

RESOLUTION NO. 48 -13
OF THE GOVERNING BODY OF THE
YAVAPAI-APACHE NATION

A Resolution Adopting the Yavapai-Apache Nation Hotel Occupancy Tax

WHEREAS: The Yavapai-Apache Tribal Council ("Council") is authorized to represent the Yavapai-Apache Nation ("Nation") and act on all matters that concern the health and welfare of the Nation, and to make decisions not inconsistent with or contrary to the Constitution of the Yavapai-Apache Nation as provided under Article V(a) of the Constitution of the Yavapai-Apache Nation ("Constitution"); and

WHEREAS: The Council, as the legislative body of the Nation, is authorized to take any and all actions necessary and proper for the exercise of its Constitutional powers and duties, including those powers and duties not enumerated, and all other powers and duties now or hereafter delegated to the Tribal Council, or vested in the Tribal Council through its inherent sovereignty, as provided under Article V (w) of the Constitution; and

WHEREAS: The Council is authorized to levy and collect taxes, duties, fees and assessments and to enact laws, ordinances and resolutions incidental to the exercise of legislative powers as provided by Article V(j) and V (v), respectively, of the Constitution; and

WHEREAS: The Council is responsible for generating revenue in order to fund the costs of delivering the essential governmental services provided by the Nation to its tribal members and to others who enter within the jurisdiction of the Nation; and

WHEREAS: The Council has reviewed the proposed Yavapai- Apache Nation Hotel Occupancy Tax, a copy of which is attached to this Resolution as Exhibit A, and has determined that adoption of the Hotel Occupancy Tax will serve the best interests of the Nation; and

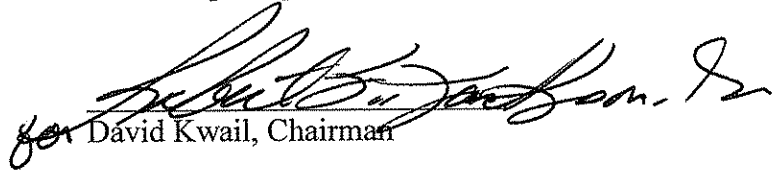
NOW THEREFORE BE IT RESOLVED that the Yavapai-Apache Tribal Council, in Council assembled, at which a quorum is present, hereby adopts the Yavapai-Apache Nation Hotel Occupancy Tax as set out in the document attached to this Resolution as Exhibit A.

BE IT FURTHER RESOLVED that the Yavapai-Apache Hotel Occupancy Tax shall be effective immediately upon passage of this Resolution and the tax imposed under the Hotel Occupancy Tax shall be due beginning April 1, 2013.

BE IT FINALLY RESOLVED that the Chairman, and Vice-Chairman, or either of them, are hereby authorized to take such further action as deemed necessary to carry out the intent and purposes of this Resolution and to implement the Yavapai-Apache Hotel Occupancy Tax.

CERTIFICATION


I hereby certify that the foregoing resolution was adopted by an affirmative vote of the Tribal Council, with a quorum in attendance, presented for approval on March 14 2013, by a vote of 7 7 in favor, 0 opposed and 0 abstaining, pursuant to the authority contained under the Constitution of the Yavapai-Apache Nation as cited above.


for David Kwail, Chairman

ATTEST:


Karla Reimer, Council Secretary

Approved as to Form:


Office of the Attorney General

Yavapai-Apache Nation Hotel Occupancy Tax

100. POLICY AND PURPOSE

Recognizing the sovereign taxing powers of the Yavapai Apache Nation ("YAN" or "Nation"), this Chapter of the Nation's Tax Code is intended to fully exercise the legislative and taxing power of the Nation, acting through its governing body the Yavapai-Apache Nation Tribal Council ("Council" or "Tribal Council"), as authorized under the Constitution of the Yavapai Apache Nation and to provide important sources of revenue aimed at defraying the cost of essential governmental services to all residents and persons within the jurisdiction of the Nation. The Tribal Council finds that the tax levied under this Chapter more equitably distributes the cost of providing essential governmental services upon temporary lodgers within the YAN Reservation. This policy is consistent with the Council's role in regulating transient lodging and promoting the economic, health and safety, and political integrity of the Nation. This Chapter affirms the tribal sovereignty of the Nation and nothing in this Chapter shall be construed as a waiver of the Nation's sovereignty or of its sovereign immunity.

