

The Tulalip Tribes
Consolidated Borough
Of
Quil Ceda Village

Municipal
Tax Code

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QUIL CEDA VILLAGE TAX CODE

PART I

TAX ADMINISTRATION REGULATIONS

CHAPTER ONE GENERAL PROVISIONS

SECTION 1.1 TITLE

This Part I is called the Tax Administration Regulations.

SECTION 1.2 REVIEW REVENUE SOURCES

The Commission will review all of the sources of wealth and income within the Consolidated Borough of Quil Ceda Village and the possible revenues from the taxation of those sources.

SECTION 1.3 RESOLUTIONS TO LAY AND COLLECT TAXES

The Commission from time to time will submit to the Quil Ceda Village Council proposed resolutions to lay and collect taxes on property both tangible and intangible, on income from whatever source derived, and on sales, inventories, and other measures of economic activity or engagement within the Consolidated Borough of Quil Ceda Village. The Commission will oversee tax policy and the administration of the tax laws; and, the Commission will present what recommendations it may have regarding the wealth, income, and revenues of the Consolidated Borough of Quil Ceda Village and the fiscal policy of the governing body of the Consolidated Borough of Quil Ceda Village.

SECTION 1.4 ADOPTION OF RULES AND REGULATIONS

The Commission will adopt such other rules and regulations as it deems necessary for its proper functioning, to interpret and execute its authority, to interpret and enforce the tax laws, to establish the manner and means for compliance with those laws, and to set forth the requirements for the administration of taxes and the general tasks and responsibilities of the Commission and its offices.

SECTION 1.5 ADMINISTRATION

The Village Council is empowered to administer the tax laws of the Consolidated Borough of Quil Ceda Village by (see ____ of the Village Charter) and, to that end, will adopt rules and regulations, both substantive and procedural, orders implementing its decisions, rulings, and instructions, such as may be necessary to the proper and efficient administration of those laws.

SECTION 1.6 DEFINITIONS

Subject to additional definitions contained in the subsequent paragraphs of this or other Chapters of the Quil Ceda Village Tax Code, and unless the context otherwise requires, in the regulations and in the other Chapters of the Tax Code --

- A. **"Assessment date"** means each January 1st.
- B. **"Business"** means a business, as defined in Section 11.4A.
- C. **"Board"** means the Village Tax Board as defined in Section 2.6.
- D. **"Consolidated Borough of Quil Ceda Village", "Quil Ceda Village" or "Village"** is a political subdivision of the Tulalip Tribes of Washington, organized under tribal ordinance, and recognized as a political subdivision under 26 USC § 7871.
- E. **"Control"** means the direct or indirect power to direct the management and policies of a person, whether through ownership of voting securities, by contract, or otherwise.
- F. **"Cost of living adjustment."** Whenever a cost of living adjustment is required or permitted pursuant to any Chapter of this Tax Code, such adjustment shall be an amount equal to the amount and direction of change determined by reference to the U.S. City Average Urban Wage Earners and Clerical Workers Consumer Price Index (CPI) for each 12-month period ending on September 30th as published by the United States Department of Labor. To calculate this adjustment, the current rate will be multiplied by one plus the annual change in the CPI.
- G. **"Fraud"** has the same meaning as that established in the interpretation of Section 7206 of the United States Internal Revenue Code of 1986, as amended and renumbered.
- H. **"Hearing Officer"** means an official who presides at an administrative hearing and who has the power to administer oaths, take testimony, rule on questions of evidence, and make factual and legal determinations.
- I. **"Individual"** means a natural person.
- J. **"Person"** means an individual, or any group of individuals, however associated; it means an organization of any kind, whether organized for profit or not and regardless of the manner or form in which its affairs are conducted, whether it be a sole proprietorship, partnership, joint venture, trust, estate, an unincorporated association, a corporation, or a government; it means any part, subdivision or agency of any of the foregoing; and, it means any combination of individuals or organizations in whatever form, e.g., partnership, joint venture, or syndicate.
- K. **"QCVTC"** means the Quil Ceda Village Tax Code.
- L. **"Related Person"** means two or more persons owned or controlled, directly or indirectly, by the same person and, as applied to individuals, means two or more individuals who have a legal relationship arising out of marriage, adoption, or blood, through the third degree of kinship.
- M. **"Tax Court"** means the court that hears appeals from adverse decisions by the Village Tax Commission about tax deficiencies; and consists of the same judge(s) who sit to adjudicate civil disputes and administer justice in the Tulalip Tribal Courts.
- N. **"Taxes"** means the tax, and any interest, penalty, or costs, imposed or assessed pursuant to this Chapter. The term embraces all impositions by the Consolidated Borough of Quil Ceda Village on the person, property, privileges, occupations, and enjoyment of the

people, and includes duties, imposts, and excises.

- O. **"Taxpayer"** means an owner, or a business, or any other person who is liable for taxes imposed or assessed under a Chapter of the Tax Code.
- P. **"Treasurer"** means the officer of the Consolidated Borough of Quil Ceda Village charged with the receipt, custody, investment, and disbursement of its monies or funds.
- Q. **"Tribal Court of Tax Appeals"** means the Tulalip Tribal Court of Appeals with special jurisdiction to review decisions of the Tax Court; and consists of three judges of the Tulalip Tribal Court of Appeals.
- R. **"Tulalip Tribal Codes"** means the constitution and bylaws and the collection of ordinances, rules or regulations of the Tulalip Tribes.
- S. **"Tulalip Tribes"** means the Tulalip Tribes of the Washington organized pursuant to 25 USC § 476.
- T. **"Village"** means the Consolidated Borough of Quil Ceda Village, or any employee thereof, or the Village Council of Quil Ceda Village.
- U. **"Village General Manager"** denotes the official within the Quil Ceda Village Council in charge of managing the overall and day-to-day affairs of the Consolidated Borough of Quil Ceda Village; identical with the executive officer responsible for administering this tax code and collecting taxes.
- V. **"Village Tax Board"** denotes the commission established as a part of the Executive Branch of the Consolidated Borough of Quil Ceda Village for the hearing of appeals regarding the administration of the taxes imposed by this Code; appointed by the Quil Ceda Village Council but administering the Quil Ceda Village Tax Code in its capacity as a special administrative hearing agency.

SECTION 1.7 ASSESSMENT OF TAXES

- A. The taxes imposed by Part II of this Code are assessed for the respective period of time stated on the return filed by the taxpayer for the period.
- B. Provided, that the Village shall be authorized to assess taxes against the taxpayer and that such assessments are presumed to be correct:
 - (1) When it appears that a return filed, or a payment made, by a taxpayer does not correctly reflect the tax due under this ordinance, the Village shall assess the taxpayer for the deficiency, interest, penalties and cost.
 - (2) When no return has been filed, the Village is authorized to estimate the tax due and issue a binding notice of assessment of the tax, interest, penalties and costs. This assessment may be re-determined only through an appeal and upon a showing that it is clearly erroneous. If a taxpayer fails to provide information within his/her possession or control which is relevant to a determination of the value of a lease or of any taxes due, which is required to be provided under this Tax Code, and he/she is required to provide under this Chapter, the Village is authorized to proceed to determine the value or make an estimate of the tax due and issue a binding notice of assessment of the tax, interest, penalties and costs. The Village will make the estimate on the basis of the best information it finds readily available. This assessment shall be binding on the taxpayer unless it is

shown, that the estimate on the basis of the best information available to the Village, was clearly erroneous or unless the Village for other good cause shown relieves the taxpayer from the operation of this Section. Any taxes assessed shall become the liability of the taxpayer on the due date. If the taxpayer is a corporation, trust, or part thereof, then the corporation or trust shall be liable for the taxes. If the taxpayer is an association, joint venture, partnership, or a part thereof, then all of the associates, participants, or partners, both general and limited, shall be jointly and severally liable for the taxes. Subject to alteration by agreement between them, any associate, participant, or partner shall have the right of contribution from any associate, participant, or partner for its proportionate share of taxes paid and shall have a lien on the interest of any such other for said taxes paid.

SECTION 1.8 EXCEPTION - TULALIP TRIBES

Nothing in this Tax Code shall be construed as imposing a tax on the government of the Tulalip Tribes or any wholly owned subdivision or economic enterprise of the government of the Tulalip Tribes unless the governing body of the Tulalip Tribes permits such taxation pursuant to tribal law. Subdivisions or economic enterprises, which are partially owned by the government of the Tulalip Tribes, shall not be taxed with regards to the tribally owned portion of the subdivision or economic enterprise unless the governing body of the Tulalip Tribes permits such taxation pursuant to the tribal laws.

SECTION 1.9 RECORD KEEPING

- A. Every business as defined in Section 11.4A shall keep full and true records of the gross receipts for each period in accordance with regulations.
- B. In the case of a business which is part of a corporation, partnership, association, joint venture, trust, or part thereof, separate accounting records for that business must be maintained.
- C. Records required to be kept under this Section must be preserved for six years beyond the time payment of the tax is made, or if no payment is due, for six years beyond the end of the period to which the records relate.

SECTION 1.10 LIABILITY FOR TAXES

Taxes assessed are the liability of the taxpayers.

- A. Owners of a lease. Owners of an interest in a lease shall be jointly and severally liable for the taxes assessed with respect to the lease. The Village in its discretion may relieve one or more of them from personal liability if it determines that the taxes are adequately secured by the lease, the personal liability of the remaining owners, or any bond it may require to be posted.
- B. Part of another. If a taxpayer is a corporation or a trust or a part thereof, then the corporation or trust shall be liable for the taxes. If a taxpayer is an association, joint venture, or partnership, or a part thereof, then all associates, participants, or partners both general and limited, shall be jointly and severally liable for the taxes.

- B. Right of contribution. Subject to alteration by agreement between them, any owner, associate, participant, or partner shall have a right of contribution from any other owner, associate, participant, or partner for its proportional share of taxes paid.

SECTION 1.11 NO DISTINCTION

No provision in this Tax Code will be construed as imposing a tax which makes a distinction on the basis of whether the person on which the tax is imposed is a member of the Tulalip Tribes of the Washington or the taxable property or person is owned or controlled by a member of the Tulalip Tribes unless the governing body of the Tulalip Tribes permits such distinction pursuant to tribal law.

CHAPTER TWO VILLAGE TAX BOARD

SECTION 2.1 TAX BOARD ESTABLISHED

The Village Tax Board is established as a part of the Executive Branch of the Consolidated Borough of Quil Ceda Village. The Board shall consist of three members who shall be appointed to two-year terms by the Village Council of Quil Ceda Village. The Tax Board shall consist of at least one member formally trained in finance or accounting, and one member formally trained in law.

SECTION 2.2 CONDUCT OF TAX BOARD BUSINESS

The business of the Tax Board will be conducted by all of its members, at meetings duly called by its presiding officer.

- A. Quorum. A quorum shall be all members and any substantive action must be taken by the affirmative majority vote of all members.
- B. Delegation. The Board members may delegate specific duties among themselves.
- C. Resolution. Any design or substantive action of the Tax Board will be recorded in a written resolution certified by all the members.

CHAPTER THREE TAX REGULATIONS AND RULINGS

SECTION 3.1 ADOPTION OF REGULATIONS

The Village Council from time to time will adopt and promulgate regulations, in accordance with the rules in this Section and Section 3.2.

- A. Formal Adoption. Regulations will be adopted in a resolution by a majority vote of the Village Council.
- B. Manner of Amendment. Regulations will be amended in the same manner as they are adopted and promulgated.
- C. Proposed Regulations. See Section 3.3 regarding procedures for the proposal of regulations.

SECTION 3.2 PROMULGATION OF REGULATIONS

Following their adoption by the Village Council in accordance with § 3.1A, regulations will be promulgated according to these rules.

- A. Notice Required. Regulations will be effective only upon the publication of a notice in accordance with subsection B.
- B. Publication Defined. Publication means the publishing of a notice in the publication media used by the Quil Ceda Village for three consecutive publications and the sending of the notice by mail to designated individuals on the basis of a registration list which is reasonably current. The notice will identify or otherwise describe the subject regulations.
- C. Effective Dates. Tax regulations become effective thirty (30) days after the first publication of the notice or on the dates otherwise specified therein.
- D. Availability of Text. A copy of the regulations will be filed and made available for public inspection at the office of the Village General Manager and will be mailed to any person making a written request at that person's own expenses.

SECTION 3.3 PROPOSAL OF REGULATIONS

The Village Council may publish proposed regulations in order to provide interested parties an opportunity to comment. Notice of the proposal will be published and the text made available according to Section 3.2. The notice will invite written comments and give a deadline for their submission not less than thirty (30) days after the first publication of the notice. The Village Council may choose to hold a public hearing on regulations proposed. It will also announce the time and place at which oral testimony will be heard.

SECTION 3.4 PUBLIC RULINGS AND ADVICE

The Village Council, from time to time, may publish general rules, procedures, and advice for the information and guidance of taxpayers and, in preparation, may inquire of persons regarding relevant facts, comments and proposals, providing such persons a reasonable time for their submission. Notice of rulings and advice will be published and the text made available pursuant to Section 3.2.

SECTION 3.5 REQUESTS FOR PRIVATE RULINGS

In connection with determining obligations under this Tax Code, a taxpayer or his representative may request a Private Ruling.

- A. Authority. The Village Council has discretionary authority to issue declaratory rulings concerning the validity or application of the tax laws, the regulations, and other rules with respect to any property or person. This discretion will be exercised in light of all the relevant circumstances, including the business or other reasons that motivate the transaction or request, and with a view to issuing rulings to an extent consistent with the proper and efficient administration of the tax laws; except, that no ruling will be given in any matter already under examination or appeal.
- B. Form of Request. The request must be made in writing to the office of the Village General Manager. It must state with particularity the ruling sought, and must contain a full statement of the facts relied upon, together with any information and documents

- necessary to present those facts.
- C. Effect. Private rulings are binding on the Village Council with respect to the facts and issues presented and ruled upon, but only as to the subject property or the person requesting the ruling.

SECTION 3.6 RULES OF APPEALS PROCEDURES

In addition to the general rules and procedures provided in this Chapter, the Village Council may establish rules of procedures for the conduct of administrative hearings and appeal proceedings in an effective manner comporting with the requirements of due process.

SECTION 3.7 COLLECTION PROCEDURES

In addition to the general rules and procedures provided in this Chapter, the Commission may establish guidelines and procedures for the exercise of its power to attach and seize assets and the performance of its other collection duties in an effective manner comporting with the requirements of due process.

SECTION 3.8 EXAMINATION OF BOOKS AND WITNESSES

In addition to the general rules and procedures provided in this Chapter, the Village Council may establish guidelines and procedures for the exercise of its investigative authority and the conduct of inspections, examinations, and field and office audits.

CHAPTER FOUR GENERAL RULES AND PROCEDURES

SECTION 4.1 ASSISTANCE AGREEMENTS

The Village Council is authorized to negotiate mutual assessment and collection assistance agreements with any other tax jurisdiction. The agreements so negotiated will come into effect only upon ratification by the Quil Ceda Village Council.

SECTION 4.2 ABATEMENT AUTHORITY

- A. General Rule. In response to a written request but before any court acquires jurisdiction in the matter, or at any time when an assessment is found to be incorrect, the Village Council may abate any part of an assessment which-
- (1) is excessive in amount, or
 - (2) is assessed after the expiration of the period of limitation properly applicable thereto, or
 - (3) is erroneously or illegally assessed.
- B. Form of Request. The request for abatement must be made in writing to the office of the Village General Manager, state the abatement sought, and must contain a complete statement of the facts relied upon, together with any information and documents necessary to present those facts.
- C. Compromise. Upon compromise of a liability and according to the terms of the closing agreement formalizing the compromise, the Village Council shall cause the abatement of

the appropriate amount of the assessment.

- D. Public Record. Abatements in excess of \$1,000 will be recorded in the office of the Village General Manager in a form available for public inspection. The record shall be maintained for a minimum of six (6) years after the date of abatement.

SECTION 4.3 CLOSING AGREEMENTS

- A. If, at any time after a final assessment of taxes, the Village Council in good faith is in doubt of the liability of the taxpayer for the payment thereof, it may compromise the liability by entering into a closing agreement with the taxpayer that adequately protects the interests of the Village, provided that such agreement shall be subject to approval by the Tribal Attorney of the Tulalip Tribes.
- B. If entered into a closing agreement after any court acquires jurisdiction of the matter, a closing agreement shall be part of a stipulated order or judgment disposing of the case.
- C. As a condition for entering into a closing agreement, the Village Council may require the provision of security for payment of any taxes due according to the terms of the agreement.
- D. A closing agreement is conclusive as to the liability or non-liability for payment of taxes relating to the periods referred to in the agreement, except upon a showing of fraud, malfeasance, or misrepresentation or concealment of material fact.

SECTION 4.4 CONFIDENTIALITY RULE

Information received by the Village Council is protected under the following disclosure rules.

