

**HUALAPAI TRIBAL COUNCIL
RESOLUTION NO. 22-98
OF THE GOVERNING BODY OF THE
HUALAPAI TRIBE OF THE HUALAPAI RESERVATION**

(Lodger's Tax)

- WHEREAS**, the Constitution of the Hualapai Indian Tribe, approved March 13, 1991, provides in Article IV, Section I, that the governing body of the Hualapai Tribe is the Hualapai Tribal Council and sets forth in Article V the powers of the Tribal Council exercised in this resolution; and
- WHEREAS**, the Constitution of the Hualapai Tribe, Article V, Section (o), authorizes the Tribal Council to exercise its governmental responsibilities through the enactment and imposition of revenue raising taxes upon persons and business present within the Reservation boundaries, including non-members of the Tribe; and
- WHEREAS**, the Supreme Court of the United States has specifically upheld the sovereign authority of Indian tribes to levy and collect taxes upon persons and businesses within the Reservation boundaries; and
- WHEREAS**, the budget of the Hualapai Tribe has increased substantially as a result of the need to provide essential governmental services to all persons, both members and non-members, working, residing, doing business or otherwise present within the exterior boundaries of the Hualapai Reservation environment; and
- WHEREAS**, a Lodger's Tax with revenues dedicated to tribal governmental services is an appropriate and equitable form of raising revenues.
- NOW, THEREFORE, BE IT RESOLVED** by the Tribal Council of the Hualapai Tribe that effective as set forth hereinafter a Hualapai Lodger's Tax is hereby imposed on the rental for lodging within the Reservation boundaries as set forth in the attached Ordinance.

CERTIFICATION

I, the undersigned as Chairman of the Hualapai Tribal Council hereby certify that the Hualapai Tribal Council of the Hualapai Tribe is composed of nine (9) members of whom 7 constituting a quorum were present at a **SPECIAL COUNCIL MEETING** thereof held on this **07TH** day of **MARCH**, 1998; and that the foregoing resolution was duly adopted by a vote of 7 in favor, 0 opposed, 0 not voting, 2 excused pursuant to authority of Article V, Section (a) of the Constitution of the Hualapai Tribe approved March 13, 1991.

Earl Havatone
Earl Havatone, Chairman
Hualapai Tribal Council

ATTEST:

Christine Lee
Christine Lee, Secretary
Hualapai Tribal Council

REGULAR COUNCIL MEETING
March 07, 1998
9:00 a.m.

Secretary: Salina Siyuja

Roll Call taken (7) members present constituting a quorum. The meeting was called to order at 9:20 a.m.

Present:

Earl Havatone, Chairman
Edgar B. Walema, Vice-Chair
Alex Cabillo
Cisney Havatone
Monza Honga
Waylon Honga
Carrie Imus
Ronald Quasula Sr.
Philbert Watahomigie Sr.

Others

Victor Raymond
Herman Parker
Don Bay

Others:

Phil Hobbs
Mike Whatoname
Ona Watahomigie
Loretta Jackson
Mike Young
Clara Mahone
Sandra Yellowhawk
Charlie Murphy
Lana Clarke

Myra Clarke
Bob McNichols
Tom Wahlquist
Sylvia Palmer

Lodger's Tax - Phil Hobbs

Phil presented the Lodgers Tax which will tax person renting a room or similar accomodation at a hotel, motel, RV park or commerial campground. The tax will be 10% of the room rate. The lodgers tax will apply when the Tribe or federal government rent rooms. The ordinance states who the taxes will apply to.

After some discussion Alex moved adopt Resolution 22-98 Lodger's Tax with changes to read Native American. Seconded by Waylon Honga. Vote 7 in favoar, 2 excused.

ORDINANCE NO. 31-98

LODGER'S TAX

§ 1. **Statement of Purpose.** It is the policy of the Hualapai Tribe to provide members and non-members residing, doing business, working or otherwise present within the Hualapai Reservation with essential governmental services. To finance this governmental policy, the Hualapai Tribe in this Ordinance adopts a lodger's tax which will provide the Tribe with a portion of the revenues necessary to fund these governmental services within the Reservation.

