Agency, as provided in Article X of the Pueblo's Constitution.

CERTIFICATION

We, the undersigned Governor and President of the Tribal Council of the Pueblo of Isleta, do hereby certify that the foregoing resolution was considered and passed at a duly called meeting of the Tribal Council of the Pueblo of Isleta, at which a quorum was present, held on the 15th day of April, 2008, with 7 voting for, 0 against, and 2 abstaining.


Governor


President of the Tribal Council

Attest:

Council Secretary

PUEBLO OF ISLETA TAX ORDINANCE

CHAPTER 4

(enacted April 15th, 2008)

LODGER'S TAX

Section 4.01. Short Title.

The Tax imposed by this Chapter shall be known as and may be cited as the "Lodger's Tax" of the Pueblo of Isleta.

Section 4.02. Purpose.

The purpose of this Chapter is to impose a tax which will be paid by persons using commercial lodging accommodations within the Reservation to provide revenues to fund governmental services and for other general purposes to be determined by the Pueblo's Tribal Council.

Section 4.03. Definitions.

For the purpose of this Chapter, the following definitions shall apply:

Tax Administration

Division: The Pueblo's Tax Administration Division established pursuant to Ordinance 86-55 (as amended).

Gross Taxable Room Rent: The total amount of Room Rent paid for Lodging in Taxable Lodging Transactions during the relevant reporting period, but not including any Pueblo Gross Receipts Tax or Pueblo Enterprise Sales Tax that is paid with respect to such Taxable Lodging Transactions.

Guest: A natural person to whom Lodgings are furnished on the Reservation.

Host: A Pueblo Enterprise or other person furnishing Lodgings on the Reservation.

Lodging: The transaction of furnishing Lodgings by a Host to a Guest who for a Room Rent, uses, possesses, or has the right to use or possess any Lodgings in or at a Taxable Premises.

Lodgings: The rooms or sleeping accommodations furnished by a Host to a Guest at a Taxable Premises, but excluding banquet, ballroom, meeting or convention rooms or space not suitable for sleeping accommodations and related personal use.

Lodger's Tax: The tax imposed on Taxable Lodging Transactions by this Chapter.

Pueblo: The Pueblo of Isleta.

Pueblo Enterprise: An unincorporated enterprise of the Pueblo, and any other entity in which the Pueblo owns not less than 51% of the capital and profits interests, that engages in commerce on the Reservation.

Reservation: All lands within the exterior boundaries of the Pueblo, any lands now or hereafter held in trust for the Pueblo's benefit by the United States and any other Indian Country over which the Pueblo exercises sovereign governmental authority.

Room Rent: The consideration received by a Host in money, credits, property, or another medium, valued in money, for Lodgings, including the Isleta Rewards Players' Club. Any transaction by which the Pueblo or a Pueblo Enterprise authorizes a Guest's use of a room on a complementary or discounted basis shall not be deemed to constitute Room Rent, to the extent of such free or discounted use, notwithstanding that the Host may charge, or receive credit from, the Pueblo or another Pueblo Enterprise for internal accounting and similar purposes.

Taxable Premises: A hotel, lodge, lodging house, rooming house, motor hotel, guest house, bed and breakfast, guest ranch, ranch resort, mobile home, motor court, auto court, auto camp, trailer court, trailer camp, trailer park, tourist camp, cabin or other premises used for Lodging within the Reservation and containing more than three Lodging units.

Taxable Lodging Transaction: Each transaction by which a Host provides Lodgings to a Guest at a Taxable Premises on the Reservation, other than in a transaction exempted by Section 4.06 of this Chapter.

Section 4.04. Notice and Registration.

Any person, other than a Pueblo Enterprise, who intends to offer lodging at a Taxable Premises within the Reservation shall notify the Tax Administration Division prior to engaging in any Lodging transaction and register with the Tax Administration Division on such form as the Tax Administration Division may require. Pueblo Enterprises shall not be required to register with the Tax Administration Division, but shall collect the Lodger's Tax from Guests,

remit it to the Tribal Treasury and file such periodic returns of such tax as required by this Chapter.

