

CHAPTER ONE

TAX COMMISSION

§ 1. Tax Commission Created

There is hereby created the Absentee Shawnee Tax Commission which shall be responsible for carrying out the duties and functions assigned to it in the Absentee Shawnee Tax Laws. The Commission shall report to the Absentee Shawnee Executive Committee.

§ 2. Composition of Tax Commission

(a) The Absentee Shawnee Tax Commission shall consist of three (3) members who shall be appointed by, and serve at the pleasure of the Executive Committee.

(b) The Chairperson of the Tax Commission shall be selected by and from the appointed members. The members shall elect a Vice Chairperson from the appointed members who shall act as Chairperson in the Chairperson's absence.

§ 3. Term of Office

The terms of office for Tax Commission members shall be for two (2) years. At the end of each term the Executive Committee shall exercise the option of appointing a new member or reappointing the present Commissioner for another term. Tax Commissioners shall serve until a new Commissioner is appointed. The Appointment shall run for the remainder of the two-year term of the Commissioner being replaced.

§ 4. Per Diem (Stipend)

Each Tax Commission member in attendance at official meetings called by the Chairperson shall receive a per diem of \$75.00. The Executive Committee may modify the per diem rate.

§ 5. Seal

The Absentee Shawnee Tax Commission is authorized and directed to acquire and use a seal which shall be circular in form, with the words "TAX COMMISSION - ABSENTEE SHAWNEE TRIBE OF OKLAHOMA" around the edge thereof, and the word "SEAL" in its center. The seal shall be impressed upon the originals or certified copies of all licenses, orders, rules, and other official documents of the Commission as evidence of their authenticity and authority.

§ 6. Meetings; Quorum

(a) Regular Meetings. Regular Tax Commission meetings shall be held on the third

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Tuesday of the month. The day and time of regular meetings may be changed by agreement of the Commissioners when deemed necessary.

(b) Special Meetings. The Tax Commission Chairperson shall call a special meeting when deemed necessary. The notice shall state the intent and purpose of the special meeting and all Commissioners shall be notified of the date and time for the meeting.

(c) Quorum. The Tax Commission shall conduct meetings only if at least two members of the Commission are actually in physical attendance at the meeting. A record shall be made of Commission members present and absent.

§ 7. Tax Administrator

The Tax Administrator shall be an employee of the Tribe, hired by the Tax Commissioners which shall have authority for all personnel actions relating to the Administrator. The Administrator is charged with providing administrative support and policy making input to the Commission as may be required to carry out the tax laws of the Absentee Shawnee Tribe. The Administrator is authorized to act on behalf of the Commission as the Commission may authorize and direct.

§ 8. General Powers of the Tax Commission

The Tax Commission shall generally be charged with the administration and enforcement of all Tribal tax laws. Incidental to the administration or enforcement of the Tribal tax laws, the Tax Commission shall have the power to:

(a) Assess, collect, and issue receipts for such taxes as are imposed by Resolution of the Executive Committee and to bring actions on behalf of the Tribe in the Tribal Court for the collection of Tribal taxes, civil penalties and interest, and the enforcement of the Tribal tax laws, all such actions shall be styled: The Absentee Shawnee Tribe of Oklahoma ex rel. Tax Commission vs. _____;

(b) Administer oaths, conduct hearings, and, by subpoena, compel the attendance of witnesses and production of books, records, and papers of any taxpayer relating to the enforcement of the Tribal tax laws;

(c) Make, or cause to be made by its agents or employees, an examination or investigation of the place of business, equipment facilities, tangible personal property, and the books, records, papers, vouchers, accounts, documents, and financial statements of any taxpayer, upon reasonable notice, during normal business hours, at any other time agree to by said taxpayer, or at any time pursuant to a search warrant signed by the Tribal Court;

(d) Examine, under oath, either orally or in writing any taxpayer or any agent, officer, or employee of any taxpayer, or any other witness in respect to any matter relative to the Tribal tax laws;

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(e) Evaluate and resolve tax refund questions;

(f) Attach and seize assets;

(g) Exercise all other authority delegated or conferred upon it by law, or as may be reasonably necessary in the administration or enforcement of any Absentee Shawnee Tribal tax laws.

