

## **Chapter 30.15 Tribal Fuel Tax**

### **30.15.010 Authority and Scope**

This Chapter is enacted pursuant to the inherent sovereign powers of the Nation and such other powers delegated to, vested in, or confirmed in the Nation through the federal government and the federal policy of self-determination for Indian Tribes, including, but not limited to, the authority and responsibility under Art. VI §§1(a), (c), (f) and (l) of the Nation's Constitution and Bylaws. This Chapter shall apply to all Fuel sales from all Fuel Facilities located within the Reservation and Trust Lands.

### **30.15.020 Legislative Intent and Findings**

The intent of this Chapter is to provide a statutory basis for exercising the Nation's sovereign authority to levy, assess and collect a tax on the sale of Fuel. The Nation finds that tax revenues supported in part by a tax upon Fuels are essential to provide governmental services and economic development, for the health, safety, and welfare of all individuals who live, work and visit the Reservation and Trust Lands.

### **30.15.030 Definitions**

In addition to the definitions in LCL §30.03.020, unless explicitly stated otherwise, for the purposes of this Chapter the following words and phrases shall mean:

- (a) "Essential governmental services" means services the Nation provides to enrolled members of the Nation, residents of and visitors to the Reservation and Trust Lands in order to fulfill its governmental responsibilities.
- (b) "Fuel" means Motor Vehicle Fuel or Special Fuel.
- (c) "Fuel Facility" means a retail place of business operated for the purpose of selling and delivery of Fuel to the general public into the fuel tanks of Motor Vehicles, that is owned by the Nation, a TOCE, a Tribal Member Business or a Non-Tribal Member Business.
- (d) "Fuel Tax Agreement" means the Agreement Concerning Taxation of Motor Vehicle Fuel and Special Fuel between the Lummi Nation and the State of Washington currently in effect and any amendments.

(e) "Motor Vehicle" means a self-propelled vehicle or vessel utilizing Fuel as a means of propulsion.

(f) "Motor Vehicle Fuel" means gasoline and any other inflammable gas or liquid, by whatsoever name the gasoline, gas, or liquid may be known or sold the chief use of which is a fuel for the propulsion of motor vehicles.

(g) "Non-Tribal Member Business" means any business entity that is majority owned and operated by persons other than an enrolled member or members of the Nation and is licensed to sell Fuel pursuant to a law enacted by the Nation for that purpose.

(h) "Special Fuel" means diesel fuel, propane, natural gas, kerosene, biodiesel, and any other combustible liquid or gas by what name the liquid or gas may be known or sold for the generation of power to propel a motor vehicle, except it does not include Motor Vehicle Fuel.

(i) "State" means the State of Washington.

(j) "Tribally Owned Commercial Enterprise" or "TOCE" shall have the same definition as the Lummi Code of Laws, Title 28, the Budget and Finance Code § 28.12.010. It means any entity owned in whole or in part by the Lummi Tribe which has as its purpose at least one of the following: (1) the generation of revenue for tribal government; (2) profit; or (3) the management, maintenance, or operation of other commercial, industrial, or fee-for-service entities; provided, however, that, "tribally-owned commercial enterprise" excludes publicly traded entities.

(k) "Tribal Member Business" means any business entity that is majority owned and operated by an enrolled member or members of the Nation and is licensed to sell Fuel pursuant to a law enacted by the Nation for that purpose.

### **30.15.040 Imposition of the Motor Vehicle Fuel Tax**

(a) Unless exempted under this Chapter, there is imposed and levied and shall be collected a tax, known as the Tribal Fuel Tax on all Fuel sold from Fuel Facilities. This tax is in addition to all other taxes and fees imposed by law.

(b) The LIBC shall set the Tribal Fuel Tax rate by resolution approved at a regularly or specially

scheduled meeting. In the absence of a rate set by a duly enacted resolution of the LIBC, such rate shall default to a rate equal to the State tax imposed on Fuel by Revised Code of Washington 82.38.030.

(c) Sales of Fuel shall not be subject to other taxes imposed by this Title.

(d) The taxes levied under this Chapter shall not affect State and Federal exemption reimbursements for Fuel used in the Nation's government vehicles.

(e) Fuel Facilities shall include the amount of the Tribal Fuel Tax in the price of fuel sold at retail and shall collect and remit such taxes for Nation.

(f) The LIBC may offer an exemption to enrolled members of the Nation if it has duly enacted a resolution that specifically exempts enrolled members of the Nation from all or a portion of the tax imposed under LCL §30.15.040(b).

#### **30.15.050 Fuel Tax Agreement**

The Tribal Fuel Tax imposed by this Chapter shall not apply to any Fuel upon which State Fuel taxes are collected and refunded to the Nation pursuant to the Fuel Tax Agreement. The terms and conditions of the Fuel Tax Agreement shall govern any taxation of such Fuel.

#### **30.15.060 Collection and Remittance**

(a) The Fuel Facility shall on or before the tenth (10th) day of each month submit invoices of all Fuel sold in the preceding month. The Fuel Facility shall remit all taxes due to the Lummi Revenue Department within thirty (30) days of each monthly Fuel Tax reporting cycle. All reporting and remittance required by this section may be done electronically.

(b) The Fuel Facility shall have a duty to collect, account for, and remit all taxes under this Chapter. The tax required by this Chapter shall be deemed to be held in trust by the Fuel Facility for the use and benefit of the Nation until paid to the Nation. A Fuel Facility's failure to collect the tax levied by this Chapter shall not relieve its obligation to remit the tax to the Lummi Revenue Department.

(c) All Fuel Facilities shall maintain accurate written records of the purchase and retail sales

Fuel.

(d) All taxes required to be collected and remitted by the Fuel Facility shall be remitted to the Lummi Revenue Department in accordance with LCL §30.03.200.

#### **30.15.070 Use of Fuel Tax Revenue**

In the absence of other authorized uses of the Fuel Tax revenues set by a duly enacted resolution of the LIBC, an amount equal to one hundred percent (100%) of the Fuel Tax per gallon amount will be used for Essential Governmental Services.

#### **30.15.080 Administration and Penalty for Violation**

(a) Unless modified by this Chapter the provisions of Chapter 30.01 through Chapter 30.03 of this Title shall have full force and application with respect to taxes imposed under the provisions of this Chapter.

(b) It is unlawful for any Fuel Facility to violate or fail to comply with any provisions of this Chapter. A Fuel Facility which violates this Chapter shall be subject to penalties in accordance with Chapter 30.03 of this Title.

#### **30.15.090 Effective Date**

This Chapter shall take effect on \_\_\_\_\_ and remain in effect until revoked or amended by the LIBC.

#### **30.15.100 Severability**

If any paragraph, section, or provision of this Chapter shall be declared invalid for any reason, that paragraph, section, or provision shall be severed from the remainder of this Title and the validity of the remainder of this Title shall not be affected by such decision.