Section 4.05. Imposition of Tax.

There is hereby imposed a Lodger's Tax of 6% of Gross Taxable Room Rent for Lodging paid to Hosts on and after July 1, 2008. The Lodger's Tax is a tax on the Taxable Lodging Transaction and the responsibility and liability for collecting the tax on each Taxable Lodging Transaction shall lie with the Host participating in such transaction. The Host shall pass-through the financial burden of the tax to the Guest and require the Guest to pay such tax as provided at Section 4.08.B. below.

Section 4.06. Exemptions.

The Lodger's Tax shall not apply to the following Lodging transactions:

- A. If the Lodging Transaction is with a Guest who:
 - (i) has been a permanent resident of the Taxable Premises for a period of at least thirty (30) consecutive days; or
 - (ii) enters into or has entered into a written agreement for Lodgings at the Taxable Premises for a period of at least thirty (30) consecutive days;
- B. Lodging at clinics, hospitals, other medical facilities, convalescent homes, or homes for the aged, infirm, indigent or chronically ill;
- C. If the Guest provides evidence that his or her Lodging at the Taxable Premises is associated with the performance of the Guest's official duties with a federally recognized Indian tribe, tribal organization formed by a recognized tribe, an inter-tribal organization among recognized tribes, or an organization recognized as exempt from federal income tax by the U.S. Internal Revenue Service pursuant to Section 501(c)(3) of the Internal Revenue Code and that the Room Rent will be borne or chargeable to said tribe or organization;
- D. If the Guest provides evidence that his or her Lodging at the Taxable Premises is associated with the performance of the Guest's official duties for a unit of the federal or New Mexico State government and that the Room Rent will be borne or chargeable to said unit of government.

Section 4.07. Determination of Exemption; Appeal.

The Tax Administration Division shall make the determination of whether or not a Lodging transaction is exempt from the Lodger's Tax. In the event that the Host or Guest is dissatisfied with any decision of the Tax Administration Division with respect to an exemption,

the Host or Guest may appeal the decision of the Tax Administration Division as provided in Chapter I of the Pueblo's Tax Ordinance.

Section 4.08. Collection of the Lodger's Tax.

A. Every Host providing Lodging at a Taxable Premises within the Reservation shall collect the Lodger's Tax with respect to all Taxable Lodging Transactions on behalf of the Pueblo and shall act as trustee therefore.

B. The Lodger's Tax shall be collected from Guests contemporaneously with the payment of Room Rent for each Taxable Lodging Transaction and shall be stated as a charge separate from Room Rent on any statement presented by the Host to the Guest for such transaction.

C. On and after July 1, 2008, each Host shall be liable to the Pueblo for the Lodger's Tax imposed by this Chapter on the Room Rent paid in consideration of each Taxable Lodging Transaction.

D. (i) Each Host, other than a Pueblo Enterprise, shall make a report of Lodger's Tax collected in accordance with this Chapter on or before the twenty-fifth (25th) day of each month, or the next business day if such twenty-fifth (25th) day is not a business day, on forms provided by the Tax Administration Division, and shall remit therewith payment of the total amount of the Lodger's Tax due to the Pueblo with respect to the prior month. The Host's report shall also list and attach documentary evidence in support of any Lodging Transaction claimed to be exempt from the Lodger's Tax pursuant to Section 4.06 of this Chapter. The report shall include sufficient information to enable the Tax Administration Division to audit the report and shall be verified on oath by the Host.

(ii) Each Host that is a Pueblo Enterprise shall report and remit the Lodger's Tax due on the Taxable Lodging Transactions of such Pueblo Enterprise to the Tribal Treasury, on such schedule and in accordance with such reporting forms and procedures as may be directed by the Pueblo's Treasurer. The report of the Pueblo Enterprise shall also list and attach documentary evidence in support of any Lodging Transaction claimed to be exempt from the Lodger's Tax pursuant to Section 4.06 of this Chapter. A copy of all Lodger's Tax reports made by the Pueblo Enterprise shall be made available to the Tax Administration Division, upon request, for the purpose of ensuring compliance with and enforcement of the tax pursuant to Chapter 1.

