

Mille Lacs Band Statutes Annotated

Amendments received through: May 10, 2011

TITLE 22 - TAXATION

Chapter	Section
1. General Provisions	1
2. Commissioner of Finance	101
3. Tobacco Excise Taxes	201
4. Gasoline and Petroleum Products Excise Tax	301
5. Motor Vehicle Excise Tax	401
6. Sales and Use Taxes	501
7. Public Service Contracts Occupation Tax	601
8. Personal Income Tax	701
9. Estate	801

CHAPTER 1

GENERAL PROVISIONS

Section

1. Findings and determinations.

Historical and Statutory Notes

Band Statute 1081-MLC-26 provides:

Preamble

"It is enacted by the Band Assembly of the Mille Lacs Band of Chippewa Indians for the purpose of dispute resolution with the Minnesota Department of Revenue.

'Section 1 . Finding and Statement of Purpose. On April 14. 1978, the Mille Lacs Band and the Minnesota Department of Revenue ('Department') entered into an agreement entitled 'Agreement Relating to the Refundment of Sales and Use Taxes and Motor Vehicle Excise Taxes' ('Agreement').

"Section 1.01 . The Agreement purports to authorize the Department to collect sales, use and motor vehicle excise taxes from Band members, and obligates the Department to make refund payments to the Band.

"Section 1.02. Serious legal questions have been raised whether the Agreement lawfully authorizes the collection of sales, use and motor vehicle excise taxes from Band members.

"Section 1.03. Notwithstanding these legal questions, the Department has continued to collect sales, use and motor vehicle excise taxes from Band members. However, it has failed to make refund payments due to the Band under the Agreement. The Department is currently in default on its obligations in an amount believed to exceed One Hundred Thousand Dollars (\$100,000.00).

"Section 1.04. The Department claims approximately Twenty-seven Thousand Dollars (\$27,000.00) from the Band in back taxes, interest, and penalties arising from the Band's operation of the 'Drift Inn.' The Band disputes both the application of the Agreement to purchases made from the Band itself and the amount claimed by the Department in connection with the 'Drift Inn.'

'Section 1.05. This statute is enacted to supply the necessary legal authority for the collection of sales, use and motor vehicle excise taxes from Band members, and to resolve the current dispute with the Department over the refund payments that it has failed to make.

"Section 2. Tax Imposed. Subject to the provisions of Section 3 of this statute, a tax equivalent to the tax imposed by Minnesota Statutes, Chapters 297A and 297B is hereby imposed on all sales made on the Mille Lacs Reservation to members of the Mille Lacs Band in the same manner and to the same extent imposed by Chapters 297A and 297B. The tax imposed by this statute shall be collected by all vendors on the Reservation and remitted to the Department in the same manner as required under Chapters 297A and 297B, and such vendors shall be subject to the same penalties, interest and enforcement provisions as set forth in Chapters 297A and 297B.

"Section 3. Effect of Statute Conditioned on Certification by the Solicitor General. This statute shall become effective only upon certification by the Solicitor General of performance by the Department of its obligations under the Agreement.

"Section 3.01 . 'Performance by the Department of its obligations under the Agreement shall mean that the Department: (a) makes payment of all refund payments due under the Agreement less a reasonable amount to be withheld pending resolution of the amount due in connection with the 'Drift Inn'; (b) states in writing that the retention of funds equivalent to the amount due in connection with the 'Drift Inn' shall be in full and final settlement of all claims against the Band arising under the Agreement on or before the date of enactment of this statute; and (c) pledges in writing the Department's support for legislation at payment of interest on refund payments that were withheld by the Department.

"Section 3.02. The Solicitor General shall certify the Department's performance or non-performance of its obligations under the Agreement of the Band Assembly and Chief Executive on or before December 21, 1984. In the event of a certificate of nonperformance, this statute shall be null and void.

"Section 4. Termination. In the event the Agreement is terminated by the Band or the Department, this statute shall be null and void as of the date of such termination."

The Preamble of Band Statute 1085-MLC-30-39 provides:

"It is enacted, a code for the imposition of general sales and excise taxes on territories governed by the Non-Removable Mille Lacs Band of Chippewa Indians. The imposition of excise taxes on the sale, use, consumption, handling, possession and distribution of cigarettes, general sales, gasoline and petroleum products excise tax along with income tax, estate tax, and occupation tax and employment rights provisions for Indians on lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians for the expressed purpose of preemption of any applicable taxes imposed pursuant to Minnesota Statutes, Chapter 270-298 on transactions involving the Band and its members of any constituent Band of the Non-Removable Mille Lac Band of Chippewa Indians; and, for other expressed and related purposes vital to the economic affairs and sovereignty of the Non-Removable Mille Lacs Band of Chippewa Indians."

Cross References

Housing authority, property exempt from taxes, see 12 MLBSA § 29.

Procurement, exemption from state and local taxes, see 7 MLBSA § 47.

§1. Findings and determinations

(a) The Band Assembly hereby finds that the agreement relating to the refundment of sales and use taxes and motor vehicle excise taxes which purports to grant continuing authority to the state of Minnesota to collect taxes from members of any constituent Band of the Non-Removable Mille Lacs Band of Chippewa Indians, absent the consent of the Congress of the United States and the consent of each constituent Band of the Non-

Removable Mille Lacs Band of Chippewa Indians pursuant to 25 U.S.C. 1322 and 1326 was ultra vires, to each party; and, that the Solicitor General properly declared such agreement null and void.

(b) The Band Assembly hereby finds that the state of Minnesota was officially notified that the agreements on cigarette and alcoholic beverages and petroleum products taxes are terminated effective January 30, 1985.

(c) The Band Assembly hereby finds and determines that the imposition of an excise tax on the gross receipts from sales at retail establishments under the jurisdiction of the Mille Lacs Band of Chippewa Indians-Corporate Commission is an effective way to regulate commercial activity in this area; and, that such regulations is vital to the economic security, political integrity and general welfare of the constituent Bands on territories governed by the Non-Removable Mille Lacs Band of Chippewa Indians. Any such tax, imposed herewith shall preempt any such similar tax imposed by Minnesota Statutes.

(d)(1) The Band Assembly hereby finds that the imposition of cigarette excise tax on the sale, use, consumption, handling, possession and distribution of cigarettes and tobacco products is an effective way to regulate commercial activity in this area; and, that such regulation is vital to the economic security, political integrity and general welfare of the constituent Bands on territories governed by the Non-Removable Mille Lacs Band of Chippewa Indians. Any such tax imposed herewith shall preempt any such similar tax imposed by Minnesota Statutes.

(2) The Band Assembly hereby finds that the Mille Lacs Band of Chippewa Indians-Corporate Commission shall be the sole licensed distributor of cigarette and tobacco products to members of any constituent Band on territories under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians, and that the interests of the Band for such a licensed and regulated commercial enterprise outweighs any interest of the state of Minnesota that might exist in the unregulated sale of such products within said territory by the Band.

(3) The Band Assembly hereby finds that the sale of state tax-exempt cigarette and tobacco products to non-Indians who enter lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians is prohibited until such time as a government-to-government agreement with the state of Minnesota is concluded which specifically designates the Band as an agent of the state

authorized to collect and enforce the Minnesota cigarette excise tax pursuant to Chapter 297-Minnesota Statutes.

(4) The Band Assembly hereby finds that the Mille Lacs Band of Chippewa Indians-Corporate Commission shall generate revenues for the Non-Removable Mille Lacs Band of Chippewa Indians through their licensed operation of a cigarette and tobacco products enterprise at the wholesale and retail levels without any loss of a competitive advantage with respect to other businesses in the surrounding territories as a result of any taxation mechanism imposed herewith.

(5) The Band Assembly hereby finds that the provisions of this subsection shall be liberally construed so as to be legally sufficient to preclude any justifiable cause for the state of Minnesota and any of its governmental entities or political subdivisions thereof, from any action of seizure, as contraband, of unstamped cigarettes and/or tobacco products traveling to the Mille Lacs Band of Chippewa Indians-Corporate Commission from any out-of-state Indian entity under provisions of the Buy Indian Act (25 U.S.C. 47).

(e) The Band Assembly hereby finds and determines that the imposition of an excise tax on all gasoline used in producing and generating power from propelling motor vehicles used in the performance of official Government functions and on all public service contracts whereby the roads under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians shall be used, is an effective way to regulate commercial activity in this area; and that such regulation is vital to the economic security, political integrity and general welfare of the constituent Bands on territories governed by the Non-Removable Mille Lacs Band of Chippewa Indians. Any such tax imposed herewith shall preempt any such similar tax imposed by Minnesota Statutes.

(f) The Band Assembly hereby finds and determines that the imposition of an excise tax on the purchase price of any motor vehicle purchased or acquired either in or outside of territories under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians, which is required to be registered under the laws of the Non-Removable Mille Lacs Band of Chippewa Indians, is an effective way to regulate commercial activity in this area; and, that such regulation is vital to the economic security, political integrity and general welfare of the constituent Bands on territories governed by the Non-Removable Mille Lacs Band of Chippewa

Indians. Any such tax imposed herewith shall preempt any such tax imposed by Minnesota Statutes.

(g) The Band Assembly hereby finds and determines that the imposition of an annual income tax on those persons who earn income from the Non-Removable Mille Lacs Band of Chippewa Indians and any of its political sub-divisions or entities is an effective way to fulfill the general public policy of the Band and that such an imposition of said taxes is vital to the economic security, political integrity and general welfare of the constituent Bands on territories governed by the Non-Removable Mille Lacs Band of Chippewa Indians. Any such tax imposed herewith shall preempt any such similar tax imposed by Minnesota Statutes.

