

**TITLE 7 – BUSINESS AND COMMERCIAL CODE  
CHAPTER 4-1 – TRANSACTION PRIVILEGE TAX**

**TABLE OF CONTENTS**

<b>SUBCHAPTER A</b>		<b>GENERAL PROVISIONS</b>	
Section 10	Authority.....		1
Section 20	Title & Purpose.....		1
Section 30	Definitions .....		1
<b>SUBCHAPTER B</b>		<b>TRANSACTION PRIVILEGE TAX</b>	
Section 40	Imposition of Transaction Privilege Tax.....		3
Section 50	Revenue Department Rule Making.....		3
Section 60	Conditional Sales as Credit Sales.....		3
Section 70	Requirement for Segregation of Accounts.....		3
Section 80	Deduction of Taxes from Computation of Gross Receipts .....		3
Section 90	Exemptions from Tax .....		3
Section 100	United States Government Exemption.....		4
Section 110	Non-Profit, Religious, Charitable Entities Exemption.....		4
Section 120	Medical Exemptions with Prescription .....		4
Section 130	Exemption for Sale of Component Parts.....		4
Section 140	Securities Sale Exemption .....		4
Section 150	Exemption for Home-based Food Establishments.....		4
<b>SUBCHAPTER C</b>		<b>METHOD OF COLLECTION</b>	
Section 160	Administration and Collection of Tax .....		4
Section 170	Presumption of Tax Liability; Burden of Proof.....		5
Section 180	Cumulative Nature of Tax .....		5
Section 190	Payment Schedule.....		5
Section 200	Quarterly and Annual Payments Permitted.....		5
Section 210	Submission of Tax Return with Payment.....		5
Section 220	Extension of Time for Filing and Payment .....		5
Section 230	Excess Payments – Credits/Refunds .....		5
<b>SUBCHAPTER D</b>		<b>TAXPAYER RECORDS</b>	
Section 240	Taxpayer Records – Retention .....		6
Section 250	Taxpayer Records – Audits; Confidentiality.....		6
Section 260	Insufficient Records; Penalty .....		6
Section 270	Consistency of Records.....		6
Section 280	Consolidated Returns .....		6
Section 290	Acceleration of Tax Liability.....		6
<b>SUBCHAPTER E</b>		<b>VIOLATIONS; PENALTIES</b>	
Section 300	Notices .....		6
Section 310	Delinquency, Deficiency, Fraud .....		7
Section 320	Penalties and Sanctions – Re-Examination, Re-computation .....		7
Section 330	Negligence or Intentional Disregard .....		7
Section 340	Fraud or Intent to Evade .....		7
Section 350	Written Notice to Taxpayer .....		8
Section 360	Three-year Limitation .....		8
Section 370	Termination of Business Activity .....		8
Section 380	Recovery of Seized Assets.....		8
Section 390	Provision for Granting New License .....		9

<b>SUBCHAPTER F</b>		<b>APPEALS PROCEDURE</b>	
Section 400	Appeals to Collector .....		9
Section 410	Appeals of Collector Decision to Tribal Court .....		9
<b>SUBCHAPTER G</b>		<b>ADMINISTRATION AND ENFORCEMENT</b>	
Section 420	Administration .....		10
Section 430	Enforcement.....		10
Section 440	Effective Date .....		10
Section 450	Interpretation.....		11

**TITLE 7 – BUSINESS AND COMMERCIAL CODE  
CHAPTER 4-1 – TRANSACTION PRIVILEGE TAX**

*Legislative History: Enacted and codified August 9, 2006 by Resolution No. C08-313-06. Chapter One formerly appeared as Title 16, of the Pascua Yaqui Code.*

*Recodified on August 9, 2006 by Resolution No. C08-313-06.*

*Amended on April 19, 2017 by Resolution No. C04-75-17 and Ordinance No. 9-17.*

*Amended on September 11, 2019 by Resolution No. C09-183-19 and Ordinance No. 32-19.*

**SUBCHAPTER A GENERAL PROVISIONS**

**Section 10 Authority (7 PYTC § 4-1-10)**

Authority for enactment of this chapter arises out of the inherent sovereignty of the Pascua Yaqui Tribe to levy taxes upon persons doing business on the Pascua Reservation.