Section 4.09. Records of Host.

Each Host shall maintain adequate records of Taxable Premises subject to the Lodger's Tax and of Room Rents received for the use of Lodgings at such premises. The records shall be maintained on the Reservation, shall be open to inspection by the Tax Administration Division, and shall be retained for three years.

PUEBLO OF ISLETA TAX ORDINANCE

CHAPTER 5

(enacted April 15th, 2008)

PUEBLO ENTERPRISE SALES TAX

Section 5.01. Short Title.

The Tax imposed by this Chapter shall be known as and may be cited as the "Pueblo Enterprise Sales Tax" of the Pueblo of Isleta.

Section 5.02. Purpose.

The purpose of this Chapter is to impose a tax on Taxable Sales of Pueblo Enterprises, as hereinafter defined. It is the finding of the Tribal Council that a tax should be collected on Taxable Sales by Pueblo Enterprises, in order to ensure that each such transaction shall contribute tax revenues necessary and appropriate to support the governmental services provided by the Pueblo and for other general purposes to be determined by the Pueblo's Tribal Council.

Section 5.03. Definitions.

For the purpose of this Chapter, the following definitions shall apply:

Tax Administration

Division: The Pueblo's Tax Administration Division established pursuant to Ordinance 86-55 (as amended).

Gaming Transaction:

Any transaction consisting of a bet by a customer on a game of chance seeking a jackpot or prize, including without limitation, any bet on a slot machine, table game, keno, horse or dog racing or other game of chance, and any players club award, promotional giveaway or other marketing transaction, excluding redemption of Isleta Rewards Players Club points for non-gaming goods or services.

Gross Sales Proceeds:

The total amount of money, property or other consideration of monetary value, including Isleta Rewards Players Club Points, received by a Pueblo Enterprise from Taxable Sales, including any receipts from sales of tangible property handled on consignment, but excluding (a) cash discounts allowed and taken, and (b) the amount of any Pueblo Lodger's Tax assessed on a transaction. Any transaction by which a Pueblo

enterprise provides a good or service on a complimentary or discounted basis shall not be deemed to produce taxable Gross Sales Proceeds to the extent the customer does not pay consideration having monetary value, notwithstanding that the Pueblo Enterprise providing the complimentary good or service may charge, or receive credit from, the Pueblo or another Pueblo Enterprise for internal accounting and similar purposes.

Leases Property: Any grant of a right of possession and use of real or personal property within the Reservation, including banquet, meeting or similar facilities thereon, but excluding any lease of real property or improvements thereon with a term in excess of thirty (30) days.

Pueblo: The Pueblo of Isleta.

Pueblo Enterprise: An unincorporated enterprise of the Pueblo, and any other entity in which the Pueblo owns not less than 51% of the capital and profits interests, that engages in commerce on the Reservation.

Purchaser: Any person that purchases property or services, or leases property, from a Pueblo Enterprise on the Reservation.

Reservation: All lands within the exterior boundaries of the Pueblo, any lands now or hereafter held in trust for the Pueblo's benefit by the United States and any other Indian Country over which the Pueblo exercises sovereign governmental authority.

Sale: A transaction in which a Pueblo Enterprise (a) sells property, (b) leases property, (c) provides services on the Reservation to a Purchaser for consideration with a monetary value.

Taxable Sale: Any Sale by a Pueblo Enterprise, other than a Sale exempted from the tax by Section 8.05 of this Chapter.

Section 5.04. Imposition of Tax.

There is hereby imposed a Pueblo Enterprise Sales Tax of 5.8125% of Gross Sales Proceeds from all Taxable Sales by Pueblo Enterprises on and after July 1, 2008. The Enterprise Sales Tax is a tax on the Taxable Sale transaction and the responsibility and liability for collecting the tax on each Taxable Sale shall lie with the Pueblo Enterprise acting as the seller. The Pueblo Enterprise acting as the seller shall pass-through the financial burden of the tax to the Purchaser and shall require the Purchaser to pay such tax contemporaneously with the payment of the consideration for the Taxable Sale.

