

QUILEUTE TRIBE
Quileute Sales Tax Ordinance

I. General Provisions

1. Authority

The authority for this Quileute Sales Tax Ordinance is found in the Constitution of the Quileute Tribe, as amended, Article VI, Section 1 (g), and in the inherent sovereign powers of the Quileute Tribe.

2. Background and Intent

The Quileute Tribal Council finds that the power to tax is an essential and inherent attribute of the Quileute Tribe's sovereignty. The Quileute Tribe provides a full range of governmental services and programs that benefit not only members of the Quileute Tribe, but also other residents of the Quileute Reservation, residents of surrounding communities, employees of the Quileute Tribe, those doing business on the Quileute Reservation and the Quileute Tribe's trust lands, and visitors to the Quileute Reservation and surrounding communities. Tax revenues are necessary to fund these governmental services and programs. Because those visiting, residing, employed, or otherwise doing business on the Quileute Reservation and the Quileute Tribe's trust lands benefit from these governmental services and programs, it is important for them to contribute some of the tax revenues necessary to fund them.

3. Purpose and Scope

The purpose of this Quileute Sales Tax Ordinance is to assess and collect a tax on retail sales by all Quileute Tribe-owned business enterprises and Quileute Tribal member-owned business enterprises conducting business on the Quileute Reservation or on the trust lands of the Quileute Tribe located off the Quileute Reservation.

4. Definitions

For purposes of this Ordinance, the following words and phrases have the following meanings:

- (a) "Buyer" means every person who receives goods or services from a seller in exchange for a promise to deliver to the seller, or for the actual delivery to the seller, of money or other goods or services of value to the seller.
- (b) "Cash discount" means a deduction from the invoice price of goods or charge for services that is allowed if the bill is paid on or before a specified date.
- (c) "Local retail sales tax" means, for retail sales taking place on the Reservation or on off-Reservation trust lands in unincorporated areas of Clallam County, the local retail sales tax for unincorporated areas of Clallam County; for retail sales taking place on off-Reservation trust lands within the city limits of the City of Forks, the local retail sales tax for the City of Forks; and for retail sales taking place on off-Reservation trust lands in other locations, the respective local retail sales tax for each such location.
- (d) "Off-Reservation trust lands" means lands that are held in trust by the United States

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government on behalf of the Quileute Tribe and are located outside the exterior boundaries of the Quileute Reservation.

- (e) “Ordinance” means this Quileute Sales Tax Ordinance.
- (f) “Person” means any individual natural person. If the context permits, “person” may also refer to a legal entity.
- (g) “Reservation” means the Reservation of the Quileute Tribe.
- (h) “Retail sale” means any transfer in exchange for valuable consideration of tangible personal property or services, or lease or rental of tangible personal property, for any purpose other than for resale, sublease, or subrent.
- (i) “Retail sale price” means the consideration, whether money, credits, rights, or other property, expressed in the terms of money paid or delivered by a buyer to a seller for a retail sale, all without any deduction on account of the cost of tangible personal property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expenses whatsoever paid or accrued by the seller, and without any deduction on account of losses; but it does not include itemized taxes paid by the buyer or the amount of a cash discount actually taken by the buyer.
- (j) “Seller” means the person making a retail sale to a buyer.
- (k) “State” means the State of Washington.
- (l) “State retail sales tax” means the Washington retail sales tax.
- (m) “Tribal Council” means the Quileute Tribal Council, which is the governing body of the Tribe.
- (n) “Tribal enterprise” means a business enterprise wholly or majority owned by the Tribe.
- (o) “Tribal member” means an enrolled member of the Quileute Tribe.
- (p) “Tribal-member enterprise” means a business enterprise wholly or majority owned by a Tribal member.
- (q) “Tribal Treasurer” means the elected Treasurer of the Tribal Council or the Treasurer’s designee.
- (r) “Tribe” means, and “Tribal” refers to, the Quileute Tribe.

All other words and phrases have their ordinary and customary meanings.

II. Tax Imposed

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There is hereby levied on each retail sale occurring on the Reservation or on off-Reservation trust lands, by each Tribal enterprise and Tribal-member enterprise, a Tribal retail sales tax in an amount equal to one hundred percent (100%) of the State retail sales tax and the local retail sales tax, combined. If the combined State and local retail sales taxes increase or decrease in the future, the Tribal retail sales tax will correspondingly increase or decrease by no less than 100 percent (100%) of that increase or decrease.

2. Tax Separate from Retail Sale Price

- (a) The seller may state the Tribal retail sales tax separately from the retail sale price on any receipt, invoice, or other instrument of sale. If the seller does not state the Tribal retail sales tax separately, the seller must account for the Tribal retail sales tax separately in the seller's records of the retail sale.
- (b) For purposes of determining the Tribal retail sales tax due from the buyer to the seller, and from the seller to the Tribal Treasurer, it will be conclusively presumed that the retail sale price quoted in any price list, sales document, contract, or other agreement between the buyer and seller does not include the Tribal retail sales tax, but if the seller advertises the retail sale price as including the Tribal retail sales tax, or advertises that the seller is paying the Tribal retail sales tax, then the advertised price, less the Tribal retail sales tax, will be considered the retail sale price.