- A. Public Information. Nothing in this Chapter is intended to prevent the publication or disclosure of the names and addresses of registered taxpayers or general information which is otherwise in the public record or generally available to the public upon the making of a reasonable inquiry.
- B. Non-Disclosure. Information supplied by a person in response to a request, or included in any return or form required to be filed under this or any other Chapters, or obtained in the course of an examination, shall not be disclosed to third parties without the consent of the person.
- C. Lawful Exceptions. It shall be unlawful for an employee or former employee of the Village Council to reveal to any individual other than a member or employee or legal counsel of the Tulalip Tribes or the Village Council, any information contained in the return of any taxpayer or any other information about any taxpayer acquired as a result of his or her membership of or employment by the Village Council, except:
- (1) To an authorized representative of the taxpayer.
 - (2) To an employee of the Quil Ceda Village Council authorized to obtain such information for use in connection with the government function of said employee, provided that it shall be unlawful for the employee to reveal said information except as permitted in this Chapter.
 - (3) To an employee of the government of the Tulalip Tribes or a member of the Tulalip Tribes' Board of Directors authorized by to obtain information for use in connection with the governmental function of said employee or Board member,

provided that it shall be unlawful for the employee or Board member to reveal said information except as permitted in this Chapter.

- (4) To an authorized representative of an Indian tribe other than the Tulalip Tribes or a state, provided that the particular tribe or state has entered into a written agreement with the Village Council to use the information for tax purposes only.
 - (5) To an authorized representative of a federal agency according to the terms of a reciprocal agreement for the exchange of information.
 - (6) In any administrative or judicial proceeding to enforce any act or collect taxes or in any matter in which the taxpayer has put his own liability for taxes at issue.
 - (7) In compliance with an order of any court of competent jurisdiction in which the information sought is material to the inquiry.
 - (8) In recording tax liens on the property or lease of the taxpayer or collecting taxes by levy upon the property or rights to property of a taxpayers.
 - (9) In a statistical release that does not identify a specific taxpayer or otherwise disclose information therein as being applicable to a single taxpayer.
 - (10) To the extent of revealing whether a taxpayer has made a delegation and whether a person is a delegate.
 - (11) To the extent of revealing the amount and basis of unpaid taxes to the buyer or an intended buyer of the property or business of the taxpayer.
- D. Contractor. For the purposes of this Chapter, an "employee" includes any person whose services the Village Council has engaged, provided that such person agrees under contract to be bound by the provisions of this Chapter, and may include any contractor with the Consolidated Borough of Quil Ceda Village who enters in writing into a binding agreement with the Village Council.
- E. Fine or Penalty. Any Village or tribal employee or Board member or legal counsel who violates any of the provisions of this Chapter shall be subject to a fine of \$500, or suspension for 30 days, or both.
- F. Compliance. The Commission may further restrict the disclosure of information by regulations and will establish procedures for compliance with this Chapter.

SECTION 4.5 EXAMINATION AND SUMMONS

- A. Examination. For the purpose of an assessment or for the purpose of determining the correctness of any return or form, or the liability of any person for taxes, or the liability in law or in equity of any transferee or fiduciary of any person for taxes, or collecting any liability, or if any person fails or refuses to file any return within the time period set forth in this Tax Code or to make available for examination any records required by this Tax Code, the Village Council may proceed, in such manner as it may deem best, to obtain facts and information on which to base its estimate of the tax due and payable, including but not limited to the examination of the books, records, and papers of any such person and may take evidence, on oath, of any person, relating to the subject of the inquiry.
- B. Summons. As a means to accomplishing the foregoing, the Village Council is hereby

vested with the power to issue subpoenas, pursuant to regulations comporting with due process, and to summons, pursuant to regulations comporting with due process, the person liable for the tax or required to perform the act, or any officer or employee or agent of the person, or any person having possession, custody or care of the books of account containing entries relating to the business of the person liable for tax or required to perform the act, or any other person the Village Council may deem proper to appear before the Village Council at the time and place named in the summons and to produce such books, records, and papers, and to give such testimony, on oath, as may be relevant or material to the inquiry.

SECTION 4.6 OATHS AND AFFIRMATIONS

Any agent or employee designated by the Village Council for that purpose is authorized to administer oaths or affirmations and to certify such papers as may be necessary under this Chapter.

SECTION 4.7 EXEMPTION REQUIREMENTS

The Village Council may require any person who has not designated an individual pursuant to Section 5.10 to file an affirmative statement of exempt status. With respect to any assessment date or period for which a return is not filed, the Village Council may require a person to file an affirmative declaration that it meets the exceptions from filing, together with a statement of the amount of any excluded gross receipts and the facts on which the claim of exclusion is based. Upon written request and within a reasonable time allowed, the person must file the statement or declaration required. Failure to comply is subject to the penalties provided.

SECTION 4.8 NOTICE DEEMED EFFECTIVE

- A. Any notice or order required by this or other Chapters to be mailed to any taxpayer may be sent by ordinary mail, special delivery mail, personal delivery mail or other similar delivery mail, at the discretion of the Village Council, to the address of the taxpayer as shown by the records of the Village Council. If no such address is shown by the records, mailing shall be to such address as the Village Council is able to ascertain by reasonable effort. Failure of the taxpayer to receive such notice or order, however mailed, shall not release the taxpayer from any obligation for any tax, increase, penalties, or interest thereon. Public notice of a lien will be effective as to all property and rights to property of a taxpayer, business or person, if the lien is first duly recorded on the taxpayer's property.
- B. The Village Council is authorized, but not required, to mail to taxpayers forms for certificates of registration and tax returns; however, failure of the taxpayer to receive any such forms shall not excuse the taxpayer from making application for and securing the certificate of registration required, filing returns, and making payment of the tax, when and as otherwise due and payable.

SECTION 4.9 SERVICE AND ENFORCEMENT

Summonses will be served and enforced according to the following provisions.

- A. Service of Summons. The Village Council will serve a summons by an attested copy delivered by certified mail or in hand to the person to whom it is directed, or leave them at the person's last or usual place of abode or business. The certificate of service signed by the person serving the summons will be evidence of the facts stated therein on the hearing of an application for the enforcement of the summons. When the summons requires the production of books, records, papers, and other data, it will be sufficient if these items are described with a reasonable certainty.
- B. Enforcement of Summons. Whenever a person summoned, neglects or refuses to obey the summons, or to produce books, records, papers, and other data, or to give testimony as required, the Village Council may impose the sanctions provided by this Tax Code and may further apply to the Tax Court for such order as it deems proper and consistent with the respective law effective within the exterior boundaries of the Tulalip Indian Reservation for punishment of contempt, to enforce obedience to the requirements of the summons and to punish the person for his default or disobedience.

CHAPTER FIVE FILING AND PAYMENT REQUIREMENTS

SECTION 5.1 GENERAL INFORMATION AUTHORITY

The Village Council, to the extent it deems practical, will inquire after and concerning all persons owning or having the care and management of any property with respect to which any tax is imposed and all persons who may be liable for any tax due to the Consolidated Borough of Quil Ceda Village.

SECTION 5.2 INFORMATION REQUIRED BY REQUEST

The Village Council may require of any and all persons owning interests in a lease, sublease, or any interest in land or building granted by the Tulalip Tribes or the Consolidated Borough of Quil Ceda Village who are engaged in business or other activity within the Consolidated Borough of Quil Ceda Village, or are otherwise subject to its jurisdiction, such information as the Commission may deem relevant and material. Upon a written request and after an adequate opportunity to comply, those persons must provide the information required. Failure to comply with a request for information is subject to the penalties provided in this and other Chapters.

SECTION 5.3 INFORMATION INCLUDED IN RETURNS

Forms to be filed pursuant to this Chapter will be provided by the Village Council, and the information to be included in or filed with the forms will be prescribed in instructions and regulations. Any filing may be prepared on a clear copy of the official form.

- A. General. A form will clearly identify the tax and the assessment date or period (if any) and provide for the name of the taxpayer for which it is filed, the calculation of the base on which tax (if any) is computed, and the disclosure of methods underlying the calculation.
- B. Additional Information. Additional information may be required, sufficient to establish the qualification for any exclusion or deduction claimed in the base, or to disclose the

- details of transactions.
- C. Supplemental Material. Supplemental documents may be required. Statements filed with any federal, state, or local authority, which contain information substantially similar to that required herein, may be attached to the form to clarify or support an entry, to disclose a method, to establish a qualification, to provide detail, or as otherwise appropriate. Such statements and other materials must be clearly identified, be referenced to the corresponding entry on the form, and be reconciled to the information therein.
 - D. Attachments. Any additional information, supplemental material, or other attachment filed with a form is deemed a part of the form itself.
 - E. Signature. Any return, form, or other document, which is required to be made or filed under this Chapter, must be signed and verified by a written declaration made under the penalties set forth in Sections 6.3 and 6.6.

SECTION 5.4 TAXES - REPORTING PERIODS - WHEN DUE AND PAYABLE

Taxpayers and other persons filing returns and making payments under this Chapter must comply with the following requirements:

- A. Place and Address. All filings and payments must be delivered to the office of the Village Council or be mailed to: Quil Ceda Village Council, Quil Ceda Village, 8802 27th Avenue N.E., Tulalip, WA 98271-9907.
- B. Identification. Any payment must be clearly marked with the identification of the taxpayer, the return or other form, the assessment date or period, and the kind of liability for which the payment is being made.
- C. The Payee. The check or other remittance must be made payable to the order of the Village of Quil Ceda.
- D. Reporting Period. A taxpayer subject to the provisions of this Tax Code shall report on a monthly, quarterly, or annual basis, as the case may be, in accordance with a formula determined by the Village Council. The General Manager shall notify the taxpayer of such determination. The General Manager may for good cause shown, extend the time for making and filing any return for such reasonable additional time, as he/she deems appropriate under the circumstances. This extension does not affect the imposition of penalties and interest.
- E. When Due and Payable. Any tax imposed pursuant to this and other Chapters and any reports and returns required to be filed by the taxpayer shall be due and payable on or before the last day of the month next succeeding the end of the reporting period covered by the return. The following rules will apply in the determination of dates and time:
 - 1. Due Dates. Due dates are those stated in the Tax Code or specified in instructions, forms and notices of the Village Council. If a due date falls on a Saturday, Sunday, or a legal holiday, then the due date will become the next working day.
 - 2. Action by Mail. When a taxpayer elects to act by mail rather than another manner of delivery, the date of the action is determined by the postmark. For instance, mail postmarked by midnight of the date due is timely made and is deemed made as of that day. If self-metered mail is received within five days, the metered date is deemed to be the postmark.

3. Computation of Interval. In computing an interval of time and determining the day on which a period of time ends and action is due, the first day is not counted and the actual days - including Saturdays, Sundays and holidays - elapsed are counted.
- F. Exemption from Reporting and Filing Requirements. Any taxpayer, who is exempt from tax pursuant to this and other Chapters for the tax year, shall be exempt from the tax filing requirements established in this Section. This exemption shall not be construed to exempt a taxpayer from filing any other taxes or fees that may be due. It shall be the responsibility of the taxpayer to notify the Commission if he/she no longer meets the filing exemption set forth in this Section. A penalty of twenty-five percent (25%) of the tax due shall be added if it is determined that a taxpayer did not fall under the exemption thresholds set forth in Section 16.12A and failed to file pursuant to that Section.
- G. Accounting Methods. A taxpayer may file tax returns in each reporting period with figures based upon cash receipts only if the taxpayer's books of account are regularly kept on a cash receipts basis. A taxpayer who does not regularly keep books of account on a cash receipts basis must file returns with figures based on the actual accrual method.
- H. Payment of Tax. Payment of any tax, interest, penalties or costs may be made by legal tender under such procedures as the Village Council may prescribe, but if such form of legal tender so received is not paid by the bank on which it is drawn, the taxpayer shall remain liable for payment of the tax and for all interest, penalties, fees and costs the same as if such payment had not been tendered. A return or remittance, which is transmitted to the Village Council by United States mail shall be deemed filed or received on the date shown by the post office cancellation mark stamped upon the envelope containing it. All returns must be accompanied by a remittance of the tax shown to be due thereon. The Village Council may refuse to accept any return, which is not accompanied by a remittance of the tax shown to be due thereon. When a return is not accepted because it is not accompanied by a remittance, the taxpayer shall be deemed to have failed or refused to file a return and shall be subject to the procedures provided in Sections 6.1, 6.4 and 6.5 and to the imposition of interest pursuant to Section 5.8. The Village Council shall keep full and accurate records of all funds received and disbursed by it. If a taxpayer is subject to interest and/or penalties imposed pursuant to Section 5.8 and/or Chapter 6 or is subject to a partial payment agreement, the Village Council shall apply any payment remitted by the taxpayer for previous amounts due first to costs and fees, then to penalties, then to interest, and then upon the current tax due, without regard to any direction of the taxpayer. The Village Council will then issue to the taxpayer a notice of assessment for any unpaid tax or interest.

SECTION 5.5 PAYMENT OF TAX

Payment of taxes is due at the time the return is due. The Village Council, however, may require payment of tax on a monthly basis in appropriate cases.

SECTION 5.6 EXTENSION OF TIME FOR FILING AND PAYMENT

A taxpayer may file a written request for a one-month extension of the time for filing a return,

and for any payment due with the return, subject to the requirements of the following subsections.

- A. Manner and Time of Request. The request must identify the taxpayer, the return, and the assessment date or period and include a statement of cause, and must be filed at the place and by the time prescribed for the filing of the return.
- B. Effect of Extension. The time for filing the return will be automatically extended for one month. The extension of the time for filing will also constitute an extension of time for payment, unless expressly denied by the Village Council. The Village Council may, in its discretion, condition such an extension on the payment of an estimated tax or the posting of an estimated tax or the posting of a bond or provision of other security.
- C. Additional Extension. In its discretion and for good cause shown, the Village Council may grant additional extensions of time of up to three months, on the basis of a similar written request filed before an extended due date. The Village Council may require the payment of an estimated amount of tax or condition the grant of an extension of time to pay on the posting of a bond or provision of other security or the creation of a lien.
- D. Property Taxes. No extension of time will be granted for any **possessory** tax installment, except as provided in Section 7.3; see also Sections 7.13, 7.14 and 9.5 regarding a stay of payment.

SECTION 5.7 RULES FOR LIABILITIES OVER \$ 100,000

If the tax due with the return or on a specified date is more than one-hundred thousand dollars (\$100,000), the payment must be received by the office of the General Manager not later than the due date and the rule in Section 5.4E.2 regarding self-metered mail does not apply. A taxpayer may remit by wire or other direct bank transfer according to the instructions of the Village Council.

SECTION 5.8 DELINQUENT TAX RETURNS - LATE PAYMENT - INTEREST IMPOSED

Interest shall be imposed on any unpaid amount of tax from the date the payment was due, without regard to any extension of the time or stay of payment, to the date payment is received. Interest on penalties shall accrue from and after the date the penalty is assessed. Interest will be compounded yearly. The annual rate of interest will be the highest rate presently in use by the Internal Revenue Service for similar unpaid tax amounts , plus two percent (2%).

SECTION 5.9 LIMITATION ON ASSESSMENTS - EXCEPTIONS

- A. No assessment or correction of an assessment for additional taxes due may be made by the Village Council more than four years after the close of the applicable tax year; except
 1. against a taxpayer who has not registered as required by this Chapter;
 2. upon a showing of fraud or of deliberate misrepresentation of a material fact by the taxpayer;
 3. where a taxpayer has executed a written waiver of such limitation.
- B. In the case of any unregistered taxpayer who voluntarily registers and in good faith attempts to report and pay all taxes due, the Village Council shall assess taxes and

interest for a period not to exceed four years plus the current year, but it may not assess penalties for late payment so long as there is no evidence of an intent to evade tax. In the event any unregistered taxpayer doing business in the Consolidated Borough of Quil Ceda Village does not register voluntarily within thirty (30) days of notification by the Village Council, the Village Council shall assess all taxes due plus applicable interest and penalties for a period not to exceed seven years plus the current year in which the discovery is made.

- C. In no case shall the limitations set forth in this Section apply if a registered taxpayer, notified by the Village Council of any delinquencies or nonpayment, fails to file a tax return.

SECTION 5.10 DESIGNATION OF INDIVIDUAL

Each business, as defined in Section 11.4A, must designate and provide the mailing address of a natural person for the purposes of notice. The Village Council may by regulation impose requirements as to the individuals who shall be designated under this subsection, and may require information or documentation it deems necessary for the proper and efficient administration of any tax to be provided with the designation.

- A. More than One Tax. A taxpayer obligated to designate under more than one Chapter must designate a single individual as the designee for all such Chapters.
- B. Joint or Common Undertakings. Participants in a joint or common undertaking, regardless of their ownership or agreements or the form of their organization, must designate one individual, and if one participant is the operating agent or charged with the management of the undertaking, the designation must be made by that participant.
- C. Additional Individuals. A taxpayer may also name a few other individuals, not for the purpose of notice but for information, to receive the tax publications of the Village Council. The office of the Executive Director will keep a reasonably current list and will be diligent in mailing to such individuals notices, regulations, rulings, instructions, and other information in a timely manner.