**Section 20 Title & Purpose (7 PYTC § 4-1-20)**

- (A) This subchapter is known and may be cited as the Pascua Yaqui “Transaction Privilege Tax.”
- (B) The purpose of this subchapter is to regulate and license certain persons engaged in business on the Pascua Yaqui Reservation and to raise public money to be used in defraying the necessary and ordinary expenses of the Pascua Yaqui Tribe by a levy and imposition taxes measured by amount or volume of business transacted within the exterior boundaries of the Pascua Yaqui Reservation.

**Section 30 Definitions (7 PYTC § 4-1-30)**

The following definitions of terms shall apply throughout this chapter, unless the context otherwise requires:

- (A) Auditor - any employee or agent authorized by the Tribal Council to audit records of a person subject to the tax specified by this chapter.
- (B) Council - the Tribal Council of the Pascua Yaqui.
- (C) Business - includes all activities or acts, personal or corporate, engaged in and caused in be engaged in with the object of gain, benefit or advantage either directly or indirectly.
- (D) Contracting - engaging in business as a contractor.
- (E) Contractor - synonymous with the term "builder" and means a person, firm, partnership, corporation, association or other organization or a combination of any of them who undertake, or submits a bid to, or does himself or by or through others, construct, alter, repair, add to subtract from, improve, move, wreck or demolish any building, highway, road, railroad, excavation or other structure, project, development or improvement, or to do any part thereof, including the erection of scaffolding or other structure or works in connection therewith, and includes subcontractors and specialty contractors. For all purpose of taxation or deduction, this definition shall govern without regard to whether or not the contractor is acting in fulfillment of a contract.

- (F) Engaging - when used with reference to engaging or continuing in business includes the exercise of corporate or franchise powers.
- (G) Gross Income - the gross receipts of a taxpayer derived from trade, business, commerce or sales and the value proceeding or accruing from the sale of tangible personal property, or service, or both, and without any deduction on account of losses.
- (H) Gross Proceeds of Sales - the value proceeding or accruing from the sale of tangible personal property or service without any deduction on account of the cost of property sold, expense of any kind, or losses, but cash discounts allowed and taken on sales shall not be included as gross income.
- (I) Gross Receipts - the total amount of the sale, lease or rental price, as the case may be, of the retail sales of retailers, including any services that are a part of sales, valued in money, whether received in money or otherwise, including all receipts, cash, credits and property of every kind or nature, and any amount for which credit is allowed by the seller to the purchaser without any deduction there from on account of cost of property sold, materials used, labor or service performed, interest paid, losses or any other expense, but does not include cash discounts allowed and taken nor the sale price of property returned by customers when full sale price thereof is refunded either in cash or by credit.
- (J) Person or Company - includes individual, firm, partnership, joint venture, association, corporation, municipal corporation, estate, trust or any other group or combination acting as a unit, and the plural as well as singular number
- (K) Prime Contractor - the contractor who supervises, performs or coordinates the construction, alteration, repair, addition, subtraction, improvement, movement, wreckage or demolition of any building, highway, road, railroad, excavation or other structure, project, development or improvement including the contracting, if any, with any subcontractors or specialty contractors and is responsible for the completion of the contract.
- (L) Repairer - any person who restores or renews products, wares, or articles of manufacture.
- (M) Retailer - includes every person engaged in the business of making sales at retail, and when in the opinion of the Treasurer it is necessary for the efficient administration of this chapter, includes dealers, distributors, supervisors, employers and salespeople, representatives, peddlers or canvassers as the agents of dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property sold by them, whether in making sales on their own behalf or on behalf of the dealers, distributors, supervisors/or employers.
- (N) Sale - any transfer of title or possession, or both, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatever, of tangible personal property or services, for a consideration.
- (O) Sale at Retail (or Retail Sale) - a sale for any purpose other than for resale in the form of tangible personal property, but transfer of possession, lease and rental as used in the definition of sale means only such transactions as are found upon investigation to be in lieu of sales as defined without the words lease or rental.
- (P) Stock - the goods and wares of a person kept for sale and traffic, and for the purpose of this chapter shall include, but not be limited to, all tangible personal property specially ordered for any customer, if for any reason such specially ordered property is brought into the Reservation prior to completion of the sale.
- (Q) Tangible Personal Property - personal property which may be seen, weighed, measured, felt, touched or is in any other manner perceptible to the senses.