101. DEFINITIONS

- A. "Hotel" means a building in which members of the public obtain sleeping accommodations for consideration. The term includes a hotel, motel, tourist home, tourist court, lodging house, inn, rooming house, or bed and breakfast, but does not include a hospital, sanitarium, nursing home, or recreational vehicle parks and, or, campgrounds.
- B. "Branch" means any person (whether an individual, a corporation, or any other entity) owning, operating, managing or controlling any hotel.
- C. "Period" means a calendar quarter or any other reporting period established by regulation approved by the Tribal Council.
- D. "Treasurer" means the Official appointed by the Tribal Council under authority of Article IV, Section 3 of the Constitution of the Yavapai-Apache Nation.

102. TAX IMPOSED

- A. A tax is imposed on a person who, under a lease, concession, permit, right of access, license, contract, or agreement, pays for the use or

possession or for the right to the use or possession of a room or space in a hotel costing \$30 or more each day.

B. The price of a room in a hotel does not include the cost of food served by the hotel and the cost of personal services performed by the hotel for the person except for those services related to cleaning and readying the room for use or possession.

103. RATE OF TAX

The rate of the tax imposed by this Chapter shall not be lower than 12 percent of the total price paid for a room in a hotel. The Treasurer shall review the rate of the tax by the end of every fiscal quarter and shall increase the rate of the tax as needed to ensure a reasonable degree of parity with the combined hotel occupancy tax rate of neighboring Arizona counties, with particular emphasis on Coconino and Yavapai Counties. In making this determination the Treasurer shall reference the State of Arizona's current Transaction Privilege and Other Tax Rate Tables, or similar publication issued by the Arizona Department of Revenue. The Treasurer shall provide immediate notice to each Branch of any increase in the rate of the tax.

104. COLLECTION OF TAX

The owning Branch and or agent operating, managing, or controlling a hotel shall collect and remit to the Yavapai-Apache Nation the tax that is imposed by this Chapter, and that is calculated on the total amount paid for a room in the hotel.

105. EXCEPTION: PERMANENT RESIDENT

This Chapter does not impose a tax on a person who has the right to use or possess a room in a hotel for at least 30 consecutive days, so long as there is no interruption of payment for the period.

106. ADMINISTRATION

The Treasurer is responsible for the timely collection, receipt, and reporting of tax revenues. Accordingly, the Treasurer is responsible for the implementation of this tax and the Nation's tax collection system. The Treasurers duties in administering the tax imposed by this Chapter include the provision of the necessary forms and tax information circulars. The Treasurer shall be assisted in the administration of the provisions in this Chapter by the Finance Department of the Yavapai-Apache Nation (the "Finance Department").

107. RETURN AND PAYMENT

On the last day of each period, a Branch required to collect the tax imposed by this Chapter shall remit to the Treasurer and Finance Department the tax collected during the preceding period, and at the same time shall file with the Treasurer and Finance Department a return stating:

- A. The total amount of the payments made for rooms at the Branch's hotel during the preceding period;
- B. The amount of the tax collected by the Branch during the preceding period; and
- C. Other information that the Yavapai-Apache Nation requires the Branch to provide in the return. Provided, that the Treasurer is authorized to assess against a Branch responsible for the collection of taxes under this Chapter any amount of taxes due but unpaid by under this Chapter, and that such assessments are presumed to be correct.

108. RECORDKEEPING

Records required to be kept by a Branch must be preserved for five years beyond the time payment of tax is made, or if no payment is due, for five years beyond the end of the period to which the records relate.

110. SEVERABILITY

If any provision of this Chapter, as amended, or its application to any person or circumstance, is held invalid by a final judgment of a court of competent jurisdiction, the invalidity shall not affect other provisions or applications of the Chapter which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are severable.

111. EFFECTIVE DATES

This Chapter shall take effect upon approval by the Yavapai-Apache Nation Tribal Council. The tax imposed by this Chapter shall be due and payable for calendar quarters beginning April 1, 2013.

112. ALLOCATION

All tax monies collected through enforcement of this Chapter shall be deposited into a dedicated account separate from the general fund of the Nation. The revenues received from the tax imposed by this Chapter shall be allocated and used for such purposes as specified by the Yavapai-Apache Nation Tribal Council in an Annual Allocation Plan approved by the Council.

113. Repeal of Prior Bed Tax

That portion of Yavapai-Apache Nation Ordinance 14, as approved under Yavapai-Apache Indian Community Council Resolution 23-89 and imposing "A TAX ON GROSS RECEIPTS FROM OVERNIGHT LODGING SALES", therein also referred to as a "Bed Tax", is hereby repealed together with any of its subsequent amendments.