SECTION 5.11 REGISTRATION REQUIRED - CERTIFICATES

- A. Any person who engages in any business or performs any act which is subject to the provisions of this Tax Code, even if such person is not subject to any tax imposed thereby, shall apply under such rules and regulations as the Village Council may prescribe and, upon approval, receive from the Commission a registration certificate applicable to all such business engaged in or activity performed. A registration fee of \$50.00 shall be due at the time of filing of the application. Such registration certificate shall be personal and nontransferable and shall be valid as long as the taxpayer continues in such business and pays any tax imposed by the Consolidated Borough of Quil Ceda Village.
- B. The registration fee shall be administratively adjusted by the General Manager on January 1st of each year, beginning on January 1st of 2004, in an amount equal to the cost of living adjustment under Section 1.3F applicable for that year. The amount of the registration fee so calculated shall be rounded to the nearest \$1.00.

- C. In the event business is transacted at two or more separate places by one taxpayer, a separate registration certificate for each place at which business is transacted shall be required. Such additional certificates shall be issued at no additional fee. Where a taxpayer changes the nature of business conducted or conducts additional activities upon which a tax is imposed by Part II of this Tax Code, such taxpayer shall apply for and receive a new registration certificate at no additional fee.
- D. Each registration certificate shall be numbered and shall show the name, business location, mailing address and such other information as the Village Council deems necessary. The certificate of registration shall be posted in a conspicuous place at the place of business for which it is issued.
- E. Where a place of business of the taxpayer is changed, the taxpayer shall notify the Village Council and upon approval a new certificate will be issued free of charge for the new place of business.
- F. No person shall engage in any business without being registered in compliance with the provisions of this Section.
- G. If the Village Manager has determined that a registrant has ceased to do business within the Consolidated Borough of Quil Ceda Village, the Village Council may cancel the registrant's certificate of registration.

CHAPTER SIX NONCOMPLIANCE PENALTIES

CHAPTER 6.1 PENALTIES FOR FAILURE TO FILE

If a taxpayer fails to file a return by the time due, a penalty of ten percent (10%) of the tax due for the assessment date or period, but not less than \$100, will be assessed against the taxpayer.

- A. Additional Penalty. An additional penalty of one percent (1%) of the tax due, but not less than \$100, will be assessed for each full month the return is overdue. The additional penalty will not, except as to the minimum amounts, exceed twenty-four percent (24%) of the tax.
- B. Extended Return. A return filed on or before an extended date for filing is timely filed.

CHAPTER 6.2 PENALTIES FOR FAILURE TO PAY

A taxpayer failing to pay an amount of tax by the time due will be assessed a penalty of five percent (5%) of the amount of the underpayment.

- A. Additional Penalty. An additional penalty will be assessed of one-half percent ($\frac{1}{2}$ %) of the underpayment for each full month payment is overdue, but not to exceed thirty-six percent (36%) of the underpayment.
- B. Extended Due Date. An amount paid on or before an extended date for payment is timely paid.

CHAPTER 6.3 PENALTIES FOR ATTEMPT TO EVADE OR DEFEAT TAX

A taxpayer who is under-assessed by reason of incomplete or incorrect information provided, or any taxpayer who understates tax imposed, through negligence or intentional disregard of the

rules and regulations (but without the intent to defraud), will be assessed a penalty of \$250, plus twenty-five percent (25%) of the underpayment of tax.

- A. Fraud Penalty. If any part of an under-assessment or understatement of tax is shown to be due to fraud, a taxpayer will be assessed a penalty of \$500, plus fifty percent (50%) of the underpayment of tax.
- B. Party of Fraud. Any person who assists a taxpayer in the fraud will be subject to a penalty of \$500, plus twenty-five percent (25%) of the underpayment of the tax.

Any liability arising under this Section shall be assessed and collected as a tax imposed by this Tax Code.

CHAPTER 6.4 CHARGES FOR ADMINISTRATIVE COSTS

A taxpayer failing to pay any taxes at the time due may be charged for extraordinary administrative costs incurred in collecting the unpaid amount, including attorney fees and other costs of collection outside the jurisdiction of the Consolidated Borough of Quil Ceda Village. These charges will be assessed unless the Village Council for good cause shown, relieves the taxpayer from the operation of this Section.

- A. Costs. Costs will be limited to direct costs and the out-of-pocket expenses incurred in collection efforts beyond the ordinary office functions, duties, and notices for collecting taxes, and the usual legal expenses for obtaining local court judgments.
- B. Cause. A mere mistake, the absence of negligence or of intentional disregard of the regulations, or the presence of substantial issues of interpretation, especially in the case of a deficiency arising upon examination of a return which was timely filed, and all surrounding facts and circumstances, including the pattern of compliance of the taxpayer, may be given due weight in determining good cause.
- C. Notice. Upon determining any charges for costs, the Village Council will issue a notice of assessment to the taxpayer.

CHAPTER 6.5 FAILURE TO COMPLY WITH CHAPTER

Any taxpayer obligated to pay taxes pursuant to this or other Chapters, to designate an individual, to file a return, to provide information or documents or to allow access to equipment within its possession or control, to furnish a surety bond or other security, or to comply with the lawful orders of the Village Council, and failing to do the same in accordance with the provisions of this or other Chapters and any regulations issued pursuant thereto, may have its rights to engage in productive activity within all or some parts of the Consolidated Borough of the Quil Ceda Village suspended, until compliance is made or for such short a time as the Village Council may provide. The Village Council is empowered to order such suspension, provided that it shall first give the person to be suspended notice and an opportunity to be heard pursuant to Section 6.7, and that any suspension may be appealed pursuant to Section 9.6.

CHAPTER 6.6 INTERFERENCE WITH ADMINISTRATION

- A. It shall be unlawful for any person, forcibly, or by bribe, threat or any corrupt practice, to obstruct or impede the due administration of any tax.

- B. It shall be unlawful for any person willfully to fail to comply with any subpoena duly issued pursuant to Section 4.5B.
- C. It shall be unlawful for any person to commit fraud, or knowingly to assist another in the commission of fraud, with the intent to evade or defeat the assessment of collection of any taxes imposed by this Tax Code.
- D. It shall be unlawful for any person with knowledge and intent to falsely verify by written declaration any return or document.
- E. It shall be unlawful for any person to remove from the jurisdiction of the Village any property on which there is a lien for taxes, which is effective against that person pursuant to Section 7.5.
- F. It shall be unlawful for any person in possession of or obligated with respect to property or rights to property which have been levied upon, to fail to surrender such property or property rights or to discharge such obligation upon demand by the Commission therefore, except as to any part of the property or rights as is, at the time of the demand, subject to an attachment or execution under any judicial process.
- G. Indian Violator. Any member of the Tulalip Tribes who violates any of the provisions of this or other Sections shall be guilty of an offense and, upon conviction, shall be sentenced to a term of imprisonment of not more than 180 days, or to pay a fine not to exceed \$5,000.00, or both.
- H. Non-Member Exclusion. Any non-member of the Tulalip Tribes who violates any of the provisions of this or other Sections may be excluded from the lands of the Tulalip Indian Reservation subject to the jurisdiction of the Tulalip Tribes in accordance with the procedures set forth in Chapters Five to Ten of the Exclusion Ordinance No.71 of the Tulalip Tribal Code.
- II. Suspension. Any person who violates any provision of this or other Sections, or whose employee or agents in the course of their employment or agency violate any provision of this Section, may have its rights to engage in productive activity within all or some of the Tulalip Indian Reservation suspended, either temporarily or permanently.

CHAPTER 6.7 SUSPENSION AND FRAUD PROCEEDINGS

Suspensions and the money penalties for negligence and fraud will be imposed only by resolution of the Village Council and upon a notice sent to the taxpayer or other person which provides a time, not less than fourteen (14) days after the date of the notice, when the person may appear before a hearing officer to show cause why suspension or penalty should not be imposed. The officer will issue findings of fact and a recommendation and submit them and the hearing record to the Village Council. Enforcement or collection is stayed until the conclusion of the appeal to the Tax Board.

CHAPTER SEVEN ASSESSMENT, LIENS, REFUNDS AND STAY OF PAYMENTS

SECTION 7.1 ASSESSMENT POWERS

The Commission is empowered to determine and assert against a taxpayer liability for tax,

interest, penalties or costs in the following circumstances.

SECTION 7.2 EXAMINATION PROCEDURE

Upon completion of the examination of a taxpayer, the Village Council will provide the taxpayer with a written statement of findings for any determination which alters a liability for tax, interest, penalties or costs, and will issue a notice of assessment (or refund) for any amounts due (or overpayment). If no such determination is made, the Village Council may issue a letter stating that there is no change for the assessment date or period examined.

SECTION 7.3 NOTICE REQUIREMENTS

A notice of assessment (or refund) will require the payment of the amount assessed (or remittance of the refund) by a time not less than sixty (60) days after the date of the notice. The taxpayer must comply with the terms of the notice and, within the time allowed in the notice, may request a re-determination under Section 1.4B.2. Within the same time, a taxpayer may also seek an informal conference under Section 7.12.

- A. Occasions for Notice. A notice of assessment may arise from an initial assessment of tax, from an estimate of the tax due when a required return has not been filed, from a deficiency in the amount of tax reported or paid determined upon examination of a declaration, or from an application of interest, penalties, or charges for costs.
- B. Assessments binding. These assessments are binding on the taxpayer according to the terms of the notice.
- C. Overpayment. When it appears that a taxpayer has made an overpayment, the Village Council will issue a notice to determine and remit a refund.

SECTION 7.4 SECURITY FOR PAYMENT

Whenever necessary to secure payment of any taxes due or reasonably expected to become due, the Village Council is authorized to require the taxpayer to furnish an acceptable surety bond in an appropriate amount, payable to the Village Council and conditioned upon the payment of the taxes therein identified no later than the date on which the liability becomes conclusive, or to furnish other acceptable security in an appropriate amount, and to require the taxpayer to furnish additional security as it becomes necessary.

SECTION 7.5 LIENS

- A. When a person fails to pay taxes due, after demand by the Village Council, the amount shall be a lien in favor of the Village against all property and property rights of those liable under Section 11.5.
- B. The lien shall arise at the time the demand is made, shall attach to all property then owned and thereafter acquired, and shall continue until the amount of the lien is satisfied or released.
- C. The lien shall not be effective until it is recorded on the taxpayer's property in a form available for inspection by the public.
- D. Provided, that with respect to a return filed, a lien shall arise for any unpaid taxes at the time of filing without further demand, and further provided that, if a lien is required as a

condition for granting an extension or stay of payment, such lien shall arise according to the terms of the extension or stay.

- E. The Village Council may by regulation exempt certain property from the operation of the lien created by this Section.

SECTION 7.6 FORECLOSURE OF LIEN

- A. The Village Council may foreclose upon any or all items of property rights or property subject to a lien for taxes by a levy upon the same and, where such property does not consist of money, converting the same into money by any appropriate means including the sale thereof or placing the operation under receivership of the business in which the property is used; provided, that the Village Council may by regulation prescribe the circumstances in which property or rights to property subject to a lien may be retained to offset the amount due, rather than being converted into money.
- B. The Village Council, by regulation, may provide for the redemption of property levied upon, within time limits and terms specified.
- C. The effect of a levy upon any person for obligations due or payable to any business or persons liable under Section 11.5, shall be continuous from the date the levy is first made until the liability out of which the levy arose is satisfied.
- D. Any person in possession of or obligated with respect to property or rights to property upon which a levy has been made who, upon demand by the Village Council, surrenders such property to the Village Council, shall be discharged from any obligation or liability to the business or persons liable under Section 11.5, whose property or rights to property were levied upon.
- E. The Village Council shall carry out the provisions of this Section under regulations complying with due process, and no court proceedings shall be required in order for it to do so.
- F. Proceedings for the sale of property, in compliance with the regulations, shall be effective to transfer to the purchaser all right, title, and interest therein of the business or person whose property or rights to property were levied upon. Provided, that where required by federal law the sale of property shall not be final without the approval of the Secretary of the Interior.
- G. The Village Council may delegate and empower persons to carry out the procedures of this Section, including officers of the Tulalip Tribes' Police Department, who shall render assistance in this regard on request by the Village Council.

SECTION 7.7 APPLICATION OF PROCEEDS

- A. Money levied upon by the Village Council or realized from property or rights to property levied upon, shall be applied first to the expenses of the levy proceedings for the conversion of property, and then to the liability of costs, penalties, interests, and tax, in that order.
- B. The balance, if any, shall be remitted to the person or persons who have claimed and proven a legal entitlement thereto, provided that the **commission** may set time limits or other reasonable conditions on making and improving of such claims.

SECTION 7.8 RELEASE OF LIEN

- A. Payment of the entire liability of the business on account of whose liability the lien arose, shall operate to release the lien.
- B. The payment of any part of the liability shall operate to reduce the amount of the lien by the amount paid.
- C. Where a lien has been recorded and the Village Council thereafter receives all or part of the taxes, interest, penalties and costs giving rise to the lien, the Village Council will immediately cause a notation of the complete or partial release of the lien to be made in the record.
- D. The Village Council may in its discretion, release liens on certain property without payment of all outstanding liabilities, for good cause and where the interest of the Village are adequately protected by any other form of security.

SECTION 7.9 INTERFERENCE WITH FORECLOSURE

- A. It shall be unlawful for any person to remove from the jurisdiction of the Village any property on which there is a lien for taxes, interest, costs or penalties, which is effective against that person pursuant to this Chapter.
- B. It shall be unlawful for any person in possession of or obligated with respect to property or rights to property which have been levied upon, to fail to surrender such property rights or to discharge such obligation upon demand by the Village Council therefore, except as to any part of the property or rights as is, at the time of the demand, subject to an attachment or execution under any judicial process.
- C. Any person violating provisions of this Section shall be personally liable for the value of the property removed or rendered, or for the amount of the obligation not discharged, not exceeding the amount for which the levy be made. Any liability arising under this Section shall be assessed and collected as a tax imposed by this Tax Code.

SECTION 7.10 LIABILITY OF SUCCESSOR AND TRANSFER OF BUSINESS

- A. Whenever any taxpayer quits business, or sells out, exchanges, or otherwise completely disposes of his business or his stock of goods to another person, any tax, interest, penalty or costs payable by such taxpayer shall become immediately due and payable. Any person who becomes a successor to such a taxpayer shall be liable for the full amount of the tax, interest, penalties and costs due and owing by the taxpayer if such tax, interest, penalty or costs have not been paid by the taxpayer. The successor's liability shall be limited to the purchase price or the fair market value of the business purchased if no cash transaction took place. If a person buys substantially all of the assets of a business, that person shall withhold from the purchase price and pay to the Village Council the amount of taxes, interest, penalties or costs due on account of the activities prior to the purchase.
- B. Any successor failing to withhold the amount of taxes, interest, penalties or costs due, shall be personally liable upon the value of all the property acquired. Any liability arising under this Section shall be assessed and collected as a tax imposed by this Tax Code.
- C. No successor shall be liable for any tax, interest, penalties or costs due from the taxpayer from whom the successor has acquired a business or stock of goods if the successor gives

written notice to the Village Council of such acquisition and no assessment is issued by the Village Council within 30 (thirty) days after the business's records are made available for audit. Thereafter, the successor shall not be personally liable under this Section for any taxes, interest, penalties or costs in excess of the amount stated in the assessment, if any, or for any such taxes, interest, penalties or costs if no assessment is made within the time required. Nothing in this Section is intended nor shall it be construed to prohibit the successor from engaging in business in the Village pending resolution of the successor's liability in accordance with the appeal procedures set forth in Chapter 9.

- D. No consent to the assignment or transfer of any lease or other rights to engage in productive activity within the Village shall be granted by the Quil Ceda Village Council unless the **Commission** first certifies that taxes, interest, penalties and costs arising from said activity have been paid, or that payments have been adequately secured.

SECTION 7.11 PROCEDURE FOR REFUNDS

- A. If, upon a receipt of a request by a taxpayer for a refund of an overpayment, or on the occasion of an audit of the taxpayer's records, or upon an examination of the returns or records of any taxpayer, it is determined by the Village Council, that within a four-year period after the close of the applicable tax year, any tax, interest, penalties or costs have been paid in excess of the amount properly due, the excess amount paid within such period shall be credited to the taxpayer's account or shall be refunded to the taxpayer, at the taxpayer's option.
- B. Any taxpayer, who has made an overpayment, may within one year after the overpayment was made, file a written claim for refund with the Village Council, except that no claim for refund need be filed if the basis therefore has already been established under an abatement or asserted in an appeal under Chapter 9, and provided, that an issue determined in such an appeal may not be reopened by filing a claim for refund.
- C. The Village Council will issue a notice to determine and remit a refund. Interest shall be added to any refund allowed from the date the excess amount has been paid to the date the overpayment is refunded. The interest will be computed at the lowest rate presently in use by the Internal Revenue Service, less two percent (2%).
- D. If any overpayment arises from an action of a tribal, federal or state agency, or any court other than in an appeal under Chapter 9, wherein the action changes the factual basis upon which the tax was determined and paid, the time for filing a claim for refund will be one year from the date of such action.
- E. The Village Council may provide for a refund or credit where taxes paid for one period thereafter require adjustment on account of another tax for a concurrent period, which is later determined or paid.
- F. A claim may take the form of an amended return for the period for which the overpayment was made. The return must contain clear statement of the amount of the refund being claimed and the facts or other basis for determining an overpayment.
- G. For some overpayment, through mathematical error or other mistake, or a verifiable change of facts, such as under paragraph D, a taxpayer may offset against the tax due for a current period. Forms to support and calculate such an offset will be provided and must

accompany the return, together with a statement of the mistake or change of facts, which gave rise to the overpayment.