(h) The Band Assembly hereby finds and determines that the imposition of an estate tax upon the transfer of estates of decedents, is an effective way to regulate estate transfers; and, that such regulation is vital to the economic security, political integrity and general welfare of the constituent Bands on territories governed by the Non-Removable Mille Lacs Band of Chippewa Indians. Any such tax imposed herewith shall preempt any such similar tax imposed by Minnesota Statutes.

(i) The Band Assembly hereby declares that the inherent sovereign right to tax shall never be surrendered, suspended or contracted away. Taxes shall be uniform upon the same class of subjects and shall be levied and collected for public purposes.

(j) The Band Assembly hereby declares that the intent and purposes of this title and 18 MLBSA § 401 et seq. is to obtain and retain forever the sovereign rights of the people who comprise the constituent Bands of the Non-Removable Mille Lacs Band of Chippewa Indians to be free from all taxation imposed by the state of Minnesota and any of its political subdivisions by the imposition of like taxes to support government services for the people and by the people, and the same shall be liberally construed to effect this purpose. Nothing herein shall be construed as a waiver of sovereign immunity by the Non-Removable Mille Lacs Band of Chippewa Indians in any court of competent jurisdiction with the exception of limited waivers to the Court of Central Jurisdiction authorized herewith.

(k) The Band Assembly hereby finds and declares that the Solicitor General in and for the Non-Removable Mille Lacs Band of Chippewa Indians shall have an obligation and duty to represent the interests of the Commissioner of Finance in any matter before the Court of Central Jurisdiction that arises from any provision of this title or 18 MLBSA § 401 et seq. He shall represent the Commissioner in any cause of action where the performance of the Commissioner's official government function is

called into question or where any judgment would expend itself on the property of the Non-Removable Mille Lacs Band of Chippewa Indians. It is hereby enacted into law.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-30, § 1
Band Statute 1085-MLC-30 § 1.10 provides:

"The findings and determinations of Section 1-1.09 shall apply as findings and determinations for Chapters 30-39 inclusive in their individual and collective application to any interpretation of this Band statute. Therefore, it is hereby declared that only one Band statute citation be used to refer to the provisions of Chapters 30-39 in all sections thereof."

Cross References

Licensure of tobacco products distributor, see 22 MLBSA §211. Tobacco excise taxes, unlawful activity, see 22 MLBSA § 216.

CHAPTER 2

COMMISSIONER OF FINANCE

Section

- 101. Reservation of right.
- 102. Creation and term of office of commissioner of finance.
- 103. Seal.
- 104. General powers and duties of the commissioner of finance.
- 105. Revenue Division.
- 106. Uniform system of records and accounting.
- 107. Prohibition of automatic fund transfers of tax revenue.
- 108. Emergency expenditure of unauthorized funds.
- 109. Balanced budget.
- 110. Prohibition against any pledge of taxation revenue uncollected.
- 111. Use of information.
- 112. Service of notice by mail.
- 113. Court of Central Jurisdiction-judicial review.
- 114. Relief.

Historical and Statutory Notes

The Section of Finding and Determinations of Band Statute 1085-MLC-37 provides:

"The Findings and Determinations of the Band Assembly enacted in Band Statute 1085-MLC-30, Section 1-1.11 [22 MLBSA §1] are reenacted and applicable provisions of law for each Chapter of law entitled 'Band Statute 1085-MLC-'31-39'. The designation '31-39' denotes only various chapter numbers of the same Band Statute which are established as the Public Taxation Policy of the Non-Removable Mille Lacs Band of Chippewa Indians."

Band Statute 1085-MLC-37, § 76 provides:

"Section 76. Severability. If any provisions of this Chapter, or the application thereof, to any person, business, corporation or state government, or any political sub-division or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Chapter which can be given effect without the invalid provisions, or application and to this end the provisions of this Chapter are declared severable."

§ 101. Reservation of right

The Band Assembly hereby fully reserves the right to alter, amend or repeal the provisions of this chapter, and all rights and privileges granted or extended hereunder, shall be subject to such reserved right.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-37, § 77.

§ 102. Creation and term of office of commissioner of finance

(a) There is hereby created an appointed position to be known as the Commissioner of Finance. The Commissioner of Finance shall be nominated from amongst three names submitted by the Band Assembly to the Chief Executive. The Chief Executive and Secretary of Treasury shall interview each nominee and return to the Band Assembly within ten days of receipt of the nominees of the Band Assembly, the name of three persons, one of which to be confirmed as Commissioner of Finance. Each nominee shall possess ability and experience in the area of accounting, finance administration or in the area of tax administration. The Commissioner of Finance shall be an appointee of the Non-Removable Mille Lacs Band of Chippewa Indians with responsibility to all branches of Band government in the area of budget and finance. He shall report and fulfill the duties of his office upon direction from the Band Assembly. All such direction to the Commissioner of Finance shall be promulgated pursuant to "Special Revenue Resolution", which is herewith created. Each "Special Revenue Resolution" shall contain the signatures of the

Speaker of the Assembly, two members of the Band Assembly and be concurred upon by the Chief Executive.

(b) The Commissioner of Finance shall serve a term of office to expire April 30, 1 987. Henceforth, the term of office of the Commissioner of Finance shall be four years. The nomination process established in subsection (a) shall apply to all future nominees to this position. All terms of office for the Commissioner of Finance shall commence on May 1 in the applicable odd-year and expire on April 30 in the applicable four year period.

(c) The Commissioner of Finance shall have no authority to act beyond April 30 of the year in which his term of office expires in the event of his lack of confirmation to a successive term of office before said date.

(d) The Commissioner of Finance shall post a fidelity bond in favor of the Non-Removable Mille Lacs Band of Chippewa Indians in an amount satisfactory to the Band Assembly.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-37, § 66.
Band Statute 1141-MLC-2, § 10.10.

§ 103. Seal

The Commissioner of Finance shall direct the preparation of stationery and have a seal engraved with the words, "Non-Removable Mille Lacs Band of Chippewa Indians-Office of Management and Budget: Division of Revenue". Such seal may be prepared and used to authenticate the official acts of the Commissioner or any other members of this Division, but failure to use such seal shall not invalidate any such acts.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-37, § 81.

§ 104. General powers and duties of the commissioner of finance

It shall be the duty of the Commissioner of Finance, and he shall have following powers and duties:

(a) The Commissioner of Finance shall be the chief administrative officer of the Office of Management and Budget pursuant to the directives of the Band Assembly.

(b) The Commissioner of Finance shall have and exercise general supervision over the administration of this title pursuant to the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians.

(c) The Commissioner of Finance shall confer with, advise and give the necessary instructions and directions to the Mille Lacs Band of Chippewa Indians-Corporate Commission in the implementation of this title.

(d) The Commissioner of Finance shall direct proceedings, actions and prosecutions to be instituted to enforce this title for failure or negligence to comply with said provisions, and to cause complaints to be made against any person for their removal from office for misconduct or negligence of duty with respect to this title.

(e) The Commissioner of Finance shall have the power to require the Solicitor General to assist the commencement of a prosecution in the actions or proceedings for removal, forfeiture and punishment for violations of the laws under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians, and to require the Solicitor General to defend the Commissioner of Finance in any action brought against him by any party.

(f) The Commissioner of Finance shall have the power to require persons under the jurisdiction of the Band to report information as to the collection of taxes received and fees received from licenses, revenue and other sources, and such other information as may be needed in the performance of official duty.

(g) The Commissioner of Finance shall have the power to require businesses organized pursuant to 16 MLBSA § 1 et seq. and the Mille Lacs Band of Chippewa Indians Corporate Commission to furnish information concerning their capital, funded or other debt, current assets and liabilities, earnings, operating expenses, taxes as well as all other statements now required by law for taxation Purposes.

(h) The Commissioner of Finance shall have the power to summon witnesses to appear and give testimony and to produce books, records, papers and documents relating to any tax matter which he may have authority to investigate or determine.

(i) The Commissioner of Finance shall have the power to cause the deposition of witnesses residing within or without the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians, or absent thereof, to be taken upon notice to the interested party, if any, in like manner that deposition of witnesses are taken in civil actions in the Court of Central

Jurisdiction, in any matter which he may have 'authority to investigate or determine.

(j) The Commissioner of Finance shall have the power to investigate the tax laws of other reservations, and to formulate and submit to the Band Assembly such legislation as he may deem expedient to prevent evasions of the tax laws of the Band.

(k) The Commissioner of Finance shall consult and confer with the Band Assembly and the Chief Executive upon the subject of taxation, the administration of the laws, in regard thereto, and the progress of the work of the Commissioner and to furnish the Band Assembly and the Chief Executive from time to time, such assistance and information as they may require relating to tax matters.

(l) The Commissioner of Finance shall transmit to the Band Assembly and Chief Executive, on or before the third Monday in November of each year, a report for the preceding year, showing all revenues and disbursements thereto, whether the budget of the Band government is balanced thereto, and charts which show monthly revenues and disbursements for the purpose of using said information as a planning tool. Said reports shall also contain information as to the equity of taxes imposed, certainty, convenience economy, stability of tax yield and conservation of tax resources. He shall state in expressed terms whether or not all taxes imposed are counterproductive to expressed public policy of the Non-Removable Mille Lacs Band of Chippewa Indians and all recommendations for any and all modifications thereto.

(m) The Commissioner of Finance shall have the power to promulgate rules and regulations through Commissioner's Order for the administration and enforcement of the provisions of this title. Such rules and regulations shall have the force and effect of law.