Section 5.05. Exemptions.

The following Sales of a Pueblo Enterprise shall not constitute Taxable Sales and the Pueblo Enterprise's receipts from such Sales shall not constitute Gross Sales Proceeds subject to tax:

- A. A Gaming Transaction and any proceeds thereof;
- B. Sales of gasoline on which the tax imposed by the Pueblo of Isleta Gasoline Tax Ordinance, as adopted on July 6, 1999, and now codified as Chapter 3 of the Pueblo's Tax Ordinance, has been paid and not refunded;
- C. Sales of special fuel or alternative fuel on which the tax imposed by Section 7-16A-3 or 7-16B -3, NMSA 1978, has been paid and not refunded,;
- D. Sales in which the Purchaser is the Pueblo, any governmental unit, subdivision, agency, department or instrumentality thereof, another Pueblo Enterprise, an enrolled member of the Pueblo, the United States of America and its agencies, departments and instrumentalities, or the State of New Mexico and its agencies, departments and instrumentalities;
- E. Sales satisfactorily documented by the Purchaser as being made to or for the account of a federally recognized Indian tribe, tribal organization formed by a recognized tribe, an inter-tribal organization among recognized tribes, or an organization recognized as exempt from federal income tax by the U.S. Internal Revenue Service pursuant to Section 501(c)(3) of the Internal Revenue Code; and
- F. Sales (i) to a person engaged in manufacturing on the Reservation and for use in such manufacturing, (ii) of personal property or services for resale within the Reservation by the Purchaser, if actually resold, (iii) of tangible personal property and licenses for leasing by the Purchaser within the Reservation, if actually leased, (iv) consisting of leasing property for subsequent subleasing by the Purchaser within the Reservation, if actually subleased, and (v) of tangible personal property to be used for construction within the Reservation, if actually used for such construction; provided that the Purchaser delivers in writing to the Pueblo Enterprise acting as the seller a certificate verifying the exempt nature of the Sale and committing to pay to the Pueblo the tax on said transaction, if the purchaser does not use the property, services or leased item as represented.

Section 5.06. Determination of Exemption; Appeal.

If there is any dispute between the Pueblo Enterprise and the Purchaser concerning whether a transaction constitutes a Taxable Sale, the Tax Administration Division shall make the determination regarding whether or not a Sale is a Taxable Sale under this Chapter. In the event that the Purchaser is dissatisfied with any decision of the Tax Administration Division with

respect to an exemption, the Purchaser may appeal the decision of the Tax Administration Division as provided in Chapter 1 of the Pueblo's Tax Ordinance.

Section 5.07 Collection of the Enterprise Sales Tax.

A. Every Pueblo Enterprise making Taxable Sales within the Reservation shall collect the Pueblo Enterprise Sales Tax thereon from the Purchaser on behalf of the Pueblo and shall act as trustee therefore.

B. The Pueblo Enterprise Sales Tax shall be collected from Purchasers contemporaneously with the payment of the purchase consideration for such Taxable Sale in accordance with this Chapter. The amount of Pueblo Enterprise Sales Tax due on a transaction may be stated and charged separately from the purchase price charged for such Sale on any statement presented by the Pueblo Enterprise to the Purchaser, or may be included as part of the purchase price without segregation on the statement presented to the Purchaser; provided that the Pueblo Enterprise shall properly differentiate the tax from the consideration for the Sale on its books and records.

C. The Pueblo Enterprise shall report and remit the Pueblo Enterprise Sales Tax due on the Taxable Sales of such Pueblo Enterprise to the Tribal Treasury, on such schedule, and in accordance with such reporting forms and procedures as may be directed by the Pueblo's Treasurer. The report of the Pueblo Enterprise shall also list and attach documentary evidence in support of any Sale claimed to be exempt pursuant to Section 5.05 of this Chapter. A copy of all Pueblo Enterprise Tax reports made by the Pueblo Enterprise shall be made available to the Tax Administration Division, upon request, for the purpose of ensuring compliance with and enforcement of the Pueblo Enterprise Sales Tax pursuant to the provisions of Chapter 1.