- H. The Village Council will determine overpayments and claims for refunds according to its procedures. If a claim is denied in whole or in part, the taxpayer may appeal pursuant to Chapter 9. Appeals from the final action of the Village Council on a claim for refund may be made only to the Tribal Court of Tax Appeals.
- I. Where the action of the Village Council on a claim for refund under this Section, or on an appeal on a claim or from an assessment, is then appealed, the Village Council shall make a refund of the overpayment determined by the order in that appeal, plus the applicable interest.
- J. Provided, that if the taxpayer entitled to a refund owes unpaid taxes, the refund shall be offset and reduced by such unpaid amounts.
- K. No refund of or credit for taxes paid shall be made or allowed to any person by any court or agency other than as provided in this Section.

SECTION 7.12 INFORMAL CONFERENCE

Upon a notice of assessment (or denial) of refund, a taxpayer may request an informal conference with the office of the General Manager to consider the basis for abatement or to clarify issues which may form the basis of an appeal under this Tax Code.

SECTION 7.13 FORMAL CONFERENCE

The formal conference with the office of the General Manager is an administrative procedure for seeking abatement, or for the review and re-determination of an assessment (or denial) of refund preliminary to the request for an administrative hearing.

- A. Conditions Precedent. A conference may proceed upon the basis of a notice of assessment and a timely request.
- B. Time and Manner of Request. The request must be filed within the time allowed by the notice. It should identify the notice, declare the re-determination sought, and must include a complete statement of the facts relied upon. The chairperson of the conference, after an initial inquiry, may deny the request for a conference and direct the taxpayer to proceed to a hearing.
- C. Stay of Collection. Upon a proper request for a grant of a conference, payment on the notice will be stayed until a time not more than thirty (30) days after issuance of a decision.
- D. Conduct of Conference. The chairperson of the conference may confer with the taxpayer by phone or in person, or may require the submission of additional written material and will issue a written Conference Decision. If the result sought is denied in whole or in part, the decision will state the basis for the denial.
- E. Request for Further Hearing. Within thirty (30) days after issuance of the decision, the taxpayer may request that the matters in dispute be submitted for a hearing and review before the Tax Board.
- F. Finality of Decision. If no appeal is made within the time allowed, the decision is final and is not subject to any appeal before the Village Council or in any court.

SECTION 7.14 STAY OF PAYMENT

After the formal conference, the taxpayer may request a stay of payment on the Conference Decision. The request must be based upon an intention to request a hearing and must be filed within ten (10) days after issuance of the decision.

CHAPTER EIGHT COLLECTION PROCEDURES AND STATUTE OF LIMITATIONS

SECTION 8.1 COLLECTION POWERS

- A. The Village Council shall have full power to collect any taxes assessed, including the power to attach and seize, in accordance with the provisions of this Tax Code, the assets of a branch or any property subject to lien, and any other powers available to the Consolidated Borough of Quil Ceda Village and the Tulalip Tribes of Washington for collection of debts owed it.
- B. The Village Council may request the Tribal Attorney of the Tulalip Tribes to bring suit or other enforcement proceedings in any court of competent jurisdiction.
- C. Provided, that the bringing of suit or other proceedings shall not constitute a waiver of sovereign immunity of the Tulalip Tribes of Washington and further provided that the Village Council shall never be compelled to assert a claim for taxes in litigation by way of counterclaim or otherwise.

SECTION 8.2 TAX AMNESTY

The Executive Director, with approval of the Quil Ceda Village Council, may from time to time declare periods of tax amnesty to the extent that the Executive Director determines that such periods of tax amnesty are likely to have the effect of increasing revenues to the Consolidated Borough of Quil Ceda Village. The Executive Director may promulgate rules and procedures to implement the provisions of this Section.

SECTION 8.3 DELINQUENT LIABILITIES

All taxes, interest, penalties and costs are a debt due and owing the Consolidated Borough of Quil Ceda Village from the taxpayer or other person. If an assessment is not paid when due, the Village Council may bring an action in its own name against the delinquent party for the collection of the liability, costs and other lawful charges thereon. In such action, the Village Council will have the benefit of all the laws that provide remedies against the property or rights to the property, real or personal, of the person liable for the assessment.

SECTION 8.4 NO DEMAND FOR COLLECTION

A notice of assessment requires the payment of the amount by the date set forth therein; and, any amount of taxes, which is reported in a return filed by a taxpayer and not paid by the due date is collectible as of that date without further notice. Absent a stay granted pursuant to this Tax Code, the amount of the notice or the reported amount unpaid is a delinquent liability and will be subject to a demand for payment issued to the delinquent taxpayer to commence collection

action.

SECTION 8.5 STATUTE OF LIMITATIONS

Assessment and collection of the taxes imposed by this Tax Code must proceed within the period of limitation established under the circumstances set forth below.

- A. Return filed. Any unpaid tax must be assessed within six years after the return was filed, except as provided in subsections B, C and D of this Section.
- B. Fraudulent filing. If a false or fraudulent return was filed with the intent to evade tax, no period of limitation shall apply.
- C. No return filed. Where no return has been filed, no period of limitation shall apply.
- D. Property Assessments. No period of limitation shall apply with respect to an assessment of possessory or leasehold interests.
- E. Interest and costs. The periods of limitation set forth above shall apply in the same manner to assessment and collection of related interest and costs.
- F. Suspension of limitations. The running of any period of limitation is suspended during any time that the Village Council is barred from assessment or collection by:
 - (1) The duration of a prohibition by any court.
 - (2) The duration of any appeal to the Tax Board.
 - (3) Any duration agreed upon between a taxpayer and the Village Council.

CHAPTER NINE APPEALS

SECTION 9.1 PROHIBITION OF SUITS

No suits to restrain the assessment and collection of any tax imposed by this Tax Code shall be maintained in any court by any person, whether or not such person is the person against whom such taxes were assessed.

SECTION 9.2 APPEALS IN GENERAL

Any person aggrieved by the amount of any tax, interest, penalties or costs determined by the Village Council to be due under the provisions of this Tax Code may appeal such determination pursuant to the procedures set forth in the following Sections.

SECTION 9.3 PROCEDURES FOR APPEALS FROM ASSESSMENTS AND ACTIONS

- A. Appeals. Appeals from assessments and denials of refunds shall be made first to the Tax Board according to procedures established in regulations. The Tax Board may provide for hearings before a hearing officer instead of or in addition to hearings before the Tax Board as a body, but the decision or recommendation of a hearing officer will be binding only to the extent adopted by the Tax Board as a final decision. The failure duly to proceed to a next required level of review under this subsection shall constitute a waiver of any further appeal pursuant to this Chapter.
- B. Form of Appeals. An appeal must be in writing and must contain the following:
 - 1. The name and address of the taxpayer.

2. A statement identifying the determination by the Village Council from which the appeal is taken.
 3. A statement setting forth the grounds upon which the appeal is taken and identifying specific errors the Village Council is alleged to have made in making the decision.
 4. A statement identifying the requested relief from the determination appealed.
- C. Time and Place of Appeals. Any appeal shall be filed with the Tax Board no later than 30 (thirty) calendar days following the day on which the determination of the Village Council was mailed to the taxpayer. Failure to follow the appeal procedures in this Chapter shall preclude the taxpayer's right to appeal.
- D. Appeals Hearing, Hearing Record, and Burden of Proof.
- (i) Appeals Hearing. The Tax Board may transmit the appeal to a hearing officer or the Tax Board may hear the appeal as a body. The Tax Board or the hearing officer shall schedule a hearing date, notify the taxpayer and the Village Council of such hearing date and shall then conduct an appeal hearing in accordance with this Chapter and procedures yet to be determined. At the appeals hearing, the appellant taxpayer and the Village Council shall have the opportunity to be heard and to introduce evidence relevant to the subject of the appeal.
 - (ii) Hearing Record. The hearing officer or the Tax Board as a body, as the case may be, shall make an electronic sound recording of each appeal hearing unless the hearing is conducted solely in writing.
 - (iii) Burden of Proof. The appellant taxpayer shall have the burden of proving by a preponderance of the evidence that the determination of the Village Council is erroneous.
- E. Decision. Following the hearing, the hearing officer or the Tax Board as a body, as the case may be, shall enter a decision on the appeal, supported by written findings and conclusions in support thereof. Provided, that in case the decision was entered into by a hearing officer, the Tax Board has to adopt the decision as its final decision in order for the decision to be binding. A copy of the findings, conclusions and decisions shall be mailed to the appellant taxpayer and to the Village Council. The decision shall state the correct amount of the tax, interest, penalties and costs due.

SECTION 9.4 INTEREST

Interest and/or penalties shall continue to accrue on all unpaid amounts, in accordance with Section 5.8 notwithstanding the fact that an appeal has been filed. If the hearing officer or the Commission as a body, as the case may be, determines that the taxpayer is owed a refund, such refund amount shall be paid to the taxpayer in accordance with Section 7.11.

SECTION 9.5 STAY OF PAYMENT OF TAXES

Payment of taxes, which are being appealed under procedures set forth in this Chapter, may be stayed upon the written request of the appellant. The stay may be conditioned on the posting of a bond or the provision of another security, or on the creation of a lien.

SECTION 9.6 PROCEDURES FOR APPEALS FROM DECISIONS OF THE COMMISSION

Appeals from decisions of the Tax Board, including but not necessarily limited to assessments, denials of refund, and suspension orders, shall be made to the Tax Court, according to procedures established in regulations, but in no case may an appeal of an assessment be taken to the Tax Court until payment of the taxes assessed, interest, penalties and costs has first been made. A request for a writ of review must be filed within 30 (thirty) calendar days following the day the decision was mailed to the parties. Review by the Tax Court shall be on, and shall be limited to, the record created before the hearing officer or the Tax Board as a body, as the case may be. The review shall be limited to the determination whether the decision of the Tax Board was not supported by the evidence, or was arbitrary, capricious, an abuse of discretion, beyond its authority, or otherwise contrary to applicable law. The Tax Court shall be empowered to affirm or reverse a decision of the Tax Board, or to remand the matter to the Tax Board for further action, and it may stay the effect of an order suspending a right to engage in productive activity within the Village, pending the appeal.

SECTION 9.7 PROCEDURES FOR APPEALS FROM DECISIONS OF THE TAX COURT

The decision of the Tax Court may be appealed to the Tribal Court of Tax Appeals by the appellant taxpayer or by the Village Council, according to procedures established in regulations. A request for a writ of review must be filed within 30 (thirty) calendar days following the day the decision of the Tax Court was mailed to the parties. Review by the Tribal Court of Tax Appeals shall be on, and shall be limited to, the record created before the Tax Court. The review shall also be limited to the determination whether the decision of the Tax Court is based on legal errors.

SECTION 9.8 JURISDICTION OF COURTS

The courts mentioned in this Chapter are vested with jurisdiction:

- A. Persons. Over any and all persons subject to this Tax Code.
- B. Subjects. To hear and determine any challenge to the validity of this Tax Code, either in general or as applied to any person, provided that the regulations governing appeals are complied with.

CHAPTER TEN TAX RECEIPTS AND DISBURSEMENTS; MISCELLANEOUS

SECTION 10.1 TAX RECEIPTS AND DISBURSEMENTS

- A. There is hereby created in the Village treasury the Tax Administration Fund.
- B. All monies received by the Village Council as taxes shall be deposited immediately under appropriate procedures with the Clerk of the Consolidated Borough of the Quil Ceda Village Council for credit to the Tax Administration Fund.
- C. Payment of claims for refund shall be disbursed from this fund, except to the extent that there is a pertinent escrow established pursuant to subsection E of this Section.
- D. At the end of each month, the money remaining in the fund, after the payment of refunds

under subsection C of this Section shall be transferred to the general fund or to such other funds or the credit of such accounts, as may be provided by regulations.

- E. Notwithstanding the foregoing, the Village Council may in its discretion, hold certain contested amounts in escrow, or direct some balance to be maintained in the Tax Administration Fund from month-to-month in anticipation of additional payments, which may have to be made therefrom.

SECTION 10.2 DUTIES OF CLERK

The Clerk is authorized and directed -

- A. Deposit. To credit all tax monies received from the taxes imposed by this Ordinance to the Tax Administration Fund.
- B. Separate Accounts. To keep separate accounts for the fund and for any escrow established within the fund.
- C. Accountability and Reports. To be accountable to the Village Council for the accounts and their disposition, by regular and timely reports to the office of the General Manager.
- (1) The reports will be confidential and subject to the disclosure rule.
 - (2) The reports will be made no less often than monthly, with quarterly summaries.
 - (3) The reports will show the amounts deposited and disbursed during the month and will reconcile the beginning and ending fund balances.
- D. Disbursements. To disburse refunds as directed by the Village Council, and in accordance with procedures to be established jointly with the office of the Executive Director.

SECTION 10.3 ESTABLISHMENT OF ESCROW

The Village Council by resolution may establish escrow accounts with the Clerk of the Consolidated Borough of Quil Ceda Village or an acceptable fiduciary agency, and prescribe the procedures and accountability required for the custody and management of the monies placed in those accounts.

SECTION 10.4 SEVERABILITY

If any Part, Chapter, Section, subsection, sentence, clause or phrase of this Tax Code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of the Tax Code. The Quil Ceda Village Council declares that it would have passed this Tax Code, and each Part, Section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more Parts, Chapters, Sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional, and to this end, the provisions of this Tax Code are severable. If for any reason this Tax Code should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

SECTION 10.5 TEMPORARY RULE

Conflicts among the respective Chapters of the regulations shall be resolved first by reference to the respective Chapter and, then, in favor of this Part I.

SECTION 10.6 EFFECTIVE DATES

- A. This and any other Chapter of Parts I and II of the Tax Code shall take effect upon approval by the Quil Ceda Village Council. The taxes imposed by Part II of this Tax Code shall be due and payable for calendar quarters beginning January 1, 2003.
- B. The amendments to this Chapter shall take effect upon approval by the Quil Ceda Village Council, for all calendar quarters beginning on or after the effective date; provided, that any amendment which is not merely clarifying, interpretive or procedural, and which has the effect of increasing the liability for taxes of any person, shall not be effective as to such person for any quarter beginning before the effective date.

SECTION 10.7 REPEALS

All laws or parts of laws that are inconsistent with the provisions of this Tax Code are hereby repealed, including without limitation, any law purporting to waive any right of taxation by the Village.

SECTION 10.8 EFFECT OF CODE ON PAST ACTIONS AND OBLIGATIONS

Neither the adoption of this Tax Code nor the repeal or amendment hereby of any ordinance or part or portion of any ordinance of the Consolidated Borough of Quil Ceda Village or the Tulalip Tribes of Washington shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date of the provisions codified in this Tax Code, nor be construed as a waiver of any license, fee or penalty at said effective date and unpaid under such provisions, nor be construed as affecting any of the provisions of such ordinances relating to the collection of any such license, fee, or penalty, or the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof, required to be posted, filed or deposited pursuant to any provision and all rights and obligations thereunder appertaining shall continue in full force and effect.

PART II - TAXES

**CHAPTER ELEVEN
SALES OR USE TAX**

SECTION 11.1 IMPOSITION

- A. There is imposed and levied and shall be collected a sales or use tax, as the case may be, upon every taxable event, as defined in Section 11.4Q, occurring within the boundaries of the Consolidated Borough of Quil Ceda Village. The tax due is computed by multiplying the total gross receipts for the taxable term by the tax rate. The tax hereby imposed shall be imposed on and paid by the seller, and each seller shall collect from the buyer the full amount of the tax payable in respect to each taxable sale in accordance with the schedule of collections adopted by the Village Council pursuant to the provisions of Section 11.3. The tax required by this Chapter, to be collected by the seller, shall be deemed to be held in trust by the seller until paid to the Village Council, and any seller who appropriates or converts the tax collected to his or her own use or to any use other than the payment of the tax to the extent that the money required to be collected is not available for payment

- on the due date as prescribed in this Chapter shall be guilty of a civil infraction.
- B. In case any seller fails to pay the tax herein imposed or having collected the tax, fails to pay it to the Village Council in the manner prescribed by this Chapter, whether such failure is the result of his or her own acts or the result of acts or conditions beyond his or her control, he or she shall, nevertheless, be personally liable to the Consolidated Borough of Quil Ceda Village.

