

**RESOLUTION OF THE
WHITE MOUNTAIN APACHE TRIBE OF THE
FORT APACHE INDIAN RESERVATION**

WHEREAS, the Tribal Council by Resolution 02-98-31 directed the Tribal Council Secretary to post the proposed amendments to Chapter Thirteen of the Tax Code, Motor Vehicle Fuel Excise Tax, in each district for a minimum of 10 days as required by the constitution; and

WHEREAS, the Council Secretary advises the Tribal Council that said proposed ordinance has been posted in accordance with that directive; and

WHEREAS, the Tribal Council having received no opposition to the proposed amendments to the Chapter Thirteen of the Tax Code concludes that Ordinance No. 215 amending Chapter Thirteen of the Tax Code of the White Mountain Apache Tribe should be enacted.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby enacts Ordinance No. 215 amending Chapter Thirteen, Motor Vehicle Fuel Excise Tax, of the Tax Code of the White Mountain Apache Tribe.

The foregoing resolution was on April 8, 1998 duly adopted by a vote of ten for and zero against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article IV, Section 1 (a), (b), (h), (i), (j), (k), (t) and (u) of the Constitution of the Tribe, ratified by the Tribe September 30, 1993, and approved by the Secretary of the Interior on November 12, 1993, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).


Chairman of the Tribal Council


Secretary of the Tribal Council

CHAPTER THIRTEEN
GASOLINE AND DIESEL FUEL EXCISE TAX

SECTION 13.1 PREAMBLE

The White Mountain Apache Tribe, through its inherent sovereign authority, and power vested in the Tribal Council by the Tribe's Constitution, Article IV, Section 1 (o), maintains and collects a tax upon gasoline and diesel fuel acquired within the Fort Apache Indian Reservation. To assure all purchases within the Reservation of such fuels are taxed at a uniform rate, the Tribe exempts from tax all fuels sales which are lawfully subject to the State of Arizona fuels taxes. Further, for the purpose of coordination, and lawful and efficient collection of both the Tribal and State of Arizona tax, the Tribe has adopted and incorporated selected terms and provisions of the State of Arizona fuels taxes into Tribal law. The interpretation of such provisions shall be made consistent with Tribal law and Tribal governmental structure.

SECTION 13.2 SEVERABILITY

If any provision of this Chapter, or application thereof, is held invalid, the remainder of this Chapter, or other applications of such provision, shall not be affected.

SECTION 13.3 DEFINITIONS

In this Chapter, unless the context requires another meaning:

A. "Bulk fuel facility" means a facility used to dispense fuel into the motor vehicle fuel tank, but which is not dispense or sell fuel to the general public.

B. "Exempt Vehicle" means any vehicle as defined by Arizona Revised Statutes, § 28-5432, and as amended.

C. "Light Class Vehicle" means any vehicle as defined by Arizona Revised Statutes, § 28-5701, and as amended, and includes any motor vehicle that uses use fuel, but excludes a road tractor, a truck tractor, a truck having a declared gross vehicle weight of more than twenty-six thousand pounds or having more than two axles or a passenger carrying motor vehicle designed to seat more than twenty occupants.

D. "Liquid Use Fuel" or "Use Fuel" means diesel fuel, and any fuel as otherwise defined by Arizona Revised Statutes, § 28-5701, and as amended.

E. "Motor Vehicle Fuel" means gasoline fuel, and any fuel as otherwise defined by Arizona Revised Statutes, § 28-101, and as amended.

F. "Motor vehicle fuel tank" means any receptacle on a motor vehicle from which fuels is supplied for the propulsion of the vehicle, exclusive of a cargo tank.

G. "Reservation" means the Fort Apache Indian Reservation of the White Mountain Apache Tribe.

H. "Vendor" means any person, entity or organization which, within the Reservation, sells fuel or dispenses fuel into a motor vehicle fuel tank.

SECTION 13.4 TAX IMPOSED

A tax is hereby imposed on the acquisition of Liquid Use Fuel or Motor Vehicle Fuel within the Fort Apache Indian Reservation. For the purposes of this Section, "acquisition" means to dispense such fuels into a motor vehicle fuel tank. Nothing in this Chapter is intended to preclude the Tribe from entering into a fuel tax collection and/or revenue transfer agreement with the State of Arizona in lieu of the provisions set forth in this Chapter. Any revenues received under such an agreement with the State of Arizona shall be deemed as a credit towards any tax obligation imposed under this Chapter.

SECTION 13.5 TAX RATE

A. **Liquid Use Fuel:** The tax rated imposed upon the acquisition of Liquid Use Fuel shall be the rate established in Arizona Revised Statutes, § 28-5708, and as amended.

B. **Motor Vehicle Fuel:** The tax rated imposed upon the acquisition of Motor Vehicle Fuel shall be the rate established in Arizona Revised Statutes, § 28-5606, and as amended.

SECTION 13.6 PAYMENT OF TAX

The tax imposed under this Agreement is conclusively presumed to be imposed upon the consumer who dispenses such fuels into a motor vehicle fuel tank; however, the tax shall be collected from the vendor or the bulk fuel facility operator who shall transmit the proceeds to the Office of the Tribal Treasurer within five business days following the calendar month in which the fuel is delivered to a location within the Reservation. In lieu of the provisions of this Section, the Tribe may enter into an agreement with the State of Arizona for the recording and collection of all taxes previously collected and remitted to the State of Arizona by an off-Reservation fuel

supplier. Such agreement shall not be deemed to preclude the application and refund from the State of Arizona for any tax proceeds not addressed in the agreement.

SECTION 13.7 EXEMPTION FROM TAX

Any fuel in transit for delivery to a location outside the Reservation and which is not dispensed into a motor vehicle fuel tank within the Reservation shall be exempt from the tax imposed under this Chapter. In addition, any acquisition of fuel which is lawfully subject to the State of Arizona Fuels taxes shall be exempt from the tax imposed under this Chapter.

SECTION 13.8 ADMINISTRATION

A. The office of the Tribal Treasurer is empowered to administer the tax imposed under this Chapter, and to that end, is empowered to adopt rules and regulations, both substantive and procedural, and orders implementing any decisions, rulings, and instructions as may be needed for the proper administration of this Chapter, including steps necessary for the coordination of the provisions of this Chapter with the State of Arizona fuels taxes.

B. All vendors and operators of bulk fuel facilities shall maintain all records as set forth and for the time period established under Arizona Revised Statutes, § 28-5619(B), for deliveries of Motor Vehicle Fuel, and as set forth and for the time period established under Arizona Revised Statutes, § 28-5731, for deliveries of Liquid Use Fuel. All such records shall be available for inspection by the Office of the Tribal Treasurer.