- (R) Tax Collector (or Collector) - the person designated by the Pascua Yaqui Tribal Council to collect the taxes levied pursuant to this chapter.
- (S) Taxpayer - any person liable for any tax imposed by this chapter.
- (T) Tax Year (or Taxable Year) - either the tribal fiscal year or the taxpayer's fiscal year when permission has been obtained from the Collector to use a fiscal year as tax period when different from the tribal fiscal year.
- (U) Wholesaler (or Jobber) - any person who sells tangible personal property for resale by a retailer and does not sell tangible personal property for consumption by the purchaser; but, when a person normally selling for resale makes any sale at retail or for consumption by the purchaser, such person is defined as a "retailer for purposes of this chapter.

**SUBCHAPTER B            TRANSACTION PRIVILEGE TAX**

**Section 40            Imposition of Transaction Privilege Tax (7 PYTC § 4-1-40)**

There is hereby levied and there shall be collected by the Tribe's Finance Department, a transaction privilege tax at an amount equal to five percent of the gross proceeds of sales, gross contracts, or gross income of the business upon every person or entity engaging or continuing within the exterior boundaries of the Pascua Yaqui Reservation. One-half of one percent shall be set aside in a separate account for the purpose of supplementing the funding for the Tribal Employment Rights Enforcement Office.

**Section 50            Revenue Department Rule Making (7 PYTC § 4-1-50)**

In determining value as applied to sales from one to another person, or other circumstances where the relation between buyer and seller is such that the gross proceeds from the sale are not indicative of the true value of the transaction, the Finance Department may prescribe uniform and equitable rules for determining the value upon which the tax shall be based, corresponding as nearly as possible to the gross proceeds of similar products or services of like quality or character by other taxpayers.

**Section 60            Conditional Sales as Credit Sales (7 PYTC § 4-1-60)**

For the purpose of computing the tax imposed by this chapter, conditional or time sales shall be treated as credit sales and tax shall be based only upon amounts received under such agreements; but if the seller transfers his/her interest in such agreements to a third party, tax amount shall be based upon the full sale price of the commodity. A record shall be kept of payments on the contract in such a manner that the Finance Department may at all times ascertain the amount paid thereon by the purchaser. If at any time the Collector cannot so ascertain the amount paid thereon, tax shall be computed to include any amounts not shown by the records of the seller.

**Section 70            Requirement for Segregation of Accounts (7 PYTC § 4-1-70)**

When any person is engaged in an occupation or business to which this chapter is applicable, such person's or entity's books shall be kept so as to show separately the gross proceeds of sale of tangible personal property and the gross income from sales of any nontaxable services. If not so kept, tax shall be based upon the total of such entity's gross proceeds of sales of tangible personal property and gross income from service.

**Section 80            Deduction of Taxes from Computation of Gross Receipts (7 PYTC § 4-1-80)**

For the purpose of this section, the total amount of gross income, gross contracts, gross receipts, or gross proceeds of sale shall be deemed to be the amount of the transaction, exclusive of the tax imposed by this section.