The amount of tax, until paid by the seller to the Village Council, shall constitute a debt from the seller to the Village and any seller who fails or refuses to collect the tax required with intent to violate the provisions of this Chapter or to gain some advantage or benefit, either directly or indirectly, and any buyer who refuses to pay any tax due under this Chapter, shall be guilty of a civil infraction. The tax required by this Chapter to be paid by the seller shall be stated separately from the selling price in any sales invoice or other instrument of sale. On all retail sales through vending machines, the tax need not be stated separately from the selling price or collected separately from the buyer. For purposes of determining the tax due from the buyer to the seller and from the seller to the Village Council it shall be conclusively presumed that the selling price quoted in any price list, sales document, contract or other agreement between the parties does not include the tax imposed by this Chapter, but if the seller advertises the price as including the tax or that the seller is paying the tax, the advertised price shall not be considered the selling price.

SECTION 11.2 RATE OF TAX

- A. Basic Tax. The rate of the tax levied and imposed by Section 11.1 shall be equal to _____ percent (___%) of the selling price (in the case of a sales tax) or value of the article used (in the case of a use tax).
- B. Additional Tax. An additional sales and use tax is imposed, upon the same taxable events upon which the tax imposed under Section 11.2A of this Chapter is levied, at the rate of _____ of one percent (0.____%) of the selling price (in the case of a sales tax) or value of the article used (in the case of a use tax).

SECTION 11.3 COLLECTION

- A. The Village Council shall have power to adopt rules and regulations prescribing methods and schedules for the collection of the tax required to be paid by the seller under this Chapter. The methods and schedules described shall be adopted so as to eliminate the collection of fractions of one cent and so as to provide that the aggregate collections of all taxes by the seller shall, insofar as practicable, equal the amount imposed by this Chapter. Such schedules may provide that no tax need be collected from the buyer upon sales below a stated sum and may be amended from time to time to accomplish the purposes set forth herein.
- B. The tax authorized by this Chapter shall be deposited by the Village Clerk in the Tax Administration Fund created under Section 10.1A.

SECTION 11.4 DEFINITIONS

Subject to additional definitions contained in other Chapters of this Tax Code, and unless the context requires otherwise, in this Chapter:

- A. **"Business"** means any person engaged in trade, commerce, manufacturing, power production, construction, or any other productive activity, whether for profit or not, wholly or in part within the boundaries of the Consolidated Borough of Quil Ceda Village.
- C. **"Consolidated Borough of Quil Ceda Village"** means a political subdivision of the Tulalip Tribes of Washington.
- D. **"Control"** means the direct or indirect power to direct the management and policies of a person, whether through ownership of voting securities, by contract, or otherwise.
- E. **"Goods"** means all tangible or movable personal property produced, processed, or sold within the boundaries of the Consolidated Borough of Quil Ceda Village.
- F. **"Gross Receipts"** of a business are the gross receipts of that business from the sale, either within or without the boundaries of the Consolidated Borough of Quil Ceda Village, of goods or services, as those terms are defined in paragraphs E and P of this Section.
- G. **"Gross Receipt of a Business"**
 - (1) General Rule: Except as provided in subparagraph 2 and 3 below, the gross receipts of a business is the amount of money plus the fair market value of property and services received by the business on the sale of goods and services;
 - (2) Sale beyond the boundaries of the Consolidated Borough of Quil Ceda Village: for sales beyond the boundaries of the Consolidated Borough of Quil Ceda Village, gross receipts are determined by the value of the goods and services at the time and place said goods and services are transported beyond the boundaries of the Quil Ceda Village.
 - (3) Sales among related persons: On a sale of goods and services by a business to a related person, gross receipts are the fair market value of the goods or services sold.
 - (4) Estimate of Fair Market Value: When practical, fair market value is to be determined on the basis of consideration paid and comparable transactions, but if such information is not available, the estimate of fair market value will be made according to regulations.
- H. **"The Gross Receipts of a Business carrying out Construction Activities"** shall be determined and shall be equal to the total value of the contract sum, which is provided in the award of contract pursuant to which the construction company is performing its activities and rendering its services in the Consolidated Borough of Quil Ceda Village.
- I. **"Person"** means any individual or organization, whether it be a sole proprietorship, partnership, joint venture, trust, estate, unincorporated association, corporation, or government (other than the government of the Tulalip Tribes of Washington and any subdivision or enterprise thereof), or any part, division, or agency of any of the foregoing, and an individual or group of individuals.
- J. **"Quil Ceda Village Council"** means the governing body of the Consolidated Borough of Quil Ceda Village; at present, and in accord with the Village's Charter, the Quil Ceda Village Council is composed of three members.
- K. **"RCW"** means the "Revised Code of Washington", current as of August 15, 2002.

- L. **"Related Person"** means two or more persons owned or controlled, directly or indirectly, by the same person and as applied to individuals, means two or more individuals who have a legal relationship arising out of marriage, adoption, or blood, through the third degree of kinship.
- M. **"Resale Certificate"**.
- (1) As used in this Section, "resale certificate" means documentation provided by a buyer to a seller stating that the purchase is for resale in the regular course of business or that the buyer is exempt from sales or use tax, and containing the following information:
- (a) The name and address of the buyer;
 - (b) The tribal business license, Indian trader's license, or uniform business identifier or registration certificate number of the buyer, if the buyer is required to be registered;
 - (c) The type of business engaged in;
 - (d) The categories of items or services to be purchased for resale or that are exempt, unless the buyer is in a business classification that may present a blanket resale certificate as provided by the Village Council by rule;
 - (e) The date on which the certificate was provided;
 - (f) A statement that the items or services purchased either: (i) Are purchased for resale in the regular course of business; or (ii) are exempt from tax pursuant to statute;
 - (g) A statement that the buyer acknowledges that the buyer is solely responsible for purchasing within the categories specified on the certificate and that misuse of the resale or exemption privilege claimed on the certificate subjects the buyer to a penalty of fifty percent of the tax due, in addition to the tax, interest, and any other penalties and costs imposed by this Tax Code;
 - (h) The name of the individual authorized to sign the certificate, printed in a legible fashion;
 - (i) The signature of the authorized individual; and
 - (j) The name of the seller.
- (2) Unless a seller has taken from the buyer a resale certificate, the burden of proving that a sale of tangible personal property, or of services, was not a sale at retail or a service within the meaning of this subsection, shall be upon the person who sold the item or provided the services.
- (3) If a seller does not receive a resale certificate at the time of the sale, have a resale certificate on file at the time of the sale, or obtain a resale certificate from the buyer within a reasonable time after the sale, the seller shall remain liable for the tax, unless the seller can demonstrate facts and circumstances according to rules adopted by the Village Council that show the sale was properly made without payment of sales tax.
- (4) Resale certificates shall be valid for a period of four years from the date the certificate is provided to the seller.
- (5) The Village Council may provide by rule for suggested forms for resale certificates or equivalent documents containing the information that will be accepted as resale certificates. The Village Council shall provide by rule the categories of items or services

that must be specified on resale certificates and the business classifications that may use a blanket resale certificate.

N. **"Retail Sale"**. For purposes of this Chapter:

- (1) A retail sale consisting solely of the sale of tangible personal property shall be deemed to have occurred at the retail outlet at or from which delivery is made to the consumer;
- (2) A retail sale consisting essentially of the performance of personal business, or professional services shall be deemed to have occurred at the place at which such services were primarily performed;
- (3) A retail sale consisting of the rental of tangible personal property shall be deemed to have occurred (a) in the case of rental involving periodical rental payments, at the place of primary use by the lessee during the period covered by each payment, or (b) in all other cases, at the place of first use by the lessee;
- (4) A retail sale consisting of the providing to a consumer of telephone service, other than a sale of tangible personal property under paragraph (1) of this subsection or a rental of tangible personal property under paragraph (3) of this subsection or a sale of mobile telecommunications services, shall be deemed to have occurred at the situs of the telephone or other instrument through which the telephone service is rendered

O. **"Sale"** For the purposes of this Chapter:

- (1) General Rule: A sale consists of a transfer of ownership between buyer and seller for a consideration.
- (2) A sale also consists of the delivery of goods or services by a business located within the boundaries of the Consolidated Borough of Quil Ceda Village, for the use or benefit of any person of which the business is a part.

P. **"Services"** are all services performed within the boundaries of the Consolidated Borough of Quil Ceda Village.

Q. **"Taxable Event"** means any retail sale or any use, upon which a sales or use tax is imposed pursuant to this Chapter.

R. **"Taxes"** means the tax, and any interest, penalty, or costs, imposed or assessed pursuant to this Chapter. The term embraces all impositions by the Consolidated Borough of Quil Ceda Village on the person, property, privileges, occupations, and enjoyment of the people, and includes duties, imposts, and excises.

S. **"Tribal Court"** means the Tribal Court of the Tulalip Tribes of the Tulalip Indian Reservation.

T. **"Village"** means the Consolidated Borough of Quil Ceda Village.

U. **"Village Charter"** means the Charter of the Consolidated Borough of Quil Ceda Village.

V. **"Village General Manager"** means the individual appointed by the Quil Ceda Village Council to manage and conduct the Village's day-to-day business.

W. **"Village Tax Code"** means the Tax Code of the Consolidated Borough of Quil Ceda Village.

X. **"Village Tax Board"** means the Board established as a part of the government of the Consolidated Borough of Quil Ceda Village for the review of the tax decisions imposed

by this Tax Code.

SECTION 11.5 FILING OF RETURN

- A. Except as provided in subsection B of this Section, each business must file a return of gross receipts and the tax due for the period by the fifteenth day of the second month after the end of each calendar quarter. Returns are due on May 15th, August 15th, November 15th and February 15th of each calendar year.
- B. The Village Council may by formal regulation require that other information and relevant documents which it deems necessary for the proper and efficient administration of the tax be included with a return, and that the return be signed by specified persons.
- C. No return need be filed by a business for any period in which gross receipts are less than \$1,000. This exception does not apply if a business had annual gross receipts of \$5,000 or more in any of the three years preceding the period.
- D. If a business is an association, joint venture, or partnership, or a party thereof, the Village Council may require that each associate, participant, or partner, whether general or limited, file a separate return in accordance with regulations.
- E. The Village Council may by formal regulation require information of returns to be filed by any person that is deems necessary for the proper and efficient administration of the tax.

SECTION 11.6 GENERAL ADMINISTRATIVE PROVISIONS APPLY

The provisions of Part I of the Quil Ceda Village Tax Code shall be fully applicable to the provisions of this Chapter except as expressly stated to the contrary herein. All rules and regulations adopted for the administrative provisions contained in Part I of this Tax Code shall be fully applicable to the provisions of this Chapter except as expressly stated to the contrary herein.

**CHAPTER TWELVE
LEASEHOLD EXCISE TAX**

SECTION 12.1 IMPOSITION

There is imposed and levied and shall be collected a leasehold excise tax on and after January 1, 2003, upon the act or privilege of occupying or using real or personal property within the Consolidated Borough of Quil Ceda Village through a "leasehold interest" as defined by Section 12.4A. The tax assessed under this Chapter is computed by multiplying the value of the possessory interest on the assessment date by the tax rate.

SECTION 12.2 RATE OF TAX

The rate of the tax imposed by this Chapter shall be four percent (4%) of the taxable rent, as defined by Section 12.4B.

SECTION 12.3 COLLECTION

- A. The Village Council shall have power to adopt rules and regulations prescribing methods and schedules for the collection of the tax required to be collected under this Chapter. The

methods and schedules described shall be adopted so as to eliminate the collection of fractions of one cent and so as to provide that the aggregate collections of all taxes shall, insofar as practicable, equal the amount imposed by this Chapter. Such schedules may be amended from time to time to accomplish the purposes set forth herein.

- B. The tax authorized by this Chapter shall be deposited by the Village Council in the Tax Administration Fund created under Section 10.1A.

SECTION 12.4 DEFINITIONS

Subject to additional definitions contained in other Chapters of this Tax Code, and unless the context requires otherwise, in this Chapter:

- A. **"Leasehold Interest"** shall mean an interest in real or personal property within the Consolidated Borough of Quil Ceda Village, which exists by virtue of any lease, permit, license, or any other agreement, written or verbal, between the Consolidated Borough of Quil Ceda Village as the owner of the property, and a person who would not be exempt from property taxes if that person owned the property in fee, granting possession and use, to a degree less than fee simple ownership.
- B. **"Taxable Rent"** shall mean contract rent as defined in Section 12.4C in all cases where the lease or agreement has been established or renegotiated through competitive bidding, or negotiated or renegotiated in accordance with statutory requirements regarding the rent payable, or negotiated or renegotiated under circumstances, established by public record, clearly showing that the contract rent was the maximum attainable by the lessor.
- C. **"Contract Rent"** shall mean the amount of consideration due as payment for a leasehold interest, including: the total of cash payments made to the lessor or to another party for the benefit of the lessor according to the requirements of the lease or agreement, including any rents paid by a sublessee; expenditures for the protection of the lessor's interest when required by the terms of the lease or agreement; and expenditures for improvements to the property to the extent that such improvements become the property of the lessor. Where the consideration conveyed for the leasehold interest is made in combination with payment for concession or other rights granted by the lessor, only that portion of such payment which represents consideration for the leasehold interest shall be part of contract rent. "Contract Rent" shall not include (i) expenditures made by the lessee, which under the terms of the lease or agreement, are to be reimbursed by the lessor to the lessee or expenditures for improvements and protection made pursuant to a lease or an agreement which requires that the use of the improved property be open to the general public and that no profit will inure to the lessee from the lease; (ii) expenditures made by the lessee for the replacement or repair of facilities due to fire or other casualty including payments for insurance to provide reimbursement for losses or payments to a public or private entity for protection of such property from damage or loss or for alterations or additions made necessary by an action of the Consolidated Borough of Quil Ceda Village taken after the date of the execution of the lease or agreement; (iii) improvements added to property owned by the Consolidated Borough of Quil Ceda Village if such improvements are being taxed as personal property to any person.

Any prepaid contract rent shall be considered to have been paid in the year due and not in the year actually paid with respect to prepayment for a period of more than one year. Expenditures for improvements with a useful life of more than one year which are included as part of contract rent shall be treated as prepaid contract rent and prorated over the useful life of the improvement or the remaining term of the lease or agreement if the useful life is in excess of the remaining term of the lease or agreement.

D. "RCW" means the "**Revised Code of Washington**"; it is the compilation of all permanent laws now in force; it is a collection of Session Laws (enacted by the Legislature of the State of Washington, and signed by the Governor of the State of Washington, or enacted via the initiative process) arranged by topic, with amendments added and repealed laws removed; it does not include temporary laws such as appropriation acts.

SECTION 12.5 VALUATION

- A. The value of a leasehold interest shall be determined as provided in this Section, or by any method adopted by the Village Council, which accurately reflects fair market value. Provided, that the value of a leasehold interest shall include the value of leasehold improvements whether considered personalty or realty.
- B. Fair market value method: The value of a leasehold interest may be determined on the basis of the selling prices of comparable leases (whether within or without the Consolidated Borough of Quil Ceda Village) which are sold by willing sellers to willing buyers, neither of whom are under a compulsion to act.
- C. Present value of income method: The value of a leasehold interest may be determined by computing the capitalized value of the gross income to be received from the lease less the reasonable expenses to be incurred in producing the income. The allowable expenses shall be set forth in regulations. Such capitalization shall be done for the remaining life of the lease. If the lease term is indefinite, for the purpose of this method, the life of the lease shall be presumed to be twenty-five (25) years.
- D. The Village Council may engage private appraisal firms for the valuation of leasehold interests and determination of valuation factors.

SECTION 12.6 ASSESSMENT

- A. Leasehold interests shall be assessed annually on the assessment date as prescribed by regulations. The assessments made by the Village Council are presumed to be correct.
- B. Taxes assessed shall be a lien against the lease and any leasehold improvements in favor of the Consolidated Borough of Quil Ceda Village. Such lien shall arise as of the assessment date, without notice or demand, and shall be prior and superior to all other liens and encumbrances upon the property.
- C. Owners of leasehold interests shall be liable for the taxes assessed.
- D. If an owner is a corporation or a trust, then the corporation or trust shall be liable for the taxes. If an owner is an association, joint venture, or partnership, or a part thereof, then the associates, participants, or partners, both general and limited, shall be jointly and

severally liable for the taxes. Subject to alteration by agreement between them, any associate, participants, or partner shall have a right of contribution from any other associate, participant, or partner for its proportional share of taxes paid.

- E. The owners of the interest in a lease shall be jointly liable for the taxes assessed with respect to said lease and shall be severally liable for such taxes in proportion to their interests in the lease on the assessment date. Subject to alteration by agreement between them, any owner shall have a right of contribution from any other owner for its proportional share of taxes paid. The Village Council in its discretion, and with the consent of all such owners, may relieve one or more of them for personal liability if it determined that the taxes area adequately secured by the lease, the personal liability of the remaining owners, or any bond it may require to be posted.
- F. The Village Council shall have the authority to assess unassessed leasehold interests as of the date on which they should have been assessed, and to re-determine incorrect or erroneous assessments.

SECTION 12.7 EXEMPTION

No leasehold interest with a value of less than five thousand dollars (\$5,000) shall be subject to this tax. Provided, however, that all leasehold interests of a person who owns interests in more than one lease, and of related persons, shall be combined to determine the eligibility of said leasehold interest for this exemption.