§ 9. Rulemaking Authority

(a) The Tax Commission shall have the authority to prescribe, promulgate, and enforce written rules and regulations not inconsistent with this Title to provide for its internal operational procedures; or to interpret or apply any Tribal tax laws as may be necessary to ascertain or compute the tax owing by any taxpayer, or for the filing of any reports or returns required by any tribal tax laws, or as shall be reasonably necessary for the efficient performance of its duties, or as may be required or permitted by law.

(b) The Rules and Regulations of the Tax Commission shall be made publicly available at the office of the Tax Commission and in a manner prescribed by the Commission.

(c) The Tribal Court shall take judicial notice of all rules of the Tax Commission promulgated pursuant to this Title.

§ 10. Forms

The Tax Commission may prepare and make available to the public such standard forms as are or may be necessary to carry out its functions and which are not otherwise provided for by this Title.

§ 11. Records

(a) The Tax Commission shall keep and maintain accurate, complete, and detailed records which reflect all taxes, penalties, and interest due and paid, all licenses issued, and each and every official transaction, communication, or action of the Commission.

(b) Such records shall be maintained at the Tribal Headquarters and shall not be removed from the Tribal Complex without the consent of the Tax Commission.

(c) Such records shall be subject to audit at any time upon the direction of the Executive Committee. The Tax Commission shall conduct an independent audit not less than once each year.

(d) Records may be destroyed five (5) years after the last entry was made or activity taken on the file, matter or account.

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§ 12. Confidentiality of Records

(a) Any record of the Tax Commission or information contained in such record, which relates to the individual business or personal activities of a named particular taxpayer or taxpayers shall not be open to public inspection and shall be released only to the following:

1. The taxpayer or his authorized representative;
2. Tribal officials who have a legitimate official need for such records;
3. To an authorized representative of the United States Department of the Treasury pursuant to a reciprocal agreement for the exchange of information;
4. To an authorized representative of another tribe or a state; provided that the receiving tribe or state has entered into an agreement with the Commission to use the information only for tax purposes and provided that the receiving tribe or state has enacted confidentiality laws similar to this section;
5. To a court of competent jurisdiction in an action relating to taxation in which the Commission and the taxpayer are parties, or in an action to enforce any tax liability of the taxpayer in which the Commission is a party;
6. In such a manner and form that the information revealed is not identified as applicable to a particular taxpayer.

(b) Nothing in this section prohibits the Commission from disclosing to any person:

1. Whether a person is or is not registered with the Commission as a taxpayer; or
2. The final decision and order of the Commission or Court in any protest or appeal filed by the taxpayer.

§ 13. Bookkeeping

There shall be established and kept such financial record books as may be necessary under generally applicable accounting standards to adequately account for all monies received by the Commission on behalf of the Tribe. Separate books shall be maintained for each type of tax imposed by this Title.

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§ 14. Deposits of Tax Revenue

All tax monies, license fees, penalties, interest, service fees, charges or other monies collected by the Tax Commission in the administration and enforcement of the tax laws, except as otherwise specifically authorized by law, shall be deposited in the Tribal Treasury as directed by the Treasurer's office.

§ 15. Tax Commission Staff

(a) The Tax Commission shall be staffed with such employees and may incur such expenses as may be necessary for the proper discharge of its duties. The Tax Commission shall, to the maximum extent feasible, utilize regular tribal staff in exercising the duties and responsibilities of the tax laws, and may delegate to the Tribal staff, by rule, such functions as may be necessary to efficiently administer the Tax laws, provided however, that the Commission's rulemaking authority may not be delegated.