§ 2. **Administration of the Tax.** The Tax Administration Division of the Hualapai Tribe is hereby authorized to administer this Ordinance and to keep all records and accounts concerning this tax. Any inquiries concerning the Lodger's Tax shall be made through the Tax Administration Division.

§ 3. **Definitions.**

- A. **Chairman.** "Chairman" shall mean the Chairman of the Hualapai Tribe.
- B. **Constitution.** "Constitution" shall mean the Constitution of the Hualapai Indian Tribe adopted February 14, 1991 and approved by the Secretary of the Interior on March 13, 1991.
- C. **Court of Appeals.** "Court of Appeals" shall mean the Hualapai Court of Appeals as described in the Hualapai Law and Order Code.
- D. **Division.** "Division" shall mean the Tax Administration Division of the Hualapai Tribe.
- E. **Gross Taxable Rent.** "Gross Taxable Rent" shall mean the total amount of rent paid for lodging, not including the Lodger's Tax or any other tax.
- F. **Hualapai Reservation or Reservation.** "Hualapai Reservation" or "Reservation" shall mean all lands subject to the jurisdiction of the Hualapai Tribe and includes any and all lands within the exterior boundaries of the Hualapai Reservation, regardless of whether said land is owned in fee, whether said lands are Indian lands held in trust by the United States, or whether said lands are otherwise held by the Hualapai Tribe.
- G. **Lodging.** "Lodging" shall mean the transaction of furnishing rooms or other accommodations by a seller to a purchaser who for a rent uses, possesses or has the right to use

or possess any room or rooms or other units of accommodation at a taxable premises.

H. Lodging Business. "Lodging Business" shall mean any business whose business operations include provision of lodging and related decisions.

I. Lodger's Tax. "Lodger's Tax" shall mean the tax on lodging authorized by this Ordinance.

J. Secretary. "Secretary" shall mean the Secretary of the United States Department of the Interior.

K. Superintendent. "Superintendent" shall mean the Superintendent of the Truxton Canon Agency, Bureau of Indian Affairs.

L. Taxpayer. "Taxpayer" shall mean any taxable person or entity including (1) any individual, partnership, corporation or other legal entity engaging in a transaction for the purchase of lodging on the Reservation; or (2) any person or entity required to collect and remit the Lodger's Tax.

M. Transaction. "Transaction" shall mean the sale or provision of lodging services on the Reservation.

N. Tribal Council. "Tribal Council" shall mean the governing body of the Hualapai Tribe.

O. Tribal Court. "Tribal Court" shall mean the Hualapai Tribal Court as described in the Hualapai Law and Order Code.

P. Tribe. "Tribe" shall mean the Hualapai Tribe of the Hualapai Reservation.

Q. Native American. "Native American" shall mean any enrolled member of federally recognized tribe.

§ 4. Imposition and Rate of Tax. There is hereby imposed a Lodger's Tax of 10% of Gross Taxable Rent on the purchase of lodging from businesses within the Reservation.

§ 5. Collection of Tax. The tax shall be added to the sales price of all lodging sold or provided on the Reservation by the Lodging Business. The Lodging Business shall collect the tax at the time of the sale or provision of lodging services on the Reservation. The tax shall be charged separately from the rent fixed by the Lodging Business for the lodging.

§ 6. Payment of Taxes Due. The Lodging Business shall remit the Lodger's Tax collected from the purchasers to the Tax Administration Division on a monthly basis using a form

prescribed by the Division. The tax shall be due on the 15th day of the month following the month the taxes were collected. Any taxes assessed shall be paid by check or money order made payable to the Treasurer of the Tribe. Payment is timely made if it is postmarked before midnight on the date on which the tax is due or if it is delivered to the office of the Treasurer by certified mail or in person before close of business and a receipt is given.