(n) The Commissioner shall exercise and perform such further powers and duties, as may be required, or imposed upon him pursuant to "Special Revenue Resolution" as promulgated in 22 MLBSA § 102 only or that imposed by law.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-37, § 67. Band Statute 1141-MLC-2, § 10.09.

Ordinance 08-02, entitled "An ordinance of Appropriation for Mille Lacs Band Elders 65 years of age and over," provides:

"Preamble. It is enacted by the Band Assembly of the Mille Lacs Band of Ojibwe for the purpose of appropriating funds to initiate a Mille Lacs Band Elder Supplemental Income Program.

Section 1. The Mille Lacs Band of Ojibwe Indians recognizes that its Elders are valued members of the community; therefore, it wishes to initiate a Needs-Based Supplemental Income Program to offer financial assistance to Elderly Band Members.

Section 2. Eligibility shall be restricted to enrolled Band members 65 years of age, as of January 1, 2002, whose income and resources fall beneath minimum levels, as determined under the rules of the Program.

Section 3. The maximum amount to be paid to each individual Elder is \$400.00 per month.

Section 4. The Commissioner of Finance shall set aside the amount of \$16.5 Million in an interest bearing account and Elder payments shall be made from the interest earned.

Section 5. Semi-Annual reports shall be delivered to the Band Assembly and Chief Executive by the Commissioner of Finance showing the account balance and payment amounts made to the individual Elder in each fiscal year.

Section 6. The MLBESIP payments shall cease immediately upon the written request of the individual Elder or upon the death of the Elder. The individual Elder payments shall not be paid to beneficiaries or living spouses, but shall only be payable to the individual Elder.

Section 7. These payments shall be exempt from any administrative, court garnishment, or other legal action.”

Ordinance 06-04, entitled “An ordinance of Appropriation to appropriate additional funds for the Mille Lacs Band Elder Supplemental Income Program, to amend the Program to reduce the eligibility age to 62 years of age and over, and to ratify and provide for the future amendment of the Program rules,” provides:

“Preamble. It is enacted by the Band Assembly of the Mille Lacs Band of Ojibwe for the purposes of appropriating additional funds for the Mille Lacs Band Elder Supplemental Income Program, amending the Program to reduce the eligibility age to 62 years of age and over, and ratifying and providing for the future amendment of the Program rules.

Section 1. As used in this Bill:

- (a) “Elder Assistance Program” means the Mille Lacs Band Elder Supplemental Income Program, a needs-based supplemental income program offering financial assistance to elderly Band members; and
- (b) “Elder Assistance Program Account” means the interest bearing account that was established with an appropriation of \$16.5 million to fund the Elder Assistance Program.

Section 2. The Band Assembly of the Mille Lacs Band of Ojibwe Indians recognizes that the Band’s Elders are valued members of the community; therefore, it wishes to appropriate additional funds to continue the Elder Assistance Program, to amend the Program to reduce the eligibility age to 62 years of age and over, and to ratify and provide for the future amendment of the Program rules.

Section 3. All payments to Elders under the Elder Assistance Program shall be made from the Elder Assistance Program Account. An additional \$340,000 is hereby appropriated to the Account from the Permanent Initiative Fund, which should fully endow the Account for the biennium ending September 30, 2005. The need for future appropriations to the Account shall be assessed during every biennium budget cycle, taking into consideration the number of Elders who will turn 62 years of age during the biennium.

Section 4. The determination of which Band Elders are eligible to participate in the Elder Assistance Program and the amounts to which they are entitled under the Program shall be determined in accordance with Band Ordinance 08-02 and the existing Program rules, as set forth in the document entitled "Mille Lacs Band of Ojibwe Indians, Elder Needs-Based Supplemental Income Program," which was prepared by the Band's Benefit Issuance Director, and which is hereby ratified and confirmed, except that:

- (a) As of October 1, 2003, Band members who are 62 years of age or over shall be eligible to participate in the Program, subject to the income and resource levels established in the Program rules; and
- (b) Notwithstanding any other provision in the Program rules, payments shall only be payable to an eligible, living elder; no payments shall be made to a spouse or other beneficiary.

The Band's Benefit Issuance Director is hereby authorized and directed to revise the Program rules to incorporate the foregoing provisions.

Section 5. Any future amendment to the Elder Assistance Program rules may be initiated by the Band's Benefit Issuance Director, other Program staff, or other Band officials, but must be ratified by Band Assembly before becoming effective.

Section 6. As provided in Band Ordinance 08-02, the Commissioner of Finance shall continue to deliver semi-annual reports to the Band Assembly and Chief Executive showing the balance in the Elder Assistance Program Account and amounts paid to individual Elders in each fiscal year.

Section 7. As provided in Band Ordinance 08-02, all payments made under the Elder Assistance Program shall be exempt from any administrative, court garnishment, or other legal action."

Cross Reference

Commissioner's Orders, see 4 MLBSA § 7.

Education-related funds, responsibility of Office of Management and Budget, see 9 MLBSA § 26.

§ 105. Revenue Division

Subject to the provisions of this chapter and 22 MLBSA § 104 provisions thereto, the Commissioner of Finance shall have the power to organize a Revenue Division within the Office of Management and Budget as he may deem necessary and expedient.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-37, § 69.

§ 106. Uniform system of records and accounting

The Commissioner of Finance shall prescribe and establish a uniform system of records and accounting for all revenues and disbursements, which arise from this title. Additionally, he shall design a voucher system, with a master voucher register, cash

receipts journal and other applicable and necessary accounting mechanisms that comprise a general books of accounts.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-37, § 70.

§ 107. Prohibition of automatic fund transfers of tax revenue

It shall be unlawful for the Commissioner of Finance or any other person to authorize at any financial institution, where taxation revenue of the Band is kept, the automatic fund transfer of any amounts of said funds into said account, or from said account. All transactions involving the disbursement of taxation revenue shall be pursuant to voucher and written bank drafts or checks and all said disbursements shall conform to that authorized by "Special Revenue Resolution."

Historical and Statutory Notes

Source: Band Statute 1085-MLC-37, § 71.

§ 108. Emergency expenditure of unauthorized funds

(a) Notwithstanding 22 MLBSA §§ 102 and 107, the Band Assembly hereby recognizes that there may be times when, in the best interests of the Band and at only those times, a sufficient number of signatories are not available to authorize a "Special Revenue Resolution", and when the Commissioner of Finance does not possess sufficient authority to expend taxation revenue, the Commissioner of Finance is hereby authorized, upon receipt of a special dispensation request of the Chief Executive or the Secretary of Treasury to expend an amount of funds not to exceed five hundred dollars (\$500.00) provided, that the Commissioner prepare a "Special Revenue Resolution" and obtain the signatures of all available authorized signatories prior to the disbursement of amounts so authorized.

(b) Upon the exercise of provisions of subsection (a), the Commissioner of Finance shall appear before the Band Assembly at its next scheduled session to obtain approval for any said authorized disbursement. The provisions of subsection (a) shall not be exercised more than one time per any calendar month.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-37, § 72.

§ 109. Balanced budget

The Commissioner of Finance is hereby authorized and mandated to prepare and maintain an annual budget for the Band government and under no circumstances shall he authorize the expenditure of taxation revenue beyond the amounts of taxation revenue received regardless of Band Assembly approval of budgeted amounts prior thereto. A balanced governmental budget from taxation revenue and other government sources on an annual basis is hereby mandated.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-37, § 73.

Cross References

Budget, see Const. Art. 6, § 1(1)).

§ 110. Prohibition against any pledge of taxation revenue uncollected

The Commissioner of Finance or any other person shall not pledge any future taxation revenue as collateral for any governmental loan at any financial institution. Any said pledge as collateral shall be of no force and effect when entered into in violation of provisions of this section.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-37, § 74.

§ 111. Use of information

Notwithstanding the provisions of any other chapter of this title, the Commissioner of Finance may use any information in his possession, or to which he has access, to insure equal and consistent application and enforcement of all tax laws administered by him. This section shall not be construed as granting the Commissioner of Finance any power to release information under his direct control to any exterior person, entity or government. All information collected shall be deemed highly classified and confidential.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-37, § 79.

§ 112. Service of notice by mail

Notwithstanding any other law to the contrary, whenever the Commissioner of Finance is required to serve notices by registered mail, he may, at his discretion, make such service by regular mail retaining for his records adequate proof of such service.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-37, § 80.

§ 113. Court of Central Jurisdiction-judicial review

The Court of Central Jurisdiction is hereby granted subject matter jurisdiction, which shall be exclusive, over any cause of action which may arise from implementation of provisions of this chapter.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-37, § 78.

Cross References

Subject matter jurisdiction, Court of Central Jurisdiction, see 5 MLBSA §111.

§ 114. Relief

Any cause of action which arises pursuant to this chapter shall be limited in relief to declaratory or injunctive measures and no damages, monetary or otherwise, including but not limited to attorney fees, shall be permitted.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-37, § 78.01.

CHAPTER 3

TOBACCO EXCISE TAXES

Section

201. Reservation of right.

202. Definitions.

203. Tax on sale of cigarettes.

204. Tax upon use or storage of cigarettes by consumers.

205. Tax on sale of tobacco products.
206. Tax upon use or storage of tobacco products.
207. Exemptions to taxes imposed upon storage.
208. Effect on other taxes and fees.
209. Legal incidence of taxes imposed.
210. Distribution of free sample packages.
- 211 . Licensure of distributor.
212. Records of distributor and retailers.
213. Payment of tax and filing of returns.
214. Contraband.
215. Limit on cigarette purchases.
216. Unlawful activity.
217. Enforcement.
218. Immunity from self-incrimination.
219. Revenue distribution.
220. Administrative expenses.
221. Court of Central Jurisdiction-judicial review.
222. Payment or bond prerequisite to suit.
223. Limited waiver of sovereign immunity.