**Section 90 Exemptions from Tax (7 PYTC § 4-1-90)**

- (A) Any business, calling, profession or occupation where the laws of the United States government preclude the levying of such tax shall be exempt.
- (B) Sales of tangible personal property and services made directly to the Pascua Yaqui Tribe, its departments, enterprise or agencies shall be exempt.
- (C) All persons or companies that have obtained a Short Term Temporary Business License or a Temporary Business License in accordance with 7 PYTC § 3-130 and paid the applicable fee shall be exempt.

**Section 100 United States Government Exemption (7 PYTC § 4-1-100)**

Sales of tangible personal property made directly to the United States Government, its departments or agencies shall be exempt.

**Section 110 Non-Profit, Religious, Charitable Entities Exemption (7 PYTC § 4-1-110)**

Non-profit, religious and charitable institutions shall not be taxed, provided gains or profits do not accrue to any member of said institutions.

**Section 120 Medical Exemptions with Prescription (7 PYTC § 4-1-120)**

Sales of drugs or medical supplies or appliances on prescription of a member of the medical, dental or veterinary profession who is licensed by law to prescribe such items shall be exempt.

**Section 130 Exemption for Sale of Component Parts (7 PYTC § 4-1-130)**

Sales of tangible personal property to manufacturers, modifiers or assemblers where such property directly enters into and becomes an ingredient component of any manufactured, fabricated or processed article, substance, commodity produced on the Reservation which shall be subject to the tax in the regular course of business, shall be exempt.

**Section 140 Securities Sales Exemption (7 PYTC § 4-1-140)**

The sale of stocks or bonds shall be exempt.

**Section 150 Exemption for Home-based Food Establishments (7 PYTC § 4-1-150)**

The sale by retailers, other than the grocery or vending machine business, of items made in the home for food, drink, condiment, or personal use where the entity's gross annual receipts are less than \$3,000 are exempt.

**SUBCHAPTER C METHOD OF COLLECTION**

**Section 160 Administration and Collection of Tax (7 PYTC § 4-1-160)**

The administration of this chapter, including the duty or prescribing forms required under the terms of this chapter, is vested in and shall be exercised by the Pascua Yaqui Tribe and all payments shall be made to the Tribe. If payment is made in any form other than money which is legal tender in the United States, the tax obligation shall not be ended until the check, bank draft-or money order has been honored by the person on whom drawn.

**Section 170 Presumption of Tax Liability; Burden of Proof (7 PYTC § 4-1-170)**

For the purpose of the proper administration of this chapter and to prevent evasion of the tax, it shall be presumed that all gross receipts are subject to the tax until the contrary is established by the person seeking the exemption from taxation. The burden of proving that a sale of tangible personal property was not a sale at retail shall be upon the person who made it, unless such person shall have taken from the purchaser a certificate to the effect that the property was purchased for resale.

**Section 180 Cumulative Nature of Tax (7 PYTC § 4-1-180)**

The tax imposed by this chapter shall be cumulative and supplemental to all other taxes levied by law.

**Section 190 Payment Schedule (7 PYTC § 4-1-190)**

Except as provided in Section 210, the taxes levied under this chapter shall be due and payable monthly on or before the first day of the second month next succeeding the month in which tax accrues and shall be delinquent five working days thereafter.

**Section 200 Quarterly and Annual Payments Permitted (7 PYTC § 4-1-200)**

The Collector may, for any taxpayer whose estimated annual liability for taxes imposed by this chapter is between \$200 and \$500, authorize such taxpayer, upon petition to the Collector, to pay such taxes on a quarterly basis. The Collector may, for any taxpayer whose estimated annual liability for taxes imposed by this chapter is less than \$200, authorize such taxpayer, upon petition to the Collector, to pay such taxes on an annual basis. For purposes of this Section, annual shall be construed as beginning October 1 and ending September 30 of each year, unless otherwise authorized by the Collector.