§ 7. Penalties for Late Payment or Failure to Collect and Remit the Tax.

A. Any business whose transactions are subject to the tax is required to collect the tax at the time of sale of lodging on the Reservation. Failure to collect such tax shall be penalized in a sum equal to 20% of the transaction.

B. Any business failing to remit the amount of tax or penalty described in Section 7(A) above, shall pay a penalty on the outstanding balance in the amount of 10% per month of delay in making payment, prorated to the actual date of receipt by the Tax Administration Division.

§ 8. Lien for Taxes.

All delinquent Lodger's Taxes and penalty shall constitute a lien on the personal and real property of the Lodging Business.

§ 9. Exemptions.

A. Governmental Entities. The following governmental entities, when purchasing lodging on the Reservation, shall be exempt from the Lodger's Tax.

1. Any Native American Government;
2. United States Federal Government;
3. Any other governmental entity required by federal or tribal law to be

exempt from taxation.

B. Monthly Rentals. The Lodger's Tax shall not apply to rentals of thirty (30) consecutive days or more.

C. Exempt Institutions. The Lodger's Tax shall not apply to accommodations at clinics, hospitals, medical facilities or detention centers, or to lodging provided by the Housing Authority.

D. Minimum Size. The Lodger's Tax shall not apply to premises with fewer than

three (3) rooms or units of accommodations for lodging, unless such premises are owned or operated by a Lodging Business with additional rooms or units at a separate location.

E. River Runners. The Lodger's Tax shall not apply to camping on the Colorado River when such camping is done as part of a trip organized by the Hualapai-owned river business "River Runners."

F. Native American Individual. The Lodger's Tax shall not apply to any Native American individual that rents a room for his or her personal use.

§ 10. Determination of Exemption. The determination as to whether or not an entity or business is exempt from the Lodger's Tax shall be made by the Division. The Division may issue exemption certificates on its own initiative or upon request. The Division's decision may be protested and appealed in accordance with the appeal procedures set forth in Section 12 of this Ordinance.

§ 11. Records. The seller of lodging services shall maintain adequate records of lodging facilities subject to the tax and of the proceeds or revenues received for the use thereof. Such records shall be open to the inspection of the Division during reasonable hours and shall be maintained by the seller for three (3) years from the later of the date the Lodging Tax is due or the date the Lodging Tax is paid.

§ 12. Protest of Tax. Any protest to an assessment, a denial of a claim for exception, penalties or any other matter relating to the Lodger's Tax may be raised only in conformity with this section. A protesting taxpayer or business shall timely remit any taxes due under protest and request a refund of all or part thereof by filing a notice of protest for the Tax Administration Division at the time of timely payment. Delinquent taxes may not be paid under protest. All protests accompanying timely payment of the tax shall be handled as follows:

A. Protests to Tax Protest Panel. The protest shall be referred to a three-member Tax Protest Panel to be appointed by the Tribal Council. The Tax Protest Panel shall determine whether the protested tax shall be refunded in whole or in part and shall report its decision in writing to the protesting party or his representative, the Chairman, the Treasurer of the Tribe, and the Director of the Tax Administration Division within five (5) working days of the date of determination of said protest. The Panel may request any additional information or hold such

hearings or meetings as it determines are necessary in such a manner (either formal or informal) as it determines is necessary. The Panel may issue rules and regulations for the conduct of Panel meetings and tax protest hearings. The decision of the Panel shall be final unless appealed to the Tribal Court in accordance with the provisions of this Ordinance.