Historical and Statutory Notes

Band Statute 1085-MLC-30§18 provides:

"Section 18. Severability. If any provisions of this Chapter, or the application thereof, to any person, business, corporation or circumstances is held invalid, the invalidity shall not affect other provisions or application of this Chapter which can be given effect without the invalid provisions or application and to this end of the provisions of this Chapter are declared severable."

§ 201. Reservation of right

The Band Assembly hereby fully reserves the right to alter, amend, or increase or decrease taxes imposed herein, or repeal the several provisions of this chapter, and all rights and privileges granted or extended hereunder shall be subject to such reserved right.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-30, § 17.

§ 202. Definitions

When used in this chapter, unless the context clearly indicates otherwise, the following terms shall have the meanings, respectively ascribed to them in this section:

- (a) "Cigarettes" means any roll for smoking made wholly or in part of tobacco, and encased in any material except tobacco.
- (b) "Consumer" means any person who has title to or possession of cigarettes in storage, for use of other consumption in this state.
- (c) "Distributor" means the Mille Lacs Band of Chippewa Indians-Corporate Commission.
- (d) "Little Cigar" means any roll for smoking, made wholly or in part of tobacco, which has a factory list price not exceeding \$ 1 2 per thousand, irrespective of size or shape and irrespective of whether the tobacco is flavored, adulterated or mixed with any other ingredient where such roll has a wrapper or cover made wholly or in part of tobacco, and where such roll weighs not more than three pounds per thousand.
- (e) "Member" means any Indian person who resides on or otherwise enters lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians, who is recognized by the governing entities of the Band as an enrolled member in any status who is eligible for government services and participating in activities of the Band.
- (f) "Non-member" means any person who is not recognized as an enrolled member of the Band and who is not eligible to participate in government services or activities restricted to members only.
- (g) "Person" means any individual, firm, association, partnership, joint stock company, joint adventure, corporation, trustee, agency or receiver, or any legal representative of any of the foregoing.
- (h) "Place of business" means any place where cigarettes are sold or where cigarettes are manufactured, stored, or kept for the purpose of sale or consumption, including any vessel, vehicle, airplane, train or vending machine.
- (i) "Retailer-Vendor" means any licensed business entity of the Corporate Commission.
- (j) "Rights Protection Fund" means the exterior legal contract between the Band and Ziontz, Pirtle, Morisset, Ernstoff and Chestnut.
- (k) "Sale" means any transfer, exchange, or barter, in any manner or by any means whatsoever, for a consideration, and includes and means all sales made by any person. It includes a gift by a person engaged in the business of selling cigarettes, for advertising, as a means of evading 22 MLBSA § 216(f), or for any other purpose whatsoever.

(l) "Stamp" means the adhesive stamp supplied by the revenue commissioner or the imprint made by a tax meter machine authorized by the commissioner.

(m) "Storage" means any keeping or retention of cigarettes for use or consumption in this state.

(n) "Tobacco product" means cigars; little cigars as defined herein; che roots; stogies; periques; granulated, plug, cut crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts; refuse scraps, clipping, cutting and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking; but shall not include cigarettes as defined in this section.

(o) "Use" means the exercise of any right or power incidental to the ownership of cigarettes.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-30, §19.

Cross References

Membership, see Const. Art. 2, § 1 et seq.

§ 203. Tax on sale of cigarettes

A tax is hereby imposed upon the sale of cigarettes on territories governed by the Non-Removable Mille Lacs Band of Chippewa Indians or having cigarettes in possession on territories governed by the Non-Removable Mille Lacs Band of Chippewa Indians with the intent to sell and a tax upon the Mille Lacs Band of Chippewa Indians-Corporate Commission as the licensed distributor at the following rates:

(a) The tax on cigarettes is hereby imposed in the amount of eighteen cents per package of cigarettes.

(b) The tax on long cigarettes per unit packages shall be eighteen cents per package of cigarettes.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-30, § 2.

§ 204. Tax upon use or storage of cigarettes by consumers

A tax is hereby imposed upon the use or storage by Indians who consume cigarettes and who reside on lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians, and upon such consumers at the following rates:

(a) The tax on such cigarettes shall be eighteen cents on each such package of cigarettes.

(b) The tax on such cigarettes is hereby imposed in the amount of eighteen cents per package of cigarettes.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-30, § 3.

§ 205. Tax on sale of tobacco products

A tax is hereby imposed upon all tobacco products in the territories governed by the Non-Removable Mille Lacs Band of Chippewa Indians and upon the Mille Lacs Band of Chippewa Indians - Corporate Commission, as the sole licensed distributor of tobacco products at the rate of twenty (20) percent of the wholesale sales price of such tobacco products, except little cigars, which shall be taxed at the same rates as cigarettes. Long grain and plug tobacco used for cultural purposes is hereby exempt from taxes imposed herein.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-30, § 4.

§ 206. Tax upon use or storage of tobacco products

A tax is hereby imposed upon the use or storage by Indian consumers of tobacco products on territories governed by the Non-Removable Mille Lacs Band of Chippewa Indians, and upon such consumers, at a rate of twenty (20) percent of the cost of such tobacco products, except little cigars which shall be subject to the same rate of tax imposed on cigarettes found in 22 MLBSA § 203 with the exception of long grain and plug tobacco used for cultural purposes.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-30, § 4.01.

§ 207. Exemptions to taxes imposed upon storage

(a) Except as otherwise provided in this chapter, any consumers who shall store cigarettes or little cigars of two hundred (200) or less in the possession of any one consumer, provided that such cigarettes or little cigars were carried into lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians by such consumers.

(b) The tax shall not apply to the storage of tobacco products in quantities of:

(1) Not more than fifty (50) cigars;

(2) Not more than ten (10) ounces of snuff or snuff powder.

(3) Not more than one pound of smoking or chewing tobacco or other tobacco products not specifically mentioned herein, in the possession of any one consumer.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-30, § 5.

§ 208. Effect on other taxes and fees

The tax imposed by this chapter shall be in addition to any and all other taxes or license fees now or hereafter imposed.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-30, § 5.014.

§ 209. Legal incidence of taxes imposed

(a) The legal incidence of the Non-Removable Mille Lacs Band of Chippewa Indians cigarette and tobacco products excise tax on the sale, use, consumption, handling, possession and distribution of said products shall be placed on the Mille Lacs Band of Chippewa Indians-Corporate Commission, as the sole licensed distributor who will first sell, use, consume, handle, possess and distribute the cigarette and tobacco products. As the first taxable event, the Commission as an Indian retailer upon whom the tax imposed by Minnesota Statutes Chapter 297 cannot be

legally imposed as it is herewith preempted by this chapter of the law of the Non-Removable Mille Lacs Band of Chippewa Indians.

(b) The Mille Lacs Band of Chippewa Indians-Corporate Commission may shift the economic incidence of taxes imposed by this chapter to the ultimate consumer and such a tax so shifted shall be considered as consensual.

(c) The tax imposed by this chapter shall not be construed as a cost of doing business or an overhead expense by the Mille Lacs Band of Chippewa Indians Corporate Commission.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-30, §§ 5.015, 6.

§ 210. Distribution of free sample packages

(a) The Commissioner of Corporate Affairs may authorize distribution of free packages of cigarettes by the Corporate Commission on the territories under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians provided that monthly reports and payment of taxes as imposed in 22 MLBSA § 203 shall be made directly to the Commissioner of Finance in the manner and under the terms provided for by him.

(b) Any manufacturer is authorized to provide such packages that contain not more than fifteen (15) cigarettes per package.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-30, § 7.

§ 211. Licensure of distributor

(a) The Mille Lacs Band of Chippewa Indians-Corporate Commission shall apply to the Band Assembly, upon the recommendation of the Chief Executive no later than March 1, 1985 for a license to distribute to any business entity of the Commission, cigarette and tobacco products for consumption by any member of any constituent Band of the Non-Removable Mille Lacs Band of Chippewa Indians or to any non-member pursuant to any agreement authorized in 22 MLBSA § 1(d)(3).

(b) The application for such a license shall be made on a form prescribed by the Solicitor General and shall state the name and address of the

applicant, the names and addresses of the incorporators, the names and addresses of officers, the address of its principal place of business, the locations of business entity(s) where cigarette and tobacco products will be sold and other such information as the Solicitor General may prescribe.

(c) The application for a distributors license shall be accompanied by a fee of two hundred dollars and a corporate surety bond issued by the Secretary of Treasury in the amount of one thousand dollars, conditioned upon the true and faithful compliance by the licensee with all of the provisions of this chapter. A separate application for license as a retail vendor shall be made for each place of business authorized pursuant to subsection (a), shall be accompanied by a fee of one hundred dollars.

(d) Any license issued pursuant to the provisions of subsection (a) shall be valid for a period of one year from the date of issuance. Renewal license shall be issued, founded upon faithful compliance with the provisions of this Chapter and a fee of one hundred dollars for the distributors license and fifty dollars for the retailers license.

(e) Each license shall be prominently displayed on the premises covered by the license. No license shall be transferable to any other person or entity.

(f) The Solicitor General, upon probable cause, may revoke, cancel or suspend the license of the distributor or any retailer for violations of provisions of 22 MLBSA §§ 212 to 214 and 216 to 218, or any other law applicable to the sale of tobacco products. No license shall be revoked or canceled except after notice and hearing as provided in 22 MLBSA §§217 and 218.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-30, § 8.