**Section 210 Submission of Tax Return with Payment (7 PYTC § 4-1-210)**

The taxpayer shall, on or before the day on which the tax payments are due and payable, prepare a return showing the amount of tax liability for the preceding period and shall deliver the return, in the form required by the Collector, together with a remittance for the amount of the tax, to the Collector. The return shall be verified by the oath of the taxpayer or authorized agent.

**Section 220 Extension of Time for Filing and Payment (7 PYTC § 4-1-220)**

The Collector, for good cause, may extend the time for making any return required by this chapter and may grant such reasonable additional time within which to make the return as deemed proper, but the time for filing the return shall not be extended beyond the first day of the third month next succeeding the regular due date of the return.

**Section 230 Excess Payments – Credits/Refunds (7 PYTC § 4-1-230)**

If, upon examination of a return made under this chapter, it appears that an amount of tax has been paid in excess of the tax lawfully due, the excess amount shall be credited against any tax then due from such taxpayer under any other return. The Collector may at discretion issue to the taxpayer a credit voucher for any balance of the excess or may, upon an audit of the taxpayer's accounts and records, refund to the taxpayer such amount as may be found due.

## **SUBCHAPTER D      TAXPAYER RECORDS**

### **Section 240      Taxpayer Records – Retention (7 PYTC § 4-1-240)**

Every person or entity engaging or continuing in business activities within the Reservation for which a privilege tax is imposed by this chapter is required to maintain and preserve for a minimum of three years, suitable records of the gross income, gross receipts, gross contracts, invoices for goods and merchandise purchased and sold, labor records and all other records as shall be necessary to determine the amount of tax for which such person or entity is liable under the provisions of this chapter.

### **Section 250      Taxpayer Records – Audits; Confidentiality (7 PYTC § 4-1-250)**

All records aforementioned shall be open for examination at any time by the Collector or authorized agent. Information so gained shall be prohibited from disclosure by any employee, officer or agent of the Tribe except under oath in legal court proceedings. However, the Collector may request an examination of said information and records by the U. S. Internal Revenue Service.

### **Section 260      Insufficient Records; Penalty (7 PYTC § 4-1-260)**

In the event the records in Section 250 are inadequate or the tax payer fails to keep such records so that the Collector cannot ascertain the gross income of the business, the Collector may proceed as though such taxpayer failed or refused to make a return and appropriate sanctions and penalties shall be levied, if after due notice such records are not available or are inadequate.

### **Section 270      Consistency of Records (7 PYTC § 4-1-270)**

The taxpayer may elect to file returns and pay taxes on a cash receipts or accrual basis, but shall not change from one basis to the other with out prior written approval of the Collector, at which time the Collector may require an audit of taxpayer's records.

### **Section 280      Consolidated Returns (7 PYTC § 4-1-280)**

Any person engaging in two or more forms of business of like classification or in two or more locations within the Reservation may file a consolidated return.

### **Section 290      Acceleration of Tax Liability (7 PYTC § 4-1-290)**

If the Collector believes that the collection of any tax imposed by this chapter will be jeopardized by delay, whether or not the time otherwise prescribed for making a return and paying such tax has expired and notwithstanding other provisions of this chapter, the Collector may immediately assess such tax. The tax and any additions or interest are thereupon immediately due and payable, and immediate notice and demand shall be made for payment. The belief of the Collector is for all purposes presumptive evidence that the assessment or collection was in jeopardy. A certificate of mailing notice is presumptive evidence that notice was issued. The taxpayer may stay collection and prevent such assessment from becoming final by filing a written protest, within ten working days after date of assessment, accompanied by a bond or other security in such amounts as the Collector may deem necessary. Upon filing of protest and posting security as required, assessment shall be reviewed as provided for other assessments under this chapter. Failure to protest or post required security shall result in the assessment becoming final.