SECTION 12.8 FILING OF DECLARATION

- A. Except as provided in subsection C of this Section or as otherwise provided by the Village Council, each owner must file a declaration of its interest in any lease on or before April 1st following each assessment date. The Village Council may by form or regulation require the information and documents, which it deems necessary for proper and efficient administration of the tax and require that the declaration be signed by specified persons.
- B. If any owner fails to provide information or documents within its possession or control which are relevant to a determination of the value of a leasehold interest and which it is required to provide under this Chapter, the Village Council may proceed to determine the value and to assess the taxes. This assessment is binding on the owner unless it is shown that the valuation, on the basis of the best information available to the Village Council, was clearly erroneous or unless the Village Council for other good cause shown relieves the owner from the operation of this subsection.
- C. No declaration need be filed by any person exempt under Section 12.7, provided that the Village Council may require such person to file the information necessary to establish exempt status.
- D. The Village Council may by form or regulation require any person to file the information or documents deemed necessary for the proper and efficient administration of the tax.
- E. An owner may request an extension of time for filing a declaration. The request must be made to the Village Council in writing by the due date for the declaration. An extension of time may be granted at the discretion of the Village Council.

SECTION 12.9 PAYMENT OF TAX

The tax shall be paid in two installments, one-half being due by November 1st of each year and the other one-half being due by May 1st of the following year; provided, that no payment of tax shall be due less than three (3) months after the time an assessment is made and notice thereof given and that the Village Council shall extend the time for payment accordingly.

SECTION 12.10 RECORDKEEPING

- A. The Village Council may by regulation prescribe the records, which shall be kept by each owner with respect to a lease or his interest therein.
- B. In the case of an owner, who is part of a corporation, partnership, association or other person, separate records for the owner must be maintained.
- C. Records required to be kept under this Section must be preserved for six (6) years beyond the time payment of tax is made, or if no payment is due, for six (6) years beyond the due date of the declaration to which the records relate.

SECTION 12.11 PENALTIES FOR FAILURE TO FILE A DECLARATION

- A. If any owner fails to file a declaration, as required under Section 12.8, by the time due, a penalty of ten percent (10%) of the tax for the assessment date, but not less than \$100, shall be assessed against the owner.
- B. An additional penalty of one percent (1%) of the tax due for the assessment date, but not less than \$100, shall be assessed for each full month the declaration is overdue; provided, that the additional penalty shall not, except as to the minimum amounts, exceed twenty-four percent (24%) of the tax.
- C. A declaration filed on or before an extended date for filing is timely filed.
- D. For good cause shown, the Village Council may in its discretion relieve the owner from all or part of the penalties imposed by this Chapter.

SECTION 12.12 GENERAL ADMINISTRATIVE PROVISIONS APPLY

The provisions of Part I of the Quil Ceda Village Tax Code shall be fully applicable to the provisions of this Chapter except as expressly stated to the contrary herein. All rules and regulations adopted for the administrative provisions contained in Part I of this Tax Code shall be fully applicable to the provisions of this Chapter except as expressly stated to the contrary herein.

**CHAPTER THIRTEEN
LODGING EXCISE TAX**

SECTION 13.1 IMPOSITION

There is imposed and levied and shall be collected an excise tax on the sale of or charge made for the furnishing of lodging by a hotel, roominghouse, tourist court, tourist home, lodging house, inn, motel, trailer camp and the granting of any similar license to use real property as distinguished from the renting or leasing of real property. It shall be presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real

property and not a mere license to use or enjoy the same. The tax herein levied shall be in addition to any license fee imposed or levied under any law or any other ordinance of the Consolidated Borough of Quil Ceda Village.

SECTION 13.2 RATE OF TAX

The rate of the tax imposed by this Chapter is two percent of the price paid for the furnishing of lodging according to Section 13.1.

SECTION 13.3 COLLECTION

The Village Council shall have power to adopt rules and regulations prescribing methods and schedules for the collection of the tax required to be collected under this Chapter.

SECTION 13.4 DEFINITIONS

Subject to additional definitions contained in other Sections of this Tax Code, and unless the context requires otherwise, in this Chapter:

- A. "Hotel" means buildings in which members of the public obtain sleeping accommodations for consideration. The term includes a motel, tourist court, tourist home, lodging house, inn, trailer camp, or rooming house, but does not include a hospital, sanitarium or nursing home.

SECTION 13.5 PENALTY FOR VIOLATION

It is unlawful for any person, as defined in Section 1.3J, to violate or fail to comply with any of the provisions of this Chapter. Every person convicted of a violation of any provision of this Chapter shall be punished by a civil money penalty in a sum not to exceed \$5000.00. Each day of violation shall be considered a separate offense.

SECTION 13.6 GENERAL ADMINISTRATIVE PROVISIONS APPLY

The provisions of Part I of the Quil Ceda Village Tax Code shall be fully applicable to the provisions of this Chapter except as expressly stated to the contrary herein. All rules and regulations adopted for the administrative provisions contained in Part I of this Tax Code shall be fully applicable to the provisions of this Chapter except as expressly stated to the contrary herein.

CHAPTER FOURTEEN REAL ESTATE EXCISE TAX

SECTION 14.1 IMPOSITION

There is imposed and levied and shall be collected an excise tax on each sale of a lease or sublease on real property within the boundaries of the Consolidated Borough of Quil Ceda Village.

SECTION 14.2 RATE OF TAX

- A. Tax. The rate of the tax levied and imposed by this Chapter shall be one-half of one percent of the selling price of the real property.

SECTION 14.3 LIEN

The real estate excise taxes herein imposed and interest or penalties thereon shall constitute a specific lien upon each piece of real property sold from the time of sale until the tax is paid, which lien may be enforced in the manner prescribed for the foreclosure of mortgages.

SECTION 14.4 SELLER'S OBLIGATION

Both excise taxes imposed under this Chapter shall be the obligation of the seller of the real property and may be enforced through an action of debt against the seller or in the manner prescribed for the foreclosure of mortgages. Resort to one course of enforcement is not an election not to pursue the other.

SECTION 14.5 COLLECTION

- A. The Village Council shall have power to adopt rules and regulations prescribing methods and schedules for the collection of the tax required to be collected by the seller from the buyer under this Chapter. The methods and schedules described shall be adopted so as to eliminate the collection of fractions of one cent and so as to provide that the aggregate collections of all taxes by the seller shall, insofar as practicable, equal the amount imposed by this Chapter. Such schedules may provide that no tax need be collected from the buyer upon sales below a stated sum and may be amended from time to time to accomplish the purposes set forth herein.
- B. The tax authorized by this Chapter shall be deposited by the Village Clerk in the Tax Administration Fund created under Section 10.1A.

SECTION 14.6 SPECIAL RULES FOR REPORTING, APPLICATION AND COLLECTION OF TAX - REAL ESTATE EXCISE TAX AFFIDAVIT

- A. The Village General Manager shall prescribe a Real Estate Excise Tax Affidavit form, which has to be approved by the Village Council and shall require the following:
 - 1. Identification of the seller and purchaser, including their current mailing addresses and the purchasers permanent address;
 - 2. Legal description of the transferred property, including the lease or sublease number, or tax parcel or account number(s), street address and general location;
 - 3. Date of sale or conveyance; type of instrument of sale or conveyance; nature of transfer;
 - 4. County recording number of transaction;
 - 5. Total or gross sales price;
 - 6. Whether or not the land is exempt under Ordinance No.45A of the Tulalip Tribes of Washington ("Tulalip Real Estate Sales Excise Tax Ordinance of 1987", as amended) or under federal law;
 - 7. Current and proposed uses, including the subdivision of the property;
 - 8. Such additional information as the Executive Director by rule or regulation deems appropriate.
- B. The affidavit shall be signed by either the seller or the buyer, or the agent of either, under oath attesting to the truth of all required information.

- C. Except for the transfers listed under subsection D of this Section, the affidavit shall be required for all transfers of real property, including, but not limited to, the following:
- (a) Conveyance from one spouse to the other as a result of a decree of divorce or dissolution of a marriage or in fulfillment of a property settlement agreement incident thereto;
 - (b) Conveyance made pursuant to an order of sale by the court in any mortgage or lien foreclosure proceeding;
 - (c) Conveyance made pursuant to the provisions of a deed or trust;
 - (d) Conveyance of an easement in which consideration passes;
 - (e) A deed in lieu of foreclosure of mortgage;
 - (f) A deed in lieu of forfeiture of a real estate contract;
 - (g) A declaration of forfeiture of a real estate contract;
 - (h) Conveyance to the heirs in the settlement of an estate;
 - (i) Conveyance to or from the United States, the state of Washington, or any political subdivision or municipal corporation of this state;
 - (j) Conveyance of development rights or air rights.
- D. Except as provided in Section 14.6C of this Tax Code, the affidavit shall not be required for the following:
- (a) Conveyance for security purposes only if the instrument states on its face:
 - (i) For security only;
 - (ii) To secure a debt;
 - (iii) Assignment of a debt;
 - (iv) For collateral purposes only;
 - (v) Release of collateral;
 - (vi) To release security;
 - (b) A lease of real property that does not contain an option to purchase, or does not transfer lessee-owned improvements;
 - (c) A mortgage or deed of trust or satisfaction thereof;
 - (d) Conveyance of an easement in which no consideration passes or an easement to the United States, the Tulalip Tribes or any political subdivision or municipal corporation thereof;
 - (e) The recording of a contract that changes only the contract terms and not the legal description, purchaser, or sales price thereof, if the affidavit number of the previous transaction is reported;
 - (f) A seller's assignment of deed and contract;
 - (g) A fulfillment deed.
- E. A stamp evidencing satisfaction of a possible lien shall be affixed to the instrument of sale or conveyance prior to its recording. A receipt issued for the payment of the tax shall be evidence of the satisfaction of the lien imposed by Section 14.3, and may be recorded in the manner prescribed for recording satisfactions of mortgages. No instrument of sale or conveyance evidencing a sale subject to the taxes imposed under this Chapter may be accepted by the Executive Director for filing or recording until the taxes are paid and the stamp affixed thereto; in case the taxes are not due on the transfer, the instrument shall

not be accepted until a suitable notation of this fact is made on the instrument by the Executive Director. General Manager.

SECTION 14.7 DEFINITIONS

Subject to additional definitions contained in other Sections of this Tax Code, and unless the context requires otherwise, in this Chapter:

- A. "Affidavit" means the Real Estate Excise Tax Affidavit prescribed by the Executive Director and approved by the Village Council.
- B. "Ordinance No. 45A" means the Tulalip Real Estate Sales Excise Tax Ordinance of 1987, as amended from time to time; all references in the Ordinance No.45A to "tribal tax administrator" shall mean the Executive Director; to "tribal court review" shall mean "appeals" as contained in Chapter 9 of this Tax Code.

SECTION 14.8 GENERAL ADMINISTRATIVE PROVISIONS APPLY

- A. The provisions of Part I of the Quil Ceda Village Tax Code shall be fully applicable to the provisions of this Chapter except as expressly stated to the contrary herein. In case the provisions of Ordinance No.45A are inconsistent with Part I of the Quil Ceda Village Tax Code, Ordinance No.45A will be preempted by Part I of the Quil Ceda Village Tax Code.
- B. All rules and regulations adopted for the administrative provisions contained in Part I of this Tax Code shall be fully applicable to the provisions of this Chapter except as expressly stated to the contrary herein. In case the Tulalip Real Estate Tax Regulations, as approved on November 7, 1987, and as amended from time to time, are inconsistent with Part I of the Quil Ceda Village Tax Code, the Tulalip Real Estate Tax Regulations will be preempted by the rules and regulations adopted for the administrative provisions contained in Part I of this Tax Code.

CHAPTER FIFTEEN UTILITY OCCUPATION TAX

SECTION 15.1 IMPOSITION

There is imposed and levied and shall be collected from every person other than the Consolidated Borough of Quil Ceda Village or any of its subdivisions a tax for the act or privilege of engaging in utility occupation activities. Such tax shall be measured by the application of rates against gross proceeds of sales from customers within the Consolidated Borough of Quil Ceda Village. The tax herein levied shall be in addition to any license fee or any tax imposed or levied under any law or any other ordinance of the Consolidated Borough of Quil Ceda Village.

SECTION 15.2 UTILITY OCCUPATION ACTIVITIES SUBJECT TO TAX

Upon every person, as described in Section 15.2, engaging within the Consolidated Borough of Quil Ceda Village in the following activities; as to such persons, the amount of the tax due with respect to such business within the Consolidated Borough of Quil Ceda Village shall be equal to the gross income of such business, multiplied by the following applicable rates:

<u>Activity</u>	<u>Tax Rate</u>
A. Gas Distribution Business	5%
B. Telephone Business	5%
C. Cellular Telephone Service	5%
D. Cable Television Service	5%
E. Light and Power Business	5%
F. Water Distribution Business	6%
G. Surface Water System Business	6%
H. Sewerage System Business	6%
I. Solid Waste Collection Business	6%
J. Motor Vehicle Towing	5%

SECTION 15.3 CHARGE IN LIEU OF TAX ESTABLISHED - ANNUAL LEVY

- A. There is also established an "in lieu of tax" charge upon the persons described in Section 15.2, which charge shall be levied annually, with the first of such levy being effective on January 1, 2004.
- B. The rate for said charge shall be \$3.375 per each \$1,000 of the book value of the utilities of the persons described in Section 15.2, before allowance for depreciation, as such value appears on the utility's books on December 31st of the proceeding year.
- C. All revenues derived from the charge imposed in this Section shall be deposited in the general fund of the Consolidated Borough of Quil Ceda Village.

SECTION 15.4 COLLECTION

The taxes authorized by this Chapter that are collected by the Village Council shall be deposited by the Village Clerk in the Tax Administration Fund.

SECTION 15.5 UTILITY OCCUPATION TAX, WHEN DUE

The utility tax imposed by Section 15.1 of this Chapter shall be due and payable in monthly installments and remittance thereof shall be made on or before the last day of the following month in which the tax accrued. On or before said due date, the taxpayer shall file with the Village Council a return upon a form to be prescribed and provided by the Village Council, which return shall contain a statement by the taxpayer, stating the amount of tax for which he is liable for the preceding monthly period, that the information therein given and the amount of tax liability therein reported are full and true and that the taxpayer knows the same to be true; which statements shall be signed by the taxpayer or authorized agent. Taxpayers expected to owe less than one thousand dollars (\$1,000) per month may submit taxes on a quarterly basis; taxes shall be due on the last day of the month following the end of the quarter in which the tax accrued. Quarterly period for the purpose of this Chapter shall mean each three (3) month period of the calendar year.

SECTION 15.6 DEFINITIONS

Subject to additional definitions contained in other Sections of this Tax Code, and unless the

context requires otherwise, in this Chapter:

- A. **"Cable Television Services"** means the one-way transmission of video programming and associated non-video signals to subscribers together with subscriber interaction, if any, which is provided in connection with video programming.
- B. **"Cellular Telephone Service"** means two-way voice and data telephone/telecommunications system based in whole or substantially in part on wireless radio communications and which is not currently subject to regulation by the Washington Utilities and Transportation Village Council (WUTC). Cellular telephone service includes cellular mobile service. The definition of cellular mobile service includes other wireless radio communications services such as specialized mobile radio (SMR), personal communications services (PCS) and any other evolving wireless radio communications technology, which accomplishes the same purpose as cellular mobile service.
- C. **"Competitive Telephone Service"** means the providing by any person of telecommunications equipment or apparatus, or service related to that equipment or apparatus such as repair or maintenance service, if the equipment or apparatus is of a type which can be provided by persons that are not subject to regulation as telephone companies under RCW Title 80 ("Public Utilities") and for which a separate charge is made.
- D. **"Gas Distribution Business"** means the business of operating a plant or system for the production or distribution for hire or sale of gas, whether manufactured or natural.
- E. **"Gross Proceeds of Sale"** or **"Gross Income of Business"** means the value proceeding or accruing from the sale of tangible personal property and/or for services rendered, without any deduction on account of the cost of property sold, the cost of materials used, labor costs, interest, discount paid, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses.
- F. **"Light and Power Business"** means the business of operating a plant or system for the generation, production or distribution of electrical energy for hire or sale and/or for the wheeling of electricity for others.
- G. **"Network Telephone Service"** means the providing by any person of access to a local telephone network, local telephone network switching service, toll service, or coin telephone services, or the providing of telephonic, video, data, or similar communication or transmission for hire, via a local telephone network, toll line or channel, cable, microwave, or similar communication or transmission system. "Network telephone service" includes interstate service, including toll service, originating from or received on telecommunications equipment or apparatus in the State of Washington if the charge for the service is billed to a person in the State of Washington. "Network telephone service" does not include the providing of competitive telephone service, the providing of cable television service, or the providing of broadcast services by radio or television stations.
- H. **"Recyclable Materials"** means those solid wastes that are separated for recycling or reuse, such as papers, metals, glass, plastics, yard waste, and scrap nonferrous materials.
- I. **"Sewerage System Business"** means and includes:
 - 1. Sanitary sewage disposal sewers and facilities, including without limitation on-site or off-site sanitary sewer facilities consisting of an approved septic tank or

- 2. septic tank systems, or any other means of sewage treatment and disposal;
 - 3. Combined sanitary sewage disposal and storm or surface water drains and facilities;
 - 4. Storm or surface water drains, channels and facilities;
 - 5. Outfalls for storm drainage or sanitary sewage and works, plants, and facilities for storm drainage or sanitary sewage treatment and disposal;
 - 6. Any combination of or part of any or all of such facilities.
- J. **"Solid Waste" or "Wastes"** means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge, demolition and construction wastes, abandoned vehicles or parts thereof, and recyclable materials.
- K. **"Solid Waste Collection Business"** means every person pursuant to Section 1.3J who receives solid waste or recyclable materials for transfer, storage, or disposal including but not limited to all collection services, public or private solid waste disposal sites, transfer stations, and similar operations.
- L. **"Telephone Business"** means the business of providing network telephone service, as defined in this Section. It includes cooperative or farmer line telephone companies or associations operating an exchange.
- M. **"Telephone Service"** means competitive telephone service or network telephone service, or both, as defined in this Section
- N. **"Water Distribution Business"** means the business of operating a plant or system for the distribution of water for hire or sale.
- O. **"Motor Vehicle Towing"** means the business of going within the boundaries of the Village of Quil Ceda for the purpose of removing or towing disabled, abandoned, or illegally parked motor vehicles, trailers, or other wheeled vehicles.