§ 212. Records of distributor and retailers

(a) Every distributor and retailer of cigarette and tobacco products, at its licensed place of business shall keep accurate records for that place of business including itemized invoices of cigarettes held, purchased, brought in, all sales of cigarettes made to the retailers and ultimate member consumers. When the distributor sells cigarettes to any member consumer at its licensed address, an invoice of those sales shall be required. The distributor is also required to itemized invoices of its sales to retail vendors. All records, books and other pertinent papers and documents relating to the purchase, sale or disposition of cigarettes shall be preserved for a period of one year after the date of the document or record entry. All

records, books and other pertinent papers and documents relating to the purchase, sale or disposition of cigarettes shall be classified and confidential property of the Non-Removable Mille Lacs Band of Chippewa Indians, and shall not be open to inspection by any person or state governmental entity exterior to the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians. All such documents shall be deemed classified and restricted to a cause-to-know-basis for those persons subject to interior jurisdiction; and, the Court of Central Jurisdiction shall be bound thereby.

(b) At any time during normal business hours the Commissioner of Finance, or his duly authorized agents, may enter any retail business of the Corporate Commission, without a search warrant and inspect the premises, the records required to be kept under subsection (a) and the packages of cigarettes to determine whether or not all the provisions of this chapter are being fully complied with. Any interference, deception, hindrance or denial of free access in making such examination shall result in the immediate suspension of any license and legal action to revoke said license.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-30, § 9.

§ 213. Payment of tax and filing of returns

(a) On or before the twenty-first day of each month, the retailers shall file a return with the Commissioner of Finance showing the sale price, the quantity of cigarette and tobacco products sold during the previous month, the quantity of cigarettes and tobacco products in inventory and other information deemed necessary on a form prescribed by the Commissioner of Finance. The return shall be accompanied by a certification, under penalty of perjury, that the information contained is true and correct. The provisions of this subsection and subsection (d) shall be applicable provisions to the filing of returns and payment of taxes levied in all the chapters of this title, unless expressly superseded or contrary to existing language within each chapter. The return shall be accompanied by a remittance for the full unpaid tax liability shown by it.

(b) On the twenty-first day of each month, the distributor shall file a return with the Commissioner of Finance showing the quantity of cigarette and tobacco products brought into the territories under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians, the quantity of said products assigned to the retailers, the quantity of said products held in inventory on a form prescribed by the Commissioner of Finance. The

return shall be accompanied by a remittance for the full unpaid tax liability shown by it. The return shall also contain a statement that the information provided is true and correct under penalty of perjury and be signed by the Commissioner of Corporate Affairs.

(c) All returns, together with any corrections according to the best judgment and information of the Commissioner of Finance, shall be prima facie evidence of the correctness of the amount of tax due, as shown therein.

(d) All returns which are late and payments of taxes which are due pursuant to time specified in subsection (b) shall be liable for penalty of ten percent per month on the tax found due. In addition a penalty of \$10.00 for the first month (28 days) plus \$5.00 for each month thereafter until the maximum penalty of \$25.00 is reached. If it is found that a false and fraudulent return has been filed or filed late with intent to evade the taxes imposed in 22 MLBSA § 203, 204, 205 or 206, the offense shall be subject to criminal prosecution and civil liability.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-30, § 10.

§ 214. Contraband

(a) All packages of cigarettes which are sold to members by the distributor and/or any authorized retailer which contain stamps affixed to them pursuant to Minnesota Statutes-Chapter 297.01-297.13 shall be deemed as contraband and seized with or without process and shall be subject to forfeiture.

(b) Any device for the vending of cigarettes to members which contain stamps authorized pursuant to Minnesota Statutes-Chapter 297.01-297.13 shall be deemed as contraband and seized with or without process and shall be subject to forfeiture.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-30, §11.

§ 215. Limit on cigarette purchases

No member shall purchase more than five (5) cartons of cigarettes from any licensed retailer or the distributor during one calendar day.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-30, §7.02.

§ 216. Unlawful activity

(a) Any person, who is required to keep records or to make returns who shall falsify or fail to keep such records or falsify or fail to make such returns, shall be deemed guilty of falsification of records, and upon conviction thereof, shall be fined up to five hundred dollars, and/or sentenced to labor not to exceed 180 days.

(b) Any person other than a licensed distributor and/or retailer, who shall sell, offer to sell or have in his/her possession with intent to sell or offer for sale any cigarettes or tobacco products, shall be deemed guilty of unlawful possession, and upon conviction thereof, shall be sentenced to labor not to exceed 180 days, and/or a fine not to exceed five hundred dollars.

(c) Any person, who shall refuse to permit the examination of records by authorized officials of the Band or shall interfere with the performance of official duty, shall be deemed guilty of obstruction of government function, and upon conviction thereof, shall be sentenced to labor, not to exceed 180 days, and/or a fine not to exceed five hundred dollars.

(d) Any person other than an authorized representative of the distributor or retailer, who shall possess, receive or transport more than two thousand cigarettes shall be deemed guilty of an unlawful possession of contraband, and upon conviction thereof, shall be sentenced to labor not to exceed 180 days, forfeiture of said contraband, and/or a fine not to exceed five hundred dollars.

(e) Any authorized representative of the distributor or retailer, who shall offer for sale or who shall sell any cigarettes or tobacco products to a non-member of the Non-Removable Mille Lacs Band of Chippewa Indians absent provisions authorized by 22 MLBSA § 1(d)(3) shall be deemed guilty of an illegal sale of contraband, and upon conviction thereof, shall be sentenced to labor not to exceed 180 days, and/or a fine not to exceed five hundred dollars.

(f) Any person, who in any manner attempts to evade or who aids or abets in the evasion or attempted evasion of any provisions of this chapter, shall be deemed guilty of evasion, and upon conviction thereof, shall be sentenced to labor not to exceed 180 days, and/or a fine not to exceed five hundred dollars.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-30, § I 2.

§ 217. Enforcement

The Commissioner of Finance shall enforce all provisions of this chapter. He may prescribe all rules and regulations consistent with the provisions of this chapter through Commissioner's Orders. He may call upon the Solicitor General or any Band law enforcement officer to aid him in the performance of his duties. He may appoint such employees of the Non-Removable Mille Lacs Band of Chippewa Indians as may be required to administer the provisions of this chapter. He may bring injunction proceedings against the distributor or any licensed retailer from acting in a manner inconsistent with the provisions of this chapter.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-30, § 13.

§ 218. Immunity from self-incrimination

No person shall be excused from testifying or from producing, pursuant to a subpoena, any books, papers, records or memoranda in any investigation, upon the grounds that the testimony or evidence, documentary or otherwise, may tend to incriminate him or subject him to criminal prosecution. Any person, who shall testify, shall receive immunity from such prosecution provided that the testimony under oath be the truth, pursuant to the lawful subpoena. No person shall be exempt from prosecution and punishment for perjury committed in so testifying.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-30, § 1302.

Cross References

Self-incrimination, see 1 MLBSA § 4.

§ 219. Revenue, distribution

(a) All revenues derived from taxes, penalties and interest from this Chapter shall be deposited in a trust fund account in the name of the 'Non-Removable Mille Lacs Band of Chippewa Indians: Taxation Revenue

Account' and not be distributed except upon formal Revenue Resolution of the Band Assembly so directing disbursement.

(b) The Band Assembly hereby declares that the revenues from cigarette and tobacco products taxes shall be distributed to the Rights Protection Fund. Notwithstanding subsection (a), any expenditure of said funds for purposes other than exterior legal funding purposes shall require a Revenue Resolution of the Band Assembly.

(c) It shall be unlawful to disburse any revenues from cigarette and tobacco products to any elected or appointed person, or employee of the Non-Removable Mille Lacs Band of Chippewa Indians, or of any entity of the Band or for any purpose inconsistent with subsection (b).

Historical and Statutory Notes

Source: Band Statute 1085-MLC-30, § 14.

§ 220. Administrative expenses

In no event, shall the expenses of administration of the provisions of this chapter exceed five percent of the gross receipts of the taxes imposed herein.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-30, § 13.01.

§ 221. Court of Central Jurisdiction-judicial review

The Court of Central Jurisdiction is hereby granted exclusive subject matter jurisdiction over any cause of action which may arise from the implementation of provisions of this chapter.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-30, § 15.

§ 222. Payment or bond prerequisite to suit

Any person, who shall have a cause of action arising from any provisions of this chapter, may petition the Court only upon first payment of any tax due or the posting of a bond in the amount due in favor of the Taxation Revenue Account as a means that he/she intends to pay the tax if the Court so requires.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-30, § 15.01.

§ 223. Limited waiver of sovereign immunity

(a) The Band Assembly hereby waives sovereign immunity to be sued only in the Court of Central Jurisdiction in any seizure of property matter pursuant to provisions of this chapter. However, any such action shall only be directed against the Commissioner of Finance, in his/her official capacity in order to challenge any seizure action.

(b) Any said limited waiver of sovereign immunity shall be valid only in the Court of Central Jurisdiction and subject to further limitations in subsections (c) and (d).

(c) Any and all seizure causes of action which arise pursuant to this chapter shall be limited to actions against the Commissioner of Finance in his official capacity for an order returning any seized goods.

(d) All other causes of action which arise pursuant to this chapter shall be limited in relief to declaratory or injunctive measures and no damages, monetary or otherwise, including but not limited to attorney fees shall be permitted.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-30, § 16.