(b) The Tax Commission shall have responsibility for the hiring and management of staff members. Commission staff shall be subject to the Tribal personnel policies and procedures. The Tax Commission shall comply with tribal rules and policies against nepotism when hiring staff members.

(c) The total amount dispersed by the Tax Commission in any one fiscal year for the payment of salaries, expenses and incidentals shall not exceed the amount appropriated therefore by the Executive Committee. The Tax Commission shall submit to the Executive Committee a line item proposed budget for the next fiscal year not later than the 15th day of November in each year.

(d) The Tax Commission may require bonding of the Administrator and any staff member or Commissioner who handles public monies, tax revenue, or tax stamps in such amounts as may be fixed by the Commission.

(e) The premiums on the bonds shall be paid from funds authorized in the Tax Commission budget.

(f) The Tax Commission shall conduct a background check of any staff member or Commissioner who handles public monies, tax revenue or tax amounts.

SUBCHAPTER 1.1. - TAX COMMISSION REGULATIONS

Rule 1.1.1 Citation

The Rules of the Tax Commission shall be known as the Absentee Shawnee Tribe Tax Commission Rules, and may be cited as AST-TCR.

Rule 1.1.2 Principal Office - Hours

(a) The principal office of the Absentee Shawnee Tax Commission is the Absentee Shawnee Tribal Complex; Absentee Shawnee Tribe of Oklahoma, 2025 South Gordon Cooper, Shawnee, Oklahoma 74801.

(b) Office hours shall be from 8:00 o'clock a.m. to 12:00 o'clock p.m. and 1:00 o'clock p.m. to 5:00 o'clock p.m. each day except Saturday, Sunday and any legal holiday established by rule, ordinances, or proclamation by the Governor.

Rule 1.1.3 Communications with Commission

Every communication in writing to the Commission shall be addressed to the Administrator at the principal office, unless the Commission directs otherwise. Every instrument and other document shall be deposited with or mailed to the Administrator at the principal office and shall be deemed received only by actual delivery at the principal office. Filing of any instrument shall not be complete except upon payment of all applicable fees required by ordinance or by these rules.

Rule 1.1.4 Matters Not Otherwise Addressed

All matters of procedure, computation, and enforcement not addressed by these rules or the Code shall be subject to orders of the Commission or its Administrator in particular cases, or by the Tax Commission employee procedure manual which may be maintained by the Administrator. In all cases wherein the procedure is not set out or governed by the Act or these regulations, the Tax Commission and its staff may proceed in any lawful manner.

Rule 1.1.5 Cost of Copies

(a) Persons requesting copies of Tax Commission records shall pay a fee of fifteen cents (.15) cents per page for all pages reproduced.

(b) Copies of any rule, regulation, decision, or order made by the Tax Commission in the administration of the Licensing and Tax Code or any Tribal Tax Law may be authenticated under its official seal by the Administrator, any member of the Commission, or any authorized agent or employee of the Tax Commission. For such authentication, a fee of Two Dollars (\$2.00) shall be charged.

(c) All fees collected hereunder shall be deposited as directed by the Tribal Treasurer.

SUBCHAPTER 1.2 - RULEMAKING PROCEDURES

Rule 1.2.1 Proposed Rules

The Tax Commission shall have the authority to prescribe, promulgate, and enforce written rules and regulations not inconsistent with the Licensing and Tax Code. The Tax Commission shall consider proposed rules, submitted by members of the Tax Commission, members of the Executive Committee or the Tax Administrator. Proposed rules must be submitted in a form consistent with the existing rules and regulations. Commission actions that are purely administrative in nature, such as office hours or amending forms, are not subject to the rulemaking procedures, but may be adopted by the Commission through its decision-making process. *Amended 9/11/02 by Resolution LAS-2002-37.*

Rule 1.2.2 Temporary Rules

If the immediate enforcement of a proposed rule is necessary for the proper functioning of the Tax Commission, and all of the Commission members present at the Commission meeting unanimously agree that a temporary rule should be adopted, the Tax Commission may adopt the proposed rule as a temporary rule. If it is determined that the proposed rule should be adopted as a temporary rule, the Tax Commission shall:

(a) Assign the rule a temporary rule number which shall begin with the words "temporary rule" followed by the last two digits of the calendar year, a dash (-), and the consecutive number for temporary rules adopted during that calendar year.