SECTION 15.7 CELLULAR TELEPHONE SERVICE - INCOME ALLOCATION AND ADMINISTRATION

- A. Allocation of Income:
- 1. **Service Address.** Payments by a customer for cellular telephone service from telephones without a fixed location shall be allocated among taxing jurisdictions to the location of the customer's principal service address during the period for which the tax applies.
 - 2. **Presumption.** There is a presumption that the service address a customer supplies to the taxpayer is current and accurate, unless the taxpayer has actual knowledge to the contrary.
 - 3. **Roaming.** When the cellular telephone service is provided while a subscriber is roaming outside the subscriber's normal cellular network area, the gross income shall be assigned consistent with the taxpayer's accounting system to the location of the originating cell site of the call, or to the location of the main cellular switching office that switched the call.
- B. **Dispute Resolution.** If there is a dispute between or among the Consolidated Borough of Quil Ceda Village and another municipality or municipalities as to the service address of

a customer who is receiving cellular telephone services and the dispute is not resolved by negotiation among the parties, then the dispute shall be resolved by the Village and the other municipality or municipalities by submitting the issue for settlement to the Tulalip Tribal Court. Once taxes on the disputed revenues have been paid to one of the contesting cities, the cellular telephone service company shall have no further liability with respect to additional taxes, penalties, or interest on the disputed revenues, so long as it promptly changes its billing records for future revenues to comport with the settlement facilitated by the Tulalip Tribal Court.

- C. Authority of Administrator. The Village Manager is authorized to represent the Consolidated Borough of Quil Ceda Village in negotiations with other municipalities and government entities for the proper allocation of cellular telephone service taxes imposed pursuant to this Chapter.
- D. Rate Change. No change in the rate of tax upon persons engaging in providing cellular telephone service shall apply to business activities occurring before the effective date of the change and, no change in the rate of the tax may take effect sooner than 60 (sixty) days following the enactment of the ordinance establishing the change. The Executive Director shall send to each cellular telephone service company at the address of record a copy of any ordinance changing the rate of tax upon cellular telephone service promptly upon its enactment.

SECTION 15.8 DEDUCTIONS

In computing the tax imposed by this Chapter, the following items may be deducted from the measure of the tax:

- A. The amount of credit losses actually sustained by taxpayers whose regular books are kept upon an accrual basis.
- B. Charges by a taxpayer engaging in a telephone business to a telecommunications company for telephone service that the purchaser buys for the purpose of resale.
- C. That portion of the gross income derived from charges to another telecommunications company for connecting fees, switching charges, or carrier access charges relating to intrastate toll telephone services, or for access to, or charges for, interstate services.
- D. Adjustments made to a billing or to a customer account or to a telecommunications company accrual account in order to reverse a bill or charge that had been made as a result of a third-party fraud or other crime and was not properly a debt of the customer.
- E. Amounts derived from business, which the Consolidated Borough of Quil Ceda Village is prohibited from taxing under the Constitution or laws of the United States.

SECTION 15.9 GENERAL ADMINISTRATIVE PROVISIONS APPLY

The provisions of Part I of the Quil Ceda Village Tax Code shall be fully applicable to the provisions of this Chapter except as expressly stated to the contrary herein. All rules and regulations adopted for the administrative provisions contained in Part I of this Tax Code shall be fully applicable to the provisions of this Chapter except as expressly stated to the contrary herein.

CHAPTER SIXTEEN

BUSINESS AND OCCUPATION TAX

SECTION 16.1 IMPOSITION

There is imposed and levied and shall be collected from every person other than the Consolidated Borough of Quil Ceda Village or any of its subdivisions a tax for the act or privilege of engaging in business activities within the boundaries of the Consolidated Borough of Quil Ceda Village, whether his/her office or place of business be within and/or without the Consolidated Borough of Quil Ceda Village. Such tax shall be measured by the application of rates against:

1. Value of products, gross proceeds of sales or gross income of the business; and/or
2. Square footage of office space, as the case may be.

SECTION 16.2 RATE OF TAX

The rate of the tax imposed by this Chapter shall be as follows:

Code Section	Tax Rate
GROSS RECEIPTS TAX Section 16.4 through Section 16.9, and Section 16.2	0.1496%
SQUARE FOOTAGE TAX Section 16.11	\$0.1522 per square foot

SECTION 16.3 DEFINITIONS

The definitions set forth in Section 1.3 shall apply throughout this Chapter, unless expressly provided otherwise herein. The following additional definitions shall apply throughout this Chapter:

- A. **"Byproduct"** means any additional product, other than the principal or intended product, which results from manufacturing activities and which has a market value, without regard to whether or not such additional product was an expected or intended result of the manufacturing activities.
- B. **"Cash discount"** means a deduction from the invoice price of goods or charge for services, which is allowed if the bill is paid on or before a specified date.
- C. **"Casual or isolated sale"** means a sale made by a person who is not engaged in the business of selling the type of property involved.
- D. **"Chapter"** shall mean Chapter 16, as it may be amended or replaced from time to time.
- E. **"Commercial or industrial use"** means the following uses of products, including byproducts, by the manufacturer thereof:
 1. Any use as a consumer; and
 2. The manufacturing of articles, substances or commodities.
- F. **"Cost of doing business"** includes, but is not limited to, rent and/or depreciation, salaries and wages, fixed charges and other business expenses, which are peculiar to the nature of the particular business activity.
- G. **"Engaging in business"** means commencing, conducting, or continuing in business and

also the exercise of corporate or franchise powers as well as liquidating a business when the liquidators thereof hold themselves out to the public as conducting such business, or continue to carry on the activities or to perform the contracts of the business of the person being dissolved or under liquidation. "Engaging in business" includes, but is not limited to, the production, manufacture, sale at wholesale or retail, lease, exchange, solicitation of business, or delivery of any substance or tangible property, goodwill or advertising, the rendition of or providing for amusement, services, advice or information and the dealing in securities, contracts, investments, evidences of indebtedness, rents and royalties. This definition does not include the activities of any person engaged or performed in respect to his employment in the capacity of an employee or servant of another, as distinguished from that of an independent contractor.

- H. "**Gross proceeds of sales**" means the value proceeding or accruing from the sale of tangible personal property and/or for services rendered, without any deduction on account of the cost of property sold, the cost of materials used, labor costs, interest, discount paid, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses.
- I. "**Gross income of business**" means the value proceeding or accruing by reason of the transaction of the business engaged in and includes gross proceeds of sales, compensation for the rendition of services, gains realized from trading in stocks, bonds, or other evidences of indebtedness, interest, discount, rents, royalties, fees, Village Councils, dividends, and other emoluments however designated, all without any deduction on account of the cost of tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses.
- J. "**Liquor**" includes alcohol, spirits, wine and beer, and all fermented, spirituous, vinous, or malt liquor, or combinations thereof, and mixed liquor, a part of which is fermented, spirituous, vinous or malt liquor, or otherwise intoxicating; and every liquid or solid or semisolid or other substance, patented or not, containing alcohol, spirits, wine or beer, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption, and any liquid, semisolid, solid, or other substance, which contains more than one percent of alcohol by weight shall be conclusively deemed to be intoxicating. Liquor does not include confections or food products that contain one percent or less of alcohol by weight.
- K. "**Manufacturer**" means every person, who, either directly or by contracting with others for the necessary labor or mechanical services, manufactures for sale or for commercial or industrial use from his own materials or ingredients any articles, substances or commodities; provided, that a nonresident of the Village who is the owner of materials processed for it in the Village by a predecessor for hire shall not be deemed to be engaged in business in the Village as a manufacturer because of the performance of such processing work for it in the Village.
- L. "**Motor vehicle fuel**" means gasoline or any other flammable gas or liquid, by whatsoever name such gasoline, gas, or liquid may be known or sold, the chief use of which is a fuel for the propulsion of motor vehicles or motor boats.

- M. "Sale" means any transfer of the ownership of, title to, or possession of property for a valuable consideration and includes any activity classified as a "sale at retail". It includes renting or leasing, conditional sale contracts, leases with option to purchase, and any contract under which possession of the property is given to the purchaser but title is retained by the vendor as security for the payment of the purchase price. It also includes the furnishing of food, drink, or meals for compensation whether consumed upon the premises or not.
- N. "Sale at retail" or "retail sale".
1. "Sale at retail" or "retail sale" means every sale of tangible personal property (including articles produced, fabricated, or imprinted) to all persons irrespective of the nature of their business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than a sale to a person who (a) purchases for the purpose of resale as tangible personal property in the regular course of business, or (b) installs, repairs, cleans, alters, imprints, improves, constructs, or decorates real or personal property of or for consumers, if such tangible personal property becomes an ingredient or component of such real or personal property, or (c) purchases for the purpose of consuming the property purchased in producing for sale a new article of tangible personal property or substance, of which such property becomes an ingredient or component or as a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale.
 2. The term "sale at retail" or "retail sale" shall include the sale of or charge made for tangible personal property consumed and/or for labor and services rendered in respect to the following: (a) the installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of or for consumers, excluding, however, services rendered in respect to live animals, birds, and insects; (b) the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for consumers, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, and shall also include the sale of services or charges made for the clearing of land and the moving of earth excepting the mere leveling of land used in commercial farming or agriculture; (c) the sale of or charge made for the furnishing of lodging and all other services by a hotel, rooming house, tourist court, motel, trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, and it shall be presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or enjoy the same.
- O. "Sale at wholesale" or "wholesale sale" means any sale of tangible personal property, which is not a sale at retail and means any charge made for labor and services rendered

- for persons who are not consumers, in respect to real or personal property.
- P. **"Special fuel"** means and includes all combustible gases and liquids suitable for the generation of power for propulsion of motor vehicles, except that it does not include "motor vehicle fuel" as defined in this Section.
 - Q. **"Successor"** means any person to whom a taxpayer quitting, selling out, exchanging, or disposing of a business sells or otherwise conveys, directly or indirectly, in bulk and not in the ordinary course of the taxpayer's business, a major part of the materials, supplies, merchandise, inventory, fixtures, or equipment of the taxpayer. Any person obligated to fulfill the terms of a contract shall be deemed a successor to any contractor defaulting in the performance of any contract as to which such person is a surety or guarantor.
 - R. **"To manufacture"** embraces all activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machinery, to materials so that as a result thereof a new, different or useful substance or article of tangible personal property is produced for sale or commercial or industrial use, and shall include the production or fabrication of special made or custom made articles.
 - S. **"Value proceeding or accruing"** means the consideration, whether money, credits, rights, or other property expressed in terms of money, actually received or accrued. The term shall be applied, in each case, on a cash receipts or accrual basis according to which method of accounting is regularly employed in keeping the books of the taxpayer.

SECTION 16.4 TAX ON MANUFACTURERS

- A. There is imposed and levied and shall be collected from every person engaging within the Consolidated Borough of Quil Ceda Village in business as a manufacturer a tax with respect to such business in an amount equal to the value of the products, including byproducts, manufactured, multiplied by the rate of one-tenth of one percent.
- B. The measure of the tax is the value of the products, including byproducts, so manufactured regardless of the place of sale or the fact that deliveries may be made to points outside the Village.

SECTION 16.5 TAX ON RETAILERS

- A. There is imposed and levied and shall be collected from every person engaging within the Consolidated Borough of Quil Ceda Village in the business of making sales at retail a tax with respect to such business in an amount equal to the gross proceeds of sales of the business, multiplied by the rate of one-tenth of one percent.
- B. The measure of the tax is the gross proceeds of the sales of the business without regard to the place of delivery of articles, commodities or merchandise sold.

SECTION 16.6 TAX ON WHOLESALERS

- A. There is imposed and levied and shall be collected from every person engaging within the Consolidated Borough of Quil Ceda Village in the business of making sales at wholesale a tax with respect to such business in an amount equal to the gross proceeds of sales of such businesses multiplied by the rate of one-tenth of one percent.
- B. The measure of the tax is the gross proceeds of the sales of the business without regard to

the place of delivery of articles, commodities or merchandise sold.

SECTION 16.7 TAX ON PRINTERS AND PUBLISHERS

There is imposed and levied and shall be collected from every person engaging within the Consolidated Borough of Quil Ceda Village in the business of printing and/or publishing newspapers, periodicals or magazines a tax with respect to such business in an amount equal to the gross proceeds of sales of such business multiplied by the rate of one-tenth of one percent.

SECTION 16.8 TAX ON CONSTRUCTION ACTIVITIES

There is imposed and levied and shall be collected from every person engaging within the Consolidated Borough of Quil Ceda Village in the business of constructing, repairing, decorating, improving new or existing buildings or other structures under, upon or above real property of others; installing or attaching of any article of tangible personal property in or to real property, whether or not such personal property becomes a part of the realty by virtue of installation; and the clearing of land and the moving of earth; and constructing, reconstructing, repairing or improving any street, place, road, highway, easement, right-of-way, parking facility, bridge, tunnel, or trestle; a tax on such business or other such activities in an amount equal to the gross income of the business multiplied by the rate of one-tenth of one percent.

SECTION 16.9 REAL ESTATE BROKERS

- A. There is imposed and levied and shall be collected from every person engaging within the Consolidated Borough of Quil Ceda Village as a real estate broker a tax with respect to such business in an amount equal to the gross income of the business, multiplied by the rate of one-tenth of one percent.
- B. The measure of the tax on real estate Village Councils earned by the real estate broker shall be the gross Village Council earned by the particular real estate brokerage office including that portion of the Village Council paid to salespersons or associate brokers in the same office on a particular transaction; provided, however, that where a real estate Village Council is divided between an originating brokerage office and a cooperating brokerage office in a particular transaction, each brokerage office shall pay the tax only upon their respective shares of said Village Council; and provided further, that where the brokerage office has paid the tax as provided herein, salespersons or associate brokers within the same brokerage office shall not be required to pay a similar tax upon the same transaction.

SECTION 16.10 SQUARE FOOTAGE TAX

- A. Upon every person, as defined in Section 1.3J, within the Consolidated Borough of Quil Ceda Village who maintains an office(s), including but not limited to any offices or other facilities which provide support activities to that person's business, such as administrative, engineering, technical, legal and other direct or indirect support services, whether or not such business is conducted in the Consolidated Borough of Quil Ceda Village.
- B. As to such person, the amount of tax for such activities shall be equal to \$0.15 for each

quarterly period of a calendar year for each square foot of floor area of office space computed to the nearest square foot. The \$0.15 tax rate set forth herein shall be administratively adjusted on January 1st of each year, beginning on **January 1, 2004**, by the Executive Director, to reflect any change in the cost of living, as defined and calculated pursuant to Section 1.3F.

1. As to such person who maintains an office, all or a portion of which provides administrative support to a business activity which is taxed under any other Section of this Chapter, an exemption from a portion of the tax of this Section is granted in that proportion that administrative support for the business activity taxed under any Section of this Chapter bears to the total administrative activity of the office. The Executive Director may promulgate rules and regulations regarding the manner, means and method of calculating the exemption.
2. The taxable floor area of office space shall be computed on the basis of net rentable area as follows:
 - a. Rentable Area - Single-Tenancy Floor. The rentable area of a single-tenancy floor, whether above or below grade, shall be computed by measuring to the inside finish of permanent outer building walls, or from the glass line if at least fifty (50%) percent of the outer building wall is glass. Rentable area shall include all area within outside walls, less stairs, elevator shafts, flues, pipe shafts, vertical ducts, air-conditioning rooms, fan rooms, janitor closets, electrical closets and such other rooms not actually available to the tenant for his/her furnishings and personnel, and their enclosing walls. Toilet rooms within and exclusively serving only that floor shall be included in the rentable area. No deductions from the rentable area calculation shall be made for columns and projections necessary to the building.
 - b. Rentable Area - Multiple-Tenancy Floor. The net rentable area of a multiple-tenancy floor, whether above or below grade, shall be the sum of all rentable areas on that floor. The rentable area of an office on a multiple-tenancy floor shall be computed by measuring to the inside finish of permanent outer building walls, or to the glass line if at least fifty (50%) percent of the outer building wall is glass, to the office side of corridors and/or other permanent partitions, and to the center of partitions that separate the premises from adjoining rentable areas. No deduction from the rentable area calculation shall be made for columns and projections necessary to the building.
 - c. For purposes of this Section, net rentable area shall not include warehouses, company gyms, cafeterias, and the retail selling area of a retail store.
 - d. When the taxable floor space of an office changes during a reporting period, the tax shall be computed on a monthly basis. For the purposes of this allocation, a month shall be deemed to be 16 or more days during any calendar month.