CHAPTER 4

GASOLINE AND PETROLEUM PRODUCTS EXCISE TAX

Section

301. Reservation of right.

302. Definitions.

303. Imposition of gasoline excise tax.

304. Authorization for price bidding amongst retailers on lands exterior to jurisdiction of Non-Removable Mille Lacs Band of Chippewa Indians.

305. Violations.

306. Official travel for government purposes utilizing personal vehicles.

307. Legal incidence.

- 308. Identification cards.
- 309. Offenses.
- 310. Enforcement.
- 311. Immunity from self-incrimination.
- 312. Revenue distribution.
- 313. Refunds to contractors.
- 314. Administrative expenses.
- 315. Court of Central Jurisdiction-judicial review.
- 316. Payment or bond as prerequisite to suit.
- 317. Limited waiver of sovereign immunity.

Historical and Statutory Notes

The Section of Finding and Determinations of Band Statute 1085-MLC-32 provides:

"The Findings and Determinations of the Band Assembly enacted in Band Statute 1085-MLC-30, Section 1-1.11 [22 MLBSA § 1] are reenacted and applicable provisions of law for each Chapter of law entitled 'Band Statute 1085-MLC-31-39'. The designation '31-39' denotes only various chapter numbers of the same Band Statute which are established as the Public Taxation Policy of the Non-Removable Mille Lacs Band of Chippewa Indians."

Band Statute 1085-MLC-32, § 43 provides:

"Section 43. Severability. If any provisions of this Chapter, or the application thereof, to any person, business, corporation or circumstances is held invalid, the invalidity shall not affect other provisions or application of this chapter which can be given effect without the invalid provisions or application and to this end of the provisions of this Chapter are declared severable."

Cross References

Native American Veteran Direct Loan Program, unlawful detainer, see 12 MLBSA § 115 et seq.

Payment of tax and filing of returns, see 22 MLBSA § 213.

Residential heating fuels, exemption from sales tax, see 22 MLBSA § 507.

§ 301. Reservation of right

The Band Assembly hereby fully reserves the right to alter, amend, or increase or decrease taxes imposed herein, or repeal the several provisions of this chapter, and all rights and privileges granted or extended hereunder shall be subject to such reserved right.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-32, § 42.

§ 302. Definitions

When used in this chapter, unless the context clearly indicates otherwise, the following terms shall have the meanings, respectively, ascribed to them in this section:

- (a) "Dealer" means any person, except a distributor, engaged in the business of buying and selling gasoline and other petroleum products in this state.
- (b) "For use in motor vehicle" means for use in producing or generating power for propelling motor vehicles on the public highways of this state or in machinery operated on the public highways of this state for the purpose of constructing, reconstructing, or maintaining such public highways. For purpose of this subsection "public highways" shall include bridges.
- (c) "Gasoline" means all products commonly or commercially known or sold as gasoline (including casing head and absorption or natural gas) regardless of their classification or uses.
- (d) "Motor vehicle gasoline excise tax means the tax imposed on gasoline used in producing and generating power for propelling motor vehicles used on the public highways of this state.
- (e) "Person" means any individual, firm, trust, estate, partnership, association, cooperative association, joint stock company or corporation, public or private, or any representative appointed by order of any court.
- (f) "Petroleum Products" means gasoline and fuel oil.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-32, § 45.

§ 303 . Imposition of gasoline excise tax

- (a) There is hereby imposed an excise tax of fifteen cents per gallon on all gasoline and an excise tax of thirty cents per gallon on all diesel fuel used in producing and generating power for propelling all vehicles used for the lawful business of the Non-Removable Mille Lacs Band of Chippewa Indians used on those roads under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians. Further, said excise tax shall apply to gasoline and diesel fuel used in producing and generating power for

propelling all motor vehicles used in the construction of new roads and the repair of existing roads pursuant to any public service contract which benefits members of the Non-Removable Mille Lacs Band of Chippewa Indians. Further, said excise tax shall apply to gasoline used in producing and generating power for propelling all motor vehicles owned by members of the Non-Removable Mille Lacs Band of Chippewa Indians when purchased from a retail vendor organized pursuant to 16 MLBSA § 1 et seq.

(b) The Office of Management and Budget is hereby authorized and directed to add fifteen cents to each gallon of gasoline purchased and thirty cents to each gallon of diesel fuel purchased and five percent of the gross receipts of petroleum products purchases to fulfill government purposes and to forward such calculated amounts to a trust fund account which is herewith created and entitled "Non-Removable Mille Lacs Band of Chippewa Indians: Petroleum Products Revenue Account" within five days after monthly payment to any authorized dealer for gasoline, diesel and petroleum products purchases during the previous month.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-32, §§ 33.35.02.

§ 304. Authorization for price bidding amongst retailers on lands exterior to jurisdiction of Non-Removable Mille Lacs Band of Chippewa Indians

The Commissioner of Corporate Affairs is hereby authorized and directed to publish a notice for bids from any gasoline dealer within a thirty mile radius of any lands under the jurisdiction of the Band, for the provisions of gasoline and diesel fuel at a negotiated price to all vehicles used for the lawful business of the Non-Removable Mille Lacs Band of Chippewa Indians, including all vehicles of any retail establishment organized pursuant to Band Statute 1077-MLC-16 by March 1, 1985. The Commissioner of Corporate Affairs is also authorized and directed to negotiate an annual geographical agreement with the lowest geographical bidder(s) to supply gasoline, diesel fuel and petroleum products to all said vehicles pursuant to 22 MLBSA § 303 by March 15, 1985 with said contractual agreement to be ratified by the Band Assembly, no later than March 20, 1985. Imposition of gasoline excise taxes (22 MLBSA § 303) will not be effective until the Commissioner of Corporate Affairs sets up the storage tanks and publishes a notice for bids from any gasoline dealers within a thirty mile radius of Band land.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-32, § 34.

Cross References

Procurement, see 7 MLBSA § 1 et seq.

§ 305. Violations

(a) Any person, subject to the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians, who shall operate any vehicle described in 22 MLBSA § 303, who shall purchase gasoline from any retail vendor to which no annual agreement is in force and effect, shall be fully liable for payment of the amount purchased from personal funds of said person; unless, prior written authorization from the Commissioner of Finance is granted.

(b) The Office of Management and Budget is hereby authorized to make an automatic deduction from the wages of any person who is an employee, upon receipt of proper notice from the Commissioner of Finance, that a gasoline purchase violation has occurred.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-32, § 35.

§ 306. Official travel for government purposes utilizing personal vehicles

(a) Any person who shall operate a personal vehicle on any authorized trip travel to fulfill government purposes, with said destination and return to require one tankful of gasoline or less, shall purchase gasoline only from an authorized dealer at the commencement of said trip. The amount of gasoline purchased to be deducted from any trip travel amount authorized pursuant to policy.

(b) Any person who shall operate a personal vehicle on any authorized trip travel to fulfill government purposes, with said destination and return requires the purchase of gasoline at a dealer who is not authorized, shall purchase such gasoline from travel funds received and obtained a receipt from said dealer in the name of the Non-Removable Mille Lacs Band of Chippewa Indians. All such receipts shall be submitted on a monthly basis to the Commissioner of Revenue, state of Minnesota for proper refund of unapplicable taxes.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-32, § 36.

§ 307. Legal incidence

The legal incidence of the Non-Removable Mille Lacs Band of Chippewa Indians gasoline excise tax shall be placed upon each entity of the Executive branch of government, all independent commissions and all retail vendors licensed pursuant to 18 MLBSA §101 et seq. With specific regard to personal motor vehicle operated for personal use, the legal incidence of this tax shall not be construed as falling upon any consumer in the event of an economic shifting incidence authorized by the Mille Lacs Band of Chippewa Indians-Corporate Commission.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-32, § 44.

§ 308. Identification cards

The Commissioner of Natural Resources is hereby authorized to design and implement a system of Band government identification cards required for the lawful performance of official government service and to promulgate through Commissioner's Orders all regulatory mechanism for the prevention of misuse and abuse of said system. This government identification system shall be required for the lawful purchase of gasoline at any authorized gasoline dealer.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-32, § 44.01.

§ 309. Offenses

(a) Any person who knowing shall with authorization operate a personal or Band owned and operated motor vehicle propelled with gasoline and diesel fuel purchased for government use for non-governmental purposes shall be deemed guilty of an unlawful use of government property, and upon conviction thereof, shall be sentenced to pay a fine of one hundred dollars.

(b) Any person who shall knowingly purchase gasoline and diesel fuel from an authorized dealer with the intent to operate such vehicle for non-government purposes, shall be deemed guilty of theft, and upon conviction thereof, shall be sentenced to liability for the debt and a fine of one hundred dollars.

(c) Any person who is required to keep records or to make returns who shall falsify or fail to keep such records or falsify or fail to make such returns, shall be deemed guilty of falsification of records, and upon conviction thereof, shall be fined up to five hundred dollars, and/or sentenced to labor not to exceed 180 days.

(d) Any person, who shall refuse to permit the examination of records by authorized officials of the Band or shall interfere with the performance of official duty, shall be deemed guilty of obstruction of government function, and upon conviction thereof, shall be sentenced to labor, not to exceed 180 days, and/or a fine not to exceed five hundred dollars.

(e) Any person, who in any manner attempts to evade or who aids or abets in the evasion or attempted evasion of any provision of this chapter, shall be deemed guilty of evasion, and upon conviction thereof, shall be sentenced to labor not to exceed 180 days, and/or a fine not to exceed five hundred dollars.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-32, § 37.