3. Exempt Sales

- (a) The Tribal retail sales tax levied in Part II.1, above, will not apply to the following items and transactions:
 - i. Cigarettes and tobacco products;
 - ii. Motor vehicle fuel;
 - iii. Distilled spirits, wine, and beer sold in the original package;
 - iv. Cannabis products;
 - v. Prepackaged food products;
 - vi. The retail value of foods and beverages given to customers or employees without charge as "comps";
 - vii. Gum and candy;
 - viii. Products sold from vending machines;
 - ix. Newspapers; and
 - x. Sales to Quileute Tribal members.
- (b) Tribal Council may, by resolution, designate additional categories of retail sales that are exempt from the Tribal retail sales tax.

4. Location of Retail Sale

A retail sale of tangible person property is deemed to occur at the retail outlet at or from which delivery is made to the buyer. A retail sale of services is deemed to occur at the place at which such services are primarily performed. A retail sale consisting of the lease or rental of tangible personal property involving periodic rental payments is deemed to occur at the place of primary

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use by the lessee during the period covered by each payment. In all other cases, a retail sale consisting of the lease or rental of tangible personal property is deemed to occur at the place of first use by the lessee.

III. Tax Collection and Penalties

1. Payment of Taxes

The legal incidence of the Tribal retail sales tax falls on the buyer. Unless a retail sale is exempt from the Tribal retail sales tax under Part II.3, above, the Tribal retail sales tax imposed by Part II.1, above, must be paid by the buyer to the seller, and each seller must collect from the buyer the full amount of the Tribal retail sales tax payable for each taxable retail sale in accordance with this Ordinance.

2. Collection and Remittance of Taxes

The seller must collect all Tribal retail sales taxes imposed by this Ordinance and must remit the full amount of all Tribal retail sales taxes collected each month to the Tribal Treasurer no later than the 15th day of the following month. The seller must maintain accurate written records of all retail sales and must make such records available for inspection by the Tribal Treasurer and/or the Tribe's third-party auditor at any time during normal business hours. The seller must maintain such records for at least three years after the retail sale and, in case of an audit or any legal proceeding, for at least three years after the conclusion of the audit or legal proceeding (including any appeals therefrom).

3. Penalties for Late Filing or Late Payment

Tribal retail sales taxes collected by a seller are deemed to be held in trust by the seller until paid to the Tribal Treasurer. For returns and payments that are not received by the Tribal Treasurer when due, a penalty will be assessed for each month or part of a month the returns or payments are delinquent in an amount equal to two percent (2%) of the taxes due. Sellers may also face civil and/or criminal penalties if they fail to collect the taxes or, having collected the taxes, fail to remit them to the Tribal Treasurer.

IV. Use of Revenues

All retail sales tax revenues must be deposited in the Tribe's general fund unless Tribal Council directs otherwise via resolution.

V. Miscellaneous

1. Consent to Jurisdiction

By entering the Reservation or off-Reservation trust lands; doing business on the Reservation or off-Reservation trust lands; accepting the privilege of using the governmental services, programs, and amenities provided by the Tribe; and/or accessing Tribal properties on the Reservation or off-Reservation trust lands; a non-Tribal member is deemed to have entered into a consensual relationship with the Tribe and thereby to consent to the civil regulatory and adjudicatory

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jurisdiction of the Tribe, including personal jurisdiction.

2. Non-Applicability of State Law

The Tribal retail sales tax imposed by this Ordinance is a Tribal tax, imposed under Tribal law and pursuant to the Tribe's inherent sovereign authority. Any references or resemblances to provisions of the Revised Code of Washington in this Ordinance are solely for purposes of convenience and consistency across jurisdictions. Notwithstanding anything to the contrary, the Tribe does not concede the applicability or enforceability of the Revised Code of Washington within the Reservation or on off-Reservation trust lands.

3. Construction

The purposes of this Ordinance are hereby declared remedial and its provisions will be liberally construed and enforced in the Tribe's favor according to the laws of the Tribe.

4. Severability

If any provision of this Ordinance, or its application to any person under any circumstances, is held invalid by any court of competent jurisdiction, the remaining provisions of this Ordinance will remain in full force and effect.

5. Sovereign Immunity

Notwithstanding anything to the contrary, nothing in this Ordinance waives or may be interpreted to waive the sovereign immunity of the Tribe, any subordinate Tribal entity, or any of either's officers, employees, or agents acting within the scope of their authority.

6. Effective Date

This Ordinance will take effect immediately upon approval by Tribal Council and will supersede and replace any and all prior ordinances of the Tribe relating to the subject matter of this Ordinance.