## **SUBCHAPTER E      VIOLATIONS, PENALTIES**

### **Section 300      Notices (7 PYTC § 4-1-300)**

Notices required or authorized by this chapter to be given by mail to a taxpayer shall be addressed to the last known address, or to such address as may appear in the records of the Collector and shall be sent by



certified first class mail with return receipt requested. Notice shall be presumed received upon the date shown by an executed return receipt, or if such receipt is not executed, upon the date such notice was attempted to be delivered.

**Section 310 Delinquency, Deficiency, Fraud (7 PYTC § 4-1-310)**

(A) Upon the failure of any person to pay the required, tax, penalty and/or interest within 30 days of due date, the following penalties/sanctions shall be effective:

It is unlawful for any person knowingly to:

- (1) Fail or refuse to make any tax return required by this chapter, or engage in business without required license;
- (2) Fail to remit the full amount of any tax or additional charge made to cover the tax;
- (3) Fail or refuse to furnish any supplemental return or other pertinent and available data required by the Collector;
- (4) Make or cause to be made a false or fraudulent return or intentionally fail or refuse to make any return required by this chapter;
- (5) Fail or refuse to permit any lawful examination of any book, paper, account, record or other memoranda by the Collector or authorized agents or employees.

(B) Any person violating any provision of this subsection may have the business license revoked and have all rights to engage in business on the Reservation suspended or terminated and may be enjoined by an action brought in the Pascua Yaqui Tribal Court in the name of the Pascua Yaqui Tribe at the request of the Collector, from engaging or continuing in any business for which a tax is imposed by this chapter until taxes have been paid or until such person has complied with this chapter.

**Section 320 Penalties and Sanctions – Re-Examination, Re-computation (7 PYTC § 4-1-320)**

If a taxpayer fails to file a return or if the Collector is not satisfied with the return and payment of the amount of tax required by this chapter to be paid to the Tribe by any person, the Collector may examine the return and re-compute and re-examine the amount required to be paid based upon the facts contained in the return or upon any information within possession or which comes into possession. All additional amounts determined to be due under the provisions of this section shall bear interest at the rate, of one percent per month or fraction of a month from the time additional tax was due and payable until paid.

**Section 330 Negligence or Intentional Disregard (7 PYTC § 4-1-330)**

If any part of the deficiency for which a determination of an additional amount due is made is found to be due to negligence or intentional disregard of this chapter, but without intent to defraud, a penalty of ten percent of such amount shall be added, plus interest at the rate of one percent per month or fraction of a month from the time the additional tax was due and payable until paid.

**Section 340 Fraud or Intent to Evade (7 PYTC § 4-1-340)**

If any part of the deficiency for which a determination of an additional amount due is made is found to be due to fraud, or to have been done with an intent to evade this chapter, a penalty of 25% of such amount shall be added, plus interest at the rate of one percent per month or fraction of a month from the time the additional tax was due and payable until paid.

**Section 350 Written Notice to Taxpayer (7 PYTC § 4-1-350)**

The Collector shall give to the taxpayer written notice by mail of the determination of a deficiency, and such deficiency plus penalties and interest shall be due/payable 30days after receipt of the notice and demand or if an appeal is taken to the Collector, within ten working days after the order or decision of the Collector has become final.

**Section 360 Three-Year Limitation (7 PYTC § 4-1-360)**

Except in the case of a fraudulent return, failure or refusal' to make a return, every notice of a determination of an additional amount due shall be mailed within three years after the 15th day of the calendar month following the period for which the amount is proposed to be determined or within three years after the return is filed, which period expires later.