§ 310. Enforcement

The Commissioner of Finance shall enforce all provisions of this chapter. He may prescribe all rules and regulations consistent with the provisions of this Chapter through Commissioner's Orders. He may call upon the Solicitor General or any Band law enforcement officer to aid him in the performance of his duties. He may appoint such employees of the Non-Removable Mille Lacs Band of Chippewa Indians as may be required to administer the provisions of this chapter. He may bring injunction proceedings against the distributor or any licensed retailer from acting in a manner inconsistent with the provisions of this chapter.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-32, § 38.

§ 311. Immunity from self-incrimination

No person shall be excused from testifying or from producing, pursuant to subpoena, any books, papers, records or memoranda in any investigation, upon the grounds that the testimony or evidence, documentary or otherwise, may tend to incriminate him or subject him to criminal prosecution. Any person who shall testify shall receive immunity from such prosecution provided that the testimony under oath be the truth, pursuant to a lawful

subpoena. No person shall be exempt from prosecution and punishment for perjury committed in so testifying.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-32, § 38.02.

Cross References

Self-incrimination, see 1 MLBSA § 4.

§ 312. Revenue distribution

All revenues derived from taxes, penalties and interest from this chapter shall be deposited in a trust fund account in the name of "Non-Removable Mille Lacs Band of Chippewa Indians: Taxation Revenue Account" and not be distributed except upon formal Revenue Resolution of the Band Assembly so directing disbursement.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-2, § 39.

§ 313. Refunds to contractors

The Commissioner of Finance is hereby authorized to refund to any public service contractor one half of the gasoline excise tax and diesel fuel excise tax collected for the use in the construction or repair of roads under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians upon presentation of verifiable receipts of gasoline purchased at any authorized dealer. Any said refund shall be monthly for the previous months purchases on forms prescribed by the Commissioner of Finance, lest they be forfeited.

Historical and Statutory Notes

Source: Band Statute 1055-MLC-32 § 35.03.

§ 314. Administrative expenses

In no event shall the expenses of administration of the provisions of this chapter exceed five percent of the gross receipts of the taxes imposed herein.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-32, § 38.01.

§ 315. Court of Central Jurisdiction-judicial review

The Court of Central Jurisdiction is hereby granted exclusive subject matter jurisdiction over any cause of action which may arise from the implementation of provisions of this chapter.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-32, § 40.

Cross References

Subject matter jurisdiction court of Central Jurisdiction, see 5 MLBSA § 111.

§ 316. Payment or bond as prerequisite to suit

Any person who shall have a cause of action arising from any provisions of this chapter may petition the Court only upon first payment of any tax due or the posting of a bond in the amount due in favor of the Taxation Revenue Account as a means that he/she intends to pay the tax if the Court so requires.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-32, § 40.01.

§ 317. Limited waiver of sovereign immunity

(a) The Band Assembly hereby waives sovereign immunity to be sued only in the Court of Central Jurisdiction in any seizure of property matter pursuant to provisions of this Chapter. However, any such action shall only be directed against the Commissioner of Finance, in his/her official capacity in order to challenge any seizure action.

(b) Any said limited waiver of sovereign immunity shall be valid only in the Court of Central Jurisdiction, and subject to further limitations in subsections (c) and (d).

(c) Any and all seizure causes of action which arise pursuant to this chapter shall be limited to actions against the Commissioner of Finance in his official capacity for an order returning any seized goods.

(d) All other causes of action which arise pursuant to this chapter shall be limited in relief to declaratory or injunctive measures and no damages, monetary or otherwise, including but not limited to attorney fees shall be permitted.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-32, § 41.

CHAPTER 5

MOTOR VEHICLE EXCISE TAX

Section

401. Imposition of excise tax on purchase price of motor vehicle.

402. Application of provisions of Chapter 6.

Historical and Statutory Notes

The Section of Findings and Determinations of Band Statute 1085-MLC-33 provides;

"The Findings and Determinations of the Band Assembly enacted in Band Statute 1085-MLC-30, Sections 1-1.1 1 [22 MLBSA § 1) are reenacted as applicable provisions of law for each Chapter of law entitled 'Band Statute 1085-MLC-31-39'. The designation '31-39' denotes only various Chapter numbers of the same Band Statute, which are established as the Public Taxation Policy of the Non-Removable Mille Lacs Band of Chippewa Indians."

Cross References

Motor vehicles, see 19 MLBSA § 1 et seq.

Native American veteran Direct Loan Program, see 12 MLBSA §101 et seq.

Payment of tax and filing of returns, see 22 MLBSA §213.

§ 401. Imposition of excise tax on purchase price of motor vehicle

There is hereby imposed an excise tax of five percent on the purchase price of any motor vehicle purchased or acquired on lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians, which is required to be registered under the laws of the Band.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-31, § 46.

Cross References

Motor vehicle registration, see 19 MLBSA § 101 et seq.

§ 402. Application of provisions of Chapter 6.

All provisions of Chapter 6 of this title the Non-Removable Mille Lacs Band of Chippewa Indians in the following sections numbered: 22 MLBSA §§ 501, 505, 506 and 510 to 517 and 1085-MLC-31, § 31 in toto shall apply herewith.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-31, § 47.

CHAPTER 6

SALES AND USE TAXES

Section

- 501. Reservation of right.
- 502. Definitions.
- 503. Imposition of general sales tax.
- 504. Legal incidence of tax imposed.
- 505. Tax as debt from retailer to Band.
- 506. Presumption and burden of proof
- 507. Exemptions from sales tax.
- 508. Road building materials.
- 509. Special surcharge taxes.
- 510. Offenses.
- 511. Enforcement.
- 512. Immunity from self-incrimination.
- 513. Revenue distribution.
- 514. Administrative expenses.
- 515. Court of Central Jurisdiction-judicial review.
- 516. Payment or bond prerequisite to suit.
- 517. Limited waiver of sovereign immunity.

Historical and Statutory Notes

The Section of Findings and Determinations of Band Statute 1085-MLC-31 provides:

"The Findings and Determinations of the Band Assembly enacted in Band Statute 1085-MLC-30, Section 1-1.1 1 [22 MLBSA § 1] are reenacted as applicable provisions of law for each Chapter of law entitled 'Band Statute 1085-MLC-31-39'. The designation '31-39' de notes only various Chapter numbers of the same Band Statute, which are established as the Public Taxation Policy of the Non-Removable Mille Lacs Band of Chippewa Indians."

Band Statute 1085-MLC-31, § 31 provides:

"Section 31. Severability. If any provisions of this Chapter, or the application thereof, to any person, business, corporation or circumstances is held invalid, the invalidity shall not affect other provisions or application of this Chapter which can be given effect without the invalid provisions or application and to this end of the provisions of this Chapter are declared severable."

The title of Ordinance 15-11 is:

"An ordinance repealing Section 509(a) of Chapter 6 in title 22 (Taxation) of the Mille Lacs Band Statutes Annotated (MLBSA) and adopting a new Section 509(a) to enact a tax requiring that fifty cents (\$.50) of each alcoholic drink sold by or at Grand Casino Hinckley be disbursed to the Mille Lacs Band of Ojibwe Government for its use to fund the Band's Alcohol Abuse and Drug Abuse programs, including a Women's Halfway House."

The Preamble to Ordinance 15-11 provides:

"It is enacted by the Band Assembly of the Mille Lacs Band of Ojibwe for the purpose of repealing Section 509(a) of Chapter 6 in Title 22 of the Mille Lacs Band Statutes Annotated in its entirety and adopting a new Section 509(a) to enact a tax on each alcoholic drink sold by or at Grand Casino Hinckley (GCH) to require that fifty cents (\$.50) of each alcoholic drink sold by or at GCH be distributed to the Mille Lacs Band of Ojibwe government to fund its Alcohol Abuse and Drug Abuse programs, including a Women's Halfway House."

Cross References

Application of provisions of this chapter to motor vehicle excise tax, see 22 MLBSA § 402. Payment of tax and filing of returns, see 22 MLBSA § 213.

§ 501. Reservation of right

The Band Assembly hereby fully reserves the right to alter, amend, or increase or decrease taxes imposed herein, or repeal the several provisions of this chapter, and all rights and privileges granted or extended hereunder shall be subject to such reserved right.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-31, § 30.

§ 502. Definitions

When used in this chapter, unless the context clearly indicates otherwise, the following terms shall have the meaning, respectively, ascribed to them in this section:

(a) "Gross Receipts" means the total amount received, in money, or otherwise, for all sales at retail as measured by the sales price. Gross receipts from sales may, at the option of the taxpayer, be reported on the cash basis as the consideration is received or on the accrual basis as sales are made.

(b) "Person" means any individual, partner, officer, director, firm, partnership, joint venture, association, cooperative, social club, fraternal organization, municipal or private corporation whether organized for profit or not, estate, trusts, business trusts, receiver, trustee, syndicate, the United States, the state of Minnesota, any political subdivision of Minnesota, or any other group or combination acting as a unit, and the plural as well as the singular number. As used in the preceding sentence, the term "person" includes, but is not limited to directors and officers of corporations or members of partnerships who, either individually or jointly with others, have the control, supervision or responsibility of filing returns and making payment of the amount of tax imposed by this chapter. "Person" shall also include any agent or consignee of any individual or organization enumerated in this section.

(c) "Retailer" means persons engaged in making sales at retail.