B. Appeals to Tribal Court. Appeal from a determination of the Tax Protest Panel may be made to the Tribal Court, by filing a Notice of Appeal with the Clerk of the Tribal Court with copies to the Treasurer of the Tribe, Chairman of the Tribe, the Director of the Tax Administration Division, the taxpayer and the Chairman of the Tax Protest Panel within fifteen (15) days of the date of the decision of the Panel. The appeal may challenge the decision of the Tax Protest Panel only to the same extent and upon the same theory as was asserted before the Tax Protest Panel. Upon receipt of an appeal from a decision of the Panel, the Court Clerk shall schedule a hearing before the Tribal Court. The protesting taxpayer and the Tax Administration Division may, at the hearing, present evidence and argument and be represented by counsel, at its own expense. The decision of the Tribal Court regarding the protest shall be made in writing and distributed to the protesting taxpayer or his counsel, the Director of the Tax Administration Division, the Chairman of the Tax Protest Panel, the Treasurer of the Tribe, and the Chairman within five (5) working days of the date of the decision. The decision of the Tribal Court shall be final unless appealed to the Court of Appeals in accordance with the provisions of this Ordinance.

C. Appeals to Court of Appeals. Appeals from the determination of the Tribal Court may be made to the Court of Appeals by filing a Notice of Appeal with the Clerk of the Tribal Court, with copies to the Treasurer of the Tribe, the Chairman, the Director of the Tax Administration Division, the taxpayer and the Chairman of the Tax Protest Panel within fifteen days (15) of the date of the decision of the Tribal Court. Upon the docketing of an appeal from the Tribal Court, an appellate briefing schedule and a time for oral argument shall be set pursuant to the appeals procedures of the Tribe's Law and Order Code. The written decision of the Court of Appeals shall be distributed to the protesting taxpayer or his counsel, the Director of the Tax Administration Division, the Chairman of the Tax Protest Panel, the Treasurer of the Tribe, and the Chairman within five (5) working days of the date of the decision. The decision of the Court of Appeals shall be final.

D. Payment and Segregation of Contested Amounts. No protest shall be heard unless the assessed taxes have first been timely paid by the taxpayer to the Treasurer of the Tribe. The Treasurer shall hold any contested amounts without expenditure in an interest bearing account until a final determination is made on the protest. The Treasurer shall refund any taxes paid on which protests have been sustained, with interest as allowed by this Ordinance, within thirty (30) days of the date of final decision.

E. Interest on Erroneous or Illegally Collected Taxes. If any tax is found to be erroneous or illegally collected, interest at the rate equal to the seven day certificate rate of the bank at which the account the Lodger's Tax is deposited shall be allowed on the amount refunded.

F. Burden of Proof. The assessment by the Tax Administration Division is presumed to be correct. The taxpayer has the burden of proof to establish that the protested tax was erroneous or illegally collected.

§ 13. Severability. If any part or application of this Ordinance is held invalid, the remainder of the Ordinance or its application to other situations or persons shall not be affected.

§ 14. Use of Tax Proceeds. Tax proceeds shall be deposited by the Treasurer of the Tribe in an account authorized by the Tribal Council for expenditure to defray the costs of providing essential governmental services on the Reservation and for other purposes as determined by the Tribal Council. The Treasurer of the Tribe may execute vouchers against this account to make refund adjustments, payments of interest or payments for any purpose for which this Ordinance may require.

§ 15. Amendment. This Ordinance may be amended by resolution passed by the Tribal Council in accordance with the Constitution of the Tribe. The Tax Administration Division shall notify taxpayers of any amendment in the manner considered appropriate by the Tax Administration Division under tribal law.

§ 16. Effective Date. This Ordinance shall be effective on April 1, 1998.

CERTIFICATION

I, the undersigned, as Chairman of the Hualapai Tribal Council, hereby certify that the Hualapai Tribal Council of the Hualapai Tribe is composed of nine (9) members of whom , constituting a quorum, were present at a regular meeting held on the 7 of March, 1998; and that the foregoing resolution and ordinance was duly adopted by a vote of 7 for, 0 against, 0 not voting, and 2 absent, pursuant to authority of Article V, Section (a) of the Constitution of the Hualapai Tribe approved March 13, 1991.

Earl Havatone
Earl Havatone, Chairman
Hualapai Tribal Council

ATTEST:

Christine Lee
Secretary