**Section 370 Termination of Business Activity (7 PYTC § 4-1-370)**

- (A) Any person doing business on the Reservation who or fails to pay the required tax within the time period required by the Collector, shall immediately cease to carry out business on the Reservation, provided that, upon a showing of good cause, the Collector or the Tribal Court may grant the entity a reasonable period during which to conclude business so long as during that time, the continuation of such business does not endanger the health, safety, welfare, morals or morale of resident of the Reservation. Where notice to cease business is issued by the Collector, it shall be hand-delivered to the business entity by the Collector designated agent or employee.
- (B) If a person or entity doing business on the Reservation that has been directed by the Collector or Tribal Court to cease doing business on the Reservation fails to comply, the Collector shall petition the Tribal Court for, or the Tribal Court on its own motion shall issue a show cause order as to why said business shall not be excluded from the Reservation. Where the Collector alleges that the business presents a danger to the health, safety, welfare, morals of residents of the Reservation, the Tribal Court shall hold an expedited hearing. If said person or entity fails to appear or fails to show good cause, the Tribal Court shall order the Tribal Police to take appropriate action.
- (C) Where the person or entity engaging in business is not a member of the Pascua Yaqui Tribe; the Tribal Court shall order the police to physically remove such persons from the Reservation along with any personal property conduct of said business that can be removed without causing permanent damage to said property. For property which cannot be so removed, such as the Tribal Court shall order and the Tribal Police shall implement the incapacitation of said property by padlocking or other means so that it can be used to carry out business.
- (D) Where the person or entity doing business in violation of this chapter is a member of the Pascua Yaqui Tribe, they shall be prosecuted for criminal contempt of court and all personal property used in the conduct of said business shall be impounded, padlocked or otherwise incapacitated so that it cannot be used to carry out any further business on the Reservation. A corporation, partnership or other entity shall be considered a tribal member for purposes of this section only if 51% or more of the entity is owned by tribal members.

**Section 380 Recovery of Seized Assets (7 PYTC § 4-1-380)**

An entity may recover all such property incapacitated or impounded under this section by paying to the Tribe the costs incurred by the Tribe in carrying out these legal proceedings as well as a fine of \$500 per day that has passed since it was ordered by the Collector or the Tribal Court to obtain a license or pay a tax.

**Section 390 Provision for Granting New License (7 PYTC § 4-1-390)**

- (A) A person or entity so excluded or incapacitated under this provision shall be granted a new license to engage in business activity on the Reservation only if:
  - (1) No less than six months have passed since the date of the exclusion order; and
  - (2) The person or entity has paid all costs incurred by the Tribe in carrying out the exclusion or incapacitation order and has paid such fines as the Tribal Court deems; appropriate, but not to exceed \$50,000.
- (B) Notwithstanding the provisions of subsections (1) and (2) above, the Collector or Tribal Court may, for good cause, deny such a person or entity a new license, may attach such conditions as are appropriate upon the granting of a license, or may waive or mitigate the provisions of subsections (1) and (2) of this section.

**SUBCHAPTER F APPEALS PROCEDURES**

**Section 400 Appeals to Collector (7 PYTC § 4-1-400)**

- (A) Any person from whom an amount is determined to be due under this chapter may apply to the Collector by a written petition within 30 calendar days after notice is received, or within such additional time as is allowed by the Collector, for a hearing, correction or re-determination of the action taken by the Collector. Petition shall set forth the reasons why such hearing, correction or re-determination should be granted and the amount in which the amount due should be reduced. The Collector shall promptly consider the petition and shall if requested grant a hearing within ten working days. If petition for hearing, correction or re-determination is not filed within such 30-day period, or within such additional time as is allowed by the Collector, the amount determined to be due shall become final at the expiration thereof and such person shall be deemed to have waived and abandoned the right to question the amount determined to be due.
- (B) The orders or decisions made upon filing a petition for a hearing, correction or re-determination shall become final 30 calendar days after notice thereof has been received by the petitioner.