SECTION 16.11 TAX ON ANY OTHER ACTIVITY

Upon every person, as defined in Section 1.3J, engaging within the Consolidated Borough of Quil Ceda Village in any activity, including but not limited to any service or business activity, other than or in addition to those activities enumerated elsewhere in this Chapter; as to such persons the amount of tax on account of such activities shall be equal to the gross income of the business multiplied by the rate of one-tenth of one percent. This Section includes, among others, and without limiting the scope hereof (whether or not title to materials used in the performance of such business passes to another by accession or other than by outright sale), persons engaged in the business of rendering any type of service, which does not constitute a "sale at retail" or a "sale at wholesale".

SECTION 16.12 EXEMPTIONS

- A. **Tax Exemption Thresholds.** Any person engaging in any one or more business activities which are otherwise taxable pursuant to Sections 16.4 through 16.9 and Section 16.11, whose value of products, gross proceeds of sale, or gross income of business, less applicable deductions and exemptions, is less than or equal to \$30,000 for an assigned quarterly reporting period or is less than or equal to \$120,000 for an assigned annual reporting period, shall be exempt from taxation under such Sections. The exemption level set forth in this Section shall be administratively adjusted by the Executive Director on January 1st of each year, beginning on January 1, 2004, to reflect any change in the cost of living, as defined and calculated pursuant to Section 1.3F. The amount of the exemption level so calculated shall be rounded to the nearest \$5,000. Any person otherwise taxable pursuant to Section 16.10 and whose total floor area of office space does not exceed 250 taxable square feet shall be exempt from taxation under Section 16.10.
- B. **Utility Occupation Tax.** This Chapter shall not apply to any person in respect to a business activity for which tax liability is specifically imposed under the provisions of Chapter 15, the Utility Occupation Tax Chapter.
- C. **Farmers.** This Chapter shall not apply to any farmer, gardener, or other person selling, delivering, or peddling any fruits, vegetables, dairy products, berries, eggs, fish, poultry meats, or any farm produce or edibles raised, gathered, produced, or manufactured by such person.
- D. This Chapter shall not apply to any person in respect to his employment in the capacity of an employee as distinguished from that of an independent contractor.
- E. **Nonprofit Organizations.** This Chapter shall not apply to nonprofit organizations exempt from federal income tax under Section 501(c)(3), (4), or (7) of the Internal Revenue Code of 1998, as amended.
- F. **Sale of Real Estate.** This Chapter shall not apply to gross proceeds derived from the sale of real estate. This subsection shall not, however, be construed to allow a deduction of amounts received as Village Councils from the sale of real estate, nor as fees, handling charges, discounts, interest or similar financial charges resulting from, or relating to, real estate transactions.

- G. Casual and Isolated Sales. This Chapter shall not apply to the gross proceeds derived from casual or isolated sales.
- H. Investments. This Chapter shall not apply to those amounts derived by persons, other than those engaging in banking, loan, security, or other financial businesses from investments or the use of money as such, or to amounts derived as dividends by a parent from its subsidiary corporations.
- I. The Consolidated Borough of Quil Ceda Village is exempt from the tax levied by this chapter.

SECTION 16.13 DEDUCTIONS

In computing the tax imposed by this Chapter, the following items may be deducted from the measure of the tax. These deductions shall not be construed to allow an exemption from the square footage tax levied pursuant to Section 16.10 unless otherwise stated.

- A. Village prohibited from Taxing. Amounts derived from business which the Consolidated Borough of Quil Ceda Village is prohibited from taxing under any of its laws, including interstate and foreign sales.
- B. Initiation Fees and Dues. Amounts derived from:
 - i. Bona fide initiation fees;
 - ii. Dues;
 - iii. Contributions;
 - iv. Donations;
 - v. Tuition fees; and
 - vi. Endowment funds.

This Section shall not be construed to exempt any person, as defined in Section 1.3J, from tax liability upon selling tangible personal property or upon providing facilities or services for which a special charge is made to members or others. If dues are in exchange for any significant amount of goods or services rendered by the recipient thereof to a member without any additional charge to the member, or if the dues are graduated upon the amount of goods or services rendered, the value of such goods or services shall not be permitted as a deduction hereunder. The square footage tax levied pursuant to Section 16.10 shall not apply to deductions for initiation fees and dues.

- C. Cash Discounts. Amounts derived from cash discounts actually taken by the purchaser. This deduction is not allowed in arriving at the taxable amount under the manufacturers classification with respect to articles manufactured, the reported values of which, for purposes of such tax, have been computed according to the provisions of Section 16.15. The square footage tax levied pursuant to Section 16.10 shall not apply to deductions for cash discounts.
- D. Credit Losses. Amounts derived from credit losses actually sustained by taxpayers whose regular books are kept upon an accrual basis. The square footage tax levied pursuant to Section 16.10 shall not apply to deductions for credit losses.
- E. Motor Vehicle Fuel. Amounts derived from the business of manufacturing, selling, or

- distributing motor vehicle fuel or special fuel. The square footage tax levied pursuant to Section 16.10 shall not apply to deductions for motor vehicle fuel.
- F. Liquor Sales. Amounts derived from the business of selling liquor. The square footage tax levied pursuant to Section 16.10 shall not apply to deductions for liquor sales.
- G. Interest on Investments or Loans Secured by Mortgages or Deeds of Trust. Amounts derived, by those engaged in banking, loan, security or other financial businesses, from interest received on investments or loans primarily secured by first mortgages or trust deeds on nontransient residential properties. The square footage tax levied pursuant to Section 16.10 shall not apply to deductions for interest on investments or loans secured by mortgages or deeds of trust.
- H. Interest on Obligations of the State or its Subdivisions. Amounts derived by those engaged in banking, loan, security or other financial businesses, from interest paid on all obligations of the State of Washington, its political subdivisions, and municipal corporations organized pursuant to the laws thereof. The square footage tax levied pursuant to Section 16.10 shall not apply to deductions for interest on obligations of the state or its subdivisions.
- I. Tax Paid to Another City. Whenever persons located in, registered with, and paying tax to the Consolidated Borough of Quil Ceda Village, as required by this Chapter, are also required to register and pay business and occupation tax to another municipality, and when another municipality has a more substantial nexus with the particular activity subject to taxation, such persons may deduct from the measure of gross receipts tax due to the Consolidated Borough of Quil Ceda Village that amount they are required to report as the measure of tax to another municipality; provided, however, this deduction is only applicable when the other municipality uses "gross proceeds of sales" and/or "gross income of the business" as the measure of their business and occupation tax. This deduction shall not apply to persons engaged in manufacturing in the Consolidated Borough of Quil Ceda Village who transfer or make delivery of articles produced to points outside the Village. The square footage tax levied pursuant to Section 16.10 shall not apply to deductions for sales taxed by another city.
- J. Value of Articles Manufactured Outside the United States. The value of articles to the extent of manufacturing activities completed outside the United States, by persons subject to payment of the tax on manufacturers pursuant to Section 16.4, if:
- a. Any additional processing of such articles in the Consolidated Borough of Quil Ceda Village consists of minor final assembly only; and
 - b. In the case of domestic manufacturing of such articles, can be and normally is done at the place of initial manufacture; and
 - c. The total cost of the minor final assembly does not exceed two percent of the value of the articles; and
 - d. The articles are sold and shipped outside the Consolidated Borough of Quil Ceda Village. The square footage tax levied pursuant to Section 16.10 shall not apply to deduction for the value of articles manufactured outside the United States.

SECTION 16.14 PERSONS TAXABLE ON MULTIPLE ACTIVITIES - DEDUCTION

- A. Any person, as defined in Section 1.3J, engaged in business activities within the Consolidated Borough of Quil Ceda Village which are taxable pursuant to two or more Chapters of this Tax Code shall be taxable under each Section applicable to the activity engaged in.
- B. Persons taxable under Section 16.4 with respect to manufacturing products in the Consolidated Borough of Quil Ceda Village shall be allowed a deduction from the measure of the taxes levied under this Section for amounts which:
 - a. A gross receipts tax has been paid to the Village under Section 16.5 (retailing) with respect to the sales of the products so manufactured in the Village; or
 - b. A gross receipts tax has been paid to the Village under Section 16.6 (wholesaling) with respect to the sales of the products so manufactured in the Village.
 - c. Persons taxable under Section 16.4 with respect to manufacturing products in the Village shall be allowed a deduction from the measure of the taxes levied under that Section for amounts for which:
 - a. A gross receipts tax has been paid to another state with respect to the sales of the products so manufactured in the Village;
 - b. A manufacturing tax has been paid with respect to manufacturing activities completed in another state for products so manufactured in the Village.
- C. For the purpose of this Section, the following definitions shall apply:
 - 1. **"Gross receipts tax"** means a tax:
 - a. Which is imposed on or measured by the gross volume of business in terms of gross receipts or in other terms, and in the determination of which the deductions allowed would not constitute the tax an income tax or value added tax; and
 - b. Which is also not, pursuant to law or custom, separately stated from the sales price.
 - 2. **"State"** means:
 - a. A state of the United States other than Washington, or any political subdivision of such other state;
 - b. The District of Columbia; or
 - c. Any foreign country or political subdivision thereof.

SECTION 16.15 VALUE OF PRODUCTS

- A. The value of manufactured products, including byproducts, shall be determined by the gross proceeds derived from the sale thereof whether such sale is at wholesale or at retail, to which shall be added all subsidies and bonuses received from the purchaser or from any other person with respect to the manufacture or sale of such products or byproducts by the seller, except:
 - 1. Where such products, including byproducts, are manufactured for commercial or industrial use;
 - 2. Where such products, including byproducts, are shipped, transported or transferred out of the state of Washington, or to another person, without prior sale or are sold under circumstances such that the gross proceeds from the sale are not

indicative of the true value of the subject matter of the sale.

- B. In the above cases, the value shall correspond as nearly as possible to the gross proceeds from sales in this state of similar products of like quality and character, and in similar quantities by other taxpayers plus the amount of subsidies or bonuses ordinarily payable by the purchaser or by any third person with respect to the manufacture or sale of such products; provided, that the value of a product manufactured or produced for purposes of serving as a prototype for the development of a new or improved product shall correspond:
1. To the retail selling price of such new or improved product when first offered for sale; or
 2. To the value of materials incorporated into the prototype in cases in which the new or improved product is not offered for sale.

SECTION 16.16 SALE IN OWN NAME - SALES AS AGENT

1. Every consignee, bailee, factor, or auctioneer having either actual or constructive possession of tangible personal property, or having possession of the documents of title thereto, with power to sell such tangible personal property in his/her or its own name and actually so selling, shall be deemed the seller of such tangible personal property within the meaning of this Chapter; and further, the consignor, bailor, principal, or owner shall be deemed a seller of such property to the consignee, bailee, factor, or auctioneer.
2. The burden shall be upon the taxpayer in every case to establish the fact that he/she is not engaged in the business of selling tangible personal property but is acting merely as an agent in promoting sales for a principal.

SECTION 16.17 TAX PART OF OVERHEAD

It is not the intention of this Chapter that the taxes herein levied upon persons engaging in business activities be construed as taxes upon the purchasers or customers, but that such taxes shall be levied upon, and collectible from, the person engaging in the business activities herein designated and that such taxes shall constitute a part of the operating overhead of such persons.

SECTION 16.18 GENERAL ADMINISTRATIVE PROVISIONS APPLY

The provisions of Part I of the Quil Ceda Village Tax Code shall be fully applicable to the provisions of this Chapter except as expressly stated to the contrary herein. All rules and regulations adopted for the administrative provisions contained in Part I of this Tax Code shall be fully applicable to the provisions of this Chapters except as expressly stated to the contrary herein.

CHAPTER SEVENTEEN GAMBLING TAX

SECTION 17.1 IMPOSITION

- A. There is imposed and levied and shall be collected from all persons, as defined in Section 1.3J, who have been duly licensed by the Tulalip Tribal Gaming Village Council

according to Section 10 of Ordinance No.55A of the Tulalip Tribes of Washington (Restated), as amended, and the Tulalip Tribal Gaming Village Council's Regulations (Revised July 1995), as amended, a tax on the act of conducting or operating any bingo game, raffle, amusement game, punchboard or pull-tab activity within the boundaries of the Consolidated Borough of Quil Ceda Village. Such tax shall be levied at the rates set forth in Section 17.2 on the gross revenues of activities taxable under this Chapter.

- B. Exclusively for the purposes of this Chapter, this Tax Code shall be construed as imposing a tax on the government or any wholly or partially owned subdivision or economic enterprise of the Tulalip Tribes. Section 1.5 of this Tax Code shall be disregarded for the purposes of this subsection only.

SECTION 17.2 RATE OF TAX

Upon every person, as defined in Section 17.1A, engaging within the Consolidated Borough of Quil Ceda Village in the act of conducting or operating the following gambling activities, as to such persons, the amount of tax with respect to such activities shall be equal to the gross revenue from such activities multiplied by the following tax rates:

<u>Activity</u>	<u>Tax Rate</u>
A. Bingo Games	5.0%
B. Raffles	7.5%
C. Amusement Games	2.0%
D. Sales of Punchboards and Pull-Tabs	5.0%
E. All Other Games of Chance	5.0%

SECTION 17.3 DEFINITIONS

The definitions set forth in Section 1.3 shall apply throughout this Chapter, unless expressly provided otherwise herein. The following additional definitions shall apply throughout this Chapter:

- A. **"Amusement Game"** means a game played for entertainment in which the contestant actively participates, the outcome depends in a material degree upon the skill of the contestant, only merchandise prizes are awarded, the outcome is not in the control of the operator, the wagers are placed, the winners are determined, and a distribution of prizes or property is made in the presence of all persons placing wagers at such game.
- B. **"Bingo"** means a game in which prizes are awarded on the basis of designated numbers or symbols on a card conforming to numbers or symbols selected at random and in which no cards are sold except at the time and place of said game.
- C. **"Pull-tabs"** means a game in which the participant, on payment of a nominal sum, receives a paper tab from a dispenser, which is pulled apart to reveal a designated prize.
- D. **"Punchboard"** means a board with many holes filled with rolled-up printed slips to be punched out on payment of a nominal sum in an effort to obtain a slip that entitles the player to a designated prize.
- E. **"Raffle"** means a game in which tickets bearing an individual number are sold for not more than \$25.00 each and in which a prize or prizes are awarded on the basis of a drawing from the tickets by the person or persons conducting the game.

- F. "Game of Chance" means any game other than those set out in Subsection 17.3 A-E above wherein the element of skill in the possibility of winning a prize, with pecuniary consideration being required to participate in the game:
- G. "Game of Skill"

SECTION 17.4 TAX PAYMENTS

- A. Quarterly payments of the tax imposed by this Chapter shall be due and payable in quarterly installments, and remittance thereof shall be made on or before the thirtieth day of the month succeeding the end of the quarterly period in which the tax accrued. It's the taxpayer's obligation to compute and make the payment on or before such date and to accompany the same with a return on a form to be provided and prescribed by the Village Council.
- B. Tax payments under the provisions of this Chapter shall commence accruing on **January 1, 2004**, and the first payments and returns shall be made on or before **April 20, 2004**.

SECTION 17.5 COLLECTION

The taxes authorized by this Chapter that are collected by the Village Council shall be deposited by the Village Council in the Tribal Gaming Fund hereby created in the treasury of the Consolidated Borough of Quil Ceda Village. All taxes collected herein shall be placed in such account for such uses as may from time to time be authorized for such taxes pursuant to regulations.

SECTION 17.6 LICENSE FEE - ADDITIONAL TO OTHERS

- A. The tax herein levied shall be additional to any license fee.
- B. The tax levied pursuant to his Chapter is in lieu of any excise or occupational tax based on gross revenue under any other Chapter of this Tax Code with respect to activities taxed under this Chapter. Nothing herein shall be construed to exempt persons taxable under the provisions of this Chapter from any tax imposed under any other Chapter of this Tax Code with respect to activities under than those expressly taxed under this Chapter.

SECTION 17.7 GENERAL ADMINISTRATIVE PROVISIONS APPLY

The provisions of Part I of the Quil Ceda Village Tax Code shall be fully applicable to the provisions of this Chapter except as expressly stated to the contrary herein. All rules and regulations adopted for the administrative provisions contained in Part I of this Tax Code shall be fully applicable to the provisions of this Chapter except as expressly stated to the contrary herein.