(b) As soon thereafter as is practical, all steps described below in the section entitled "Adoption of Proposed Rules" and the sections following shall be undertaken in order for the temporary rule to be adopted as final rule.

Rule 1.2.3 Adoption of Proposed Rules

If immediate enforcement of a proposed rule is not necessary for the proper functioning of the Tax Commission, or all of the Commission members present at the Commission meeting do not agree that a temporary rule should be adopted, the Commission may, at its discretion:

(a) Refer the proposed rule to the Tribal Attorney and Tax Administrator who shall, within thirty (30) days, provide the Commission with a written analysis of the proposed rule. The Administrator may require Commission staff assistance if necessary. The Tribal Attorney and Tax Administrator may provide joint or separate analyses. The written analysis shall include:

(1) An analysis of whether the proposed rule is within the scope of the Commission's rule making powers.

(2) An analysis of whether the provisions of the proposed rule are consistent with, or in violation of the Code and the Tribal Constitution.

(3) An analysis of the expected impact upon the operation of the Commission, and the probable practical effect of the proposed rule.

(4) Recommendations for approval or disapproval of the proposed rule, including recommended amendments to the proposed rule, if any.

(b) Refer the proposed rule to any other agency or department of the Tribe which in the opinion of the Commission may be impacted by the proposed rule for their comments within thirty (30) days.

(c) Set a date and time after these required procedures are completed and notice periods expired at which to consider the proposed rule at a meeting open to the public.

(d) Distribute copies of the proposed rule, and any written reports or comments on said rule, as they are received, to:

(1) The Tax Administrator

(2) Each Commission member

(3) Each Executive Committee member.

Rule 1.2.4 Final Rule

As soon as possible after adoption of a Final Rule, said Final Rule should be executed and filed for record. The Final Rule shall state its effective date.

Rule 1.2.5 Numbering of Final Rules

At the time any proposed or temporary rule is promulgated as a final rule, the Commission shall assign such final rule a number compatible with the numbering arrangement of these regulations, and such final rule shall then be inserted within these regulations in its appropriate numerical position.

Rule 1.2.6 Amendments to Rules

These rules or rules promulgated hereafter may be amended, repealed, or modified by following the same procedures by which a new rule would be promulgated.

Rule 1.2.7 Compilation and Publication of Rules

(a) At least once each year, the Administrator shall cause the official copy of these rules to be updated to include each and every final rule adopted by the Commission during that year, and shall cause those rules adopted during the year to be inserted in their appropriate place within the official copy.

(b) The Commission Rules shall be made available during business hours for purchase by the public at a charge of fifteen (.15) cents per page plus the cost of binding. Free copies of these documents shall be distributed to tribal agencies, employees, the tribal attorney, Tribal Court, or other Tribal Officials whose functions require that they be aware of the Tax Commission Rules. Such copies shall remain the property of the Tribe and are delivered for the benefit of the Tribal Government, except the copies delivered to the tribal attorney and the tribal court which shall be included in their libraries. The Administrator may, when it is in the best interest of the tribe to do so, provide discount rates for sale of these documents to public libraries, and may enter into exchange agreements with such agencies whereby they provide their materials to the Tribe and the Tribe provides these documents to the agency without other exchange of consideration.

(c) The Administrator may establish a subscription service for the distribution of these documents or for immediate distribution of Tax Rules, proposed, temporary, or final, and shall set the charges for advance copies of such rules and information with the approval of the Commission in order to cover the additional costs of updating.