**Section 410 Appeals of Collector Decision to Tribal Court (7 PYTC § 4-1-410)**

- (A) After payment of any fee, tax, penalty or interest under protest verified by oath and setting forth the grounds of objection to the legality of the tax, a taxpayer may bring action against the Collector in the Pascua Yaqui Tribal Court for the recovery of the fee, tax, interest or penalty so paid under protest. This action shall not be commenced more than 30 calendar days after the order or decision of the Collector becomes final, and failure to bring the action within such 30 calendar days shall constitute a waiver of the protest and a waiver of all claims against the Pascua Yaqui Tribe arising from the illegality of the fee, tax, penalties and interest so paid. No grounds of illegality of the tax shall be considered by the Tribal Court other than those set forth in the protest filed at the time payment is made, but payments of taxes made under protest subsequent to the original protested item and prior to filing the action within thirty 30 calendar days may be included or incorporated in the same action. The decision of Tribal Court is final.
- (B) If a final judgment is rendered by the Tribal Court in favor of the taxpayer in the action, the amount of the judgment of such portion thereof as may be necessary shall first be credited to any fees, taxes, penalties and interest due from the taxpayer under this chapter, and the amount of the balance remaining due the taxpayer shall be paid by the Collector.
- (C) If a final judgment has been rendered by Tribal Court providing that the whole or any part of the amount was due and lawfully payable on the date when paid, the amount found lawfully payable

shall be disposed of in the manner provided by this chapter for other collections made under this chapter shall be deemed a collection as of the date of such final determination.

- (D) Either party to such action may appeal the Tribal Court's judgment as provided by law.

## **SUBCHAPTER G ADMINISTRATION AND ENFORCEMENT**

### **Section 420 Administration (7 PYTC § 4-1-420)**

The administration of this chapter is vested in the Pascua Yaqui Finance Department and shall be exercised by the Department's Tax Collector. In the administration of this chapter, the Collector shall have full power, jurisdiction and authority to:

- (A) Collect the taxes, interest, and penalties due under this chapter.
- (B) Adopt rules and regulations reasonably necessary to carry out the provisions of this chapter.
- (C) Issue administrative rulings in response to a written inquiry from taxpayers regarding the application of this chapter. Inquiries shall state with specificity the facts involved in the question. Rulings shall be determinative of subsequent treatment of the matter and may be relied upon by the taxpayer until a regulation related to the subject of the inquiry is adopted. Any ruling remains in effect until a regulation related to the subject of the inquiry is adopted.
- (D) Appoint, as necessary, such agents and employees as may be authorized; who shall perform such duties as may be delegated to them not inconsistent with this chapter.
- (E) Examine the books, records and papers of any person or entity liable for licensing or tax imposed by this chapter and, by subpoena, to compel the production of books, records and papers which the Collector deems relevant or material to the examination.
- (F) Subpoena witnesses and take evidence on oath or affirmation of any person or entity the Collector believes is in possession of facts or information pertinent to an inquiry.

### **Section 430 Enforcement (7 PYTC § 4-1-430)**

- (A) The Pascua Yaqui Tribal Court is vested with jurisdiction over every person and entity engaging or continuing in business activity within the boundaries of the Pascua Yaqui Reservation in any business for which a tax or license fee is imposed by this chapter and with jurisdiction to hear and determine any challenge to the validity of this chapter either generally applied to any person or entity.
- (B) The Tribal Court is vested with jurisdiction to issue removal, or restraining, or other legal orders affecting any person or entity transacting on the Reservation and to direct the Tribal Police to carry out any orders.

### **Section 440 Effective Date (7 PYTC § 4-1-440)**

This chapter shall take effect upon enactment by the Pascua Yaqui Tribal Council and taxes imposed by this chapter shall become due and payable by every person or entity who receives gross proceeds or gross sales or contracts income after August 16<sup>th</sup>, 1984.

**Section 450 Interpretation (7 PYTC § 4-1-450)**

This chapter formerly appeared as Title 16 of the Pascua Yaqui Tribal Ordinance No. and any references within the Pascua Yaqui Code to the provisions of Title 16 Transaction Privilege Tax and License shall be construed as referring to the corresponding, renumbered, sections of this chapter.