(d) "Sale" includes, but is not limited to each of the following transactions:

(1) Any transfer of title or possession, or both, of tangible personal property, whether absolutely, or conditionally, and the leasing of or the granting of a license to use or consume tangible personal property, for a consideration money or by exchange or barter;

(2) The furnishing for a consideration of lodging and related services by a hotel, rooming house, tourist court, motel or trailer camp and of the granting of a similar license to use real property other than the renting or leasing thereof, for a continuous period of 30 days or more;

(3) The furnishing for a consideration of electricity, gas, water, or steam for use or consumption within this state, or local exchange telephone service and intrastate toll service except such service provided by means of coin operated telephone; the tax imposed on amounts paid for telephone service is a liability of and shall be paid by the person paying for the service. Sales by ' municipal corporations in a proprietary capacity are included in the provisions of this clause. The furnishing of water and sewer services for residential use shall not be considered a sale.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-31, § 32.

§ 503. Imposition of general sales tax

There is hereby imposed an excise tax of five percent of the gross receipts from sales and retail, as herein defined, made by any licensed retail vendor organized pursuant to 16 MLBSA § 1 et seq., on territories governed by the Non-Removable Mille Lacs Band of Chippewa Indians after February 28, 1985. Notwithstanding the foregoing, the tax imposed hereby upon sales at retail through coin-operated vending machines shall be four percent of the gross receipts of such sales.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-31, § 20.

Band Statute 1085-MLC-36, § 51 provides:

"Declaration Of Band Policy-With Regard To Public Service Contracts. It is hereby de dard by the Band Assembly in and for the Non-Removable Mille Lacs Band of Chippewa Indians that all public service contracts shall be awarded to businesses organized pursuant to Band Statute 1077-MLC-16. However, in lieu of fulfillment of this policy, it is necessary to protect the economic security of the Band that the Band act as the purchasing agent on all contracts awarded to businesses organized pursuant to the laws of the state of Minnesota and any of its political sub-divisions, where such contract will execute all provisions exclusively on territories subject to the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians. Further, the Band Assembly is cognizant of the severe economic conditions and wide spread unemployment that exists amongst our sovereign people, and therefore, place a moral obligation upon all contractors for public service projects to assist in relieving such economically depressed conditions. Therefore, to effectuate the policies entered herewith, this Chapter shall be liberally construed and the taxes imposed in Chapter 31 , Section 20 [22 MLBSA § 503] shall apply to all purchases of each branch of government of the Non-Removable Mille

Lacs Band of Chippewa Indians, its independent and semi-independent commissions and any other political sub-division thereof."

Cross References

Capital Improvements Authority, tax exemptions, see 14 MLBSA § 12.

Public service occupations tax, see 22 MLBSA §§ 601 , 602.

§ 504. Legal incidence of tax imposed

The legal incidence of the Non-Removable Mille Lacs Band of Chippewa Indians general sales tax on the gross receipts from sales at retail shall be placed upon each retail vendor organized pursuant to provisions of 16 MLBSA § 1 et seq. Each retail vendor may at the discretion of the Non-Removable Mille Lacs Band of Chippewa Indians-Corporate Commission, shift the economic incidence of said tax forward to any consumer; and any such tax shift shall be considered as consensual. Notwithstanding the preceding, the legal incidence of this tax shall not be construed as falling upon any consumer.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-31, § 21.

§ 505. Tax as debt from retailer to Band

The use tax required to be collected by the retailer constitutes a debt owed by the retailer to the Non-Removable Mille Lacs Band of Chippewa Indians and shall be a debt from the retailer to the Corporate Commission recoverable at law in the same manner as other debts.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-31§ 22.01.

§ 506. Presumption and burden of proof

It is the purpose for proper administration of provisions of this chapter and to prevent any retailer from evading this tax, it shall be presumed that all gross sales are subject to the tax until the contrary is established. The burden of proving that a sale is not a sale at retail is upon the person makes the sale.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-31§ 22.

§ 507. Exemptions from sales tax

The following are specifically exempted from taxes imposed in this chapter:

- (a) The gross receipts from the sale of food products including, but not limited to, cereal and cereal products, butter, cheese, milk and milk products, oleomargarine, meat and meat products, fish and fish products, eggs and egg products, vegetable and vegetable products, fruit and fruit products, spice and salt, sugar and sugar products, coffee and coffee substitutes, tea, cocoa and cocoa products.
- (b) The gross receipt from the sale of prescribed drugs and medicine intended for use, internal or external, in the cure, mitigation, treatment or prevention of illness or disease in human beings and products consumed by humans for the preservation of health, including prescription glasses, therapeutic and prosthetic devices, but not including, cosmetics or toilet articles notwithstanding the presence of medicinal ingredients therein.
- (c) The gross receipts from the sale of an existing home or residence, or the construction of a new residence when each is financed in whole or part by the United States, in accordance with 38 U.S.C., Section 8.01-8.05, as amended.
- (d) The gross receipts from the sale of residential heating fuels in the following manner; all fuel oil, coal, wood, steam, propane gas, and L.P. gas sold to residential customers for residential use; natural gas sold for residential use to customers who are metered and billed as residential users and who use natural gas for their primary source of residential heat, for the billing months of November, December, January, February, March and April; electricity sold for residential use to customers who are metered and billed as residential users and who use electricity for their primary source of residential heat for the billing months of November, December, January, February, March and April.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-31, § 23.

Cross References

Gasoline and petroleum products excise tax, see 22 MLBSA § 301 et seq.

§ 508. Road building materials

Nothing herein shall exempt the gross receipts from sales of road building materials intended for use on roads under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians, the construction or repair thereof, whether purchased by the Band or any contractor.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-31, § 23.05.

§ 509. Special surcharge taxes

(a) There is hereby imposed, a special surcharge tax on each alcoholic drink sold by or at Grand Casino Hinckley (GCH) requiring that fifty cents (\$.50) of each drink sold shall be distributed to the Mille Lacs Band of Ojibwe government to fund its Alcohol Abuse and Drug Abuse programs, including a Women's Halfway House. The Commissioner of Finance shall set aside such funds upon his/her receipt of them and place them in a separate account for such purpose.

(b) There is hereby imposed a special surcharge tax of ten percent on all fines imposed pursuant to lawful authority by any Justice of the Court of Central Jurisdiction. Any said surcharge shall be placed in the Judicial Trust Fund Account, which is hereby created. Expenditures shall be made from said account only as may be authorized by special Revenue Court Order of the Chief Justice of the Court of Central Jurisdiction for the day-to-day administration costs of the Court. In no event shall any such funds be utilized for the benefit of any justice or court personnel, either directly or indirectly.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-31, § 24;
Ordinance 15-11, § 1.

§ 510. Offenses

(a) Any person who is required to keep records or to make returns who shall falsify or fail to keep such records, or falsify or fail to make such returns, shall be deemed guilty of falsifications of records, and upon conviction thereof, shall be fined up to five hundred dollars, and/or sentenced to labor not to exceed 180 days.

(b) Any person who shall refuse to permit the examination of records by authorized officials of the Band, or shall interfere with the performance of official duty shall be deemed guilty of obstruction of government function, and upon conviction thereof, shall be sentenced to labor not to exceed 180 days, and/or a fine not to exceed five hundred dollars.

(c) Any person who in any manner attempts to evade or who aids or abets in the evasion or attempted evasion of any provision of this chapter shall be deemed guilty of evasion, and upon conviction thereof, shall be sentenced to labor not to exceed 180 days, and/or a fine not to exceed five hundred dollars.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-31, § 25.

§ 511. Enforcement

The Commissioner of Finance shall enforce all provisions of this chapter. He may prescribe all rules and regulations not inconsistent with the provisions of this chapter through Commissioner's Order. He may call upon the Solicitor General or any Band law enforcement officer to aid him in the performance of his duties. He may appoint such employees of the Non-Removable Mille Lacs Band of Chippewa Indians as may be required to administer the provisions of this chapter. He may bring injunction proceedings against the distributor or any licensed retailer from acting in a manner inconsistent with the provisions of this chapter.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-31, § 26.

§ 512. Immunity from self-incrimination

No person shall be excused from testifying or from producing, pursuant to a subpoena, any books, paper, records or memoranda in any investigation, upon the grounds that the testimony or evidence, documentary or otherwise, may tend to incriminate him or subject him to criminal prosecution. Any person, who shall testify, shall receive immunity from such prosecution provided that the testimony under oath be the truth, pursuant to a lawful subpoena. No person shall be exempt from prosecution and punishment for perjury committed in so testifying.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-31, § 26.02.

Cross References

Self-incrimination, see 1 MLBSA § 4.

§ 513. Revenue distribution

All revenues derived from taxes, penalties, and interest from this chapter shall be deposited in a trust fund account in the name of the "Non-Removable Mille Lacs Band of Chippewa Indians: Taxation Revenue Account" and not be distributed except upon formal Revenue Resolution of the Band Assembly so directing disbursement.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-31, § 27.

§ 514. Administrative expenses

In no event, shall the expenses of administration of the provisions of this chapter exceed five percent of the gross receipts of the taxes imposed herein.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-31, § 26.01.

§ 515. Court of Central Jurisdiction-judicial review

The Court of Central Jurisdiction is hereby granted exclusive subject matter jurisdiction over any cause of action which may arise from the implementation of provisions of this chapter.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-31, § 28.

Cross References

Subject matter jurisdiction, Court of Central Jurisdiction, see 5 MLBSA § 111.

§ 516. Payment or bond prerequisite to suit

Any person who shall have a cause of action arising from any provisions of this chapter may petition the Court only upon first payment of any tax due or the posting of a bond in

the amount due in favor of the Taxation Revenue Account as a means that he/she intends to pay the tax if the Court so requires.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-31, § 28.01.

§ 517. Limited waiver of sovereign immunity

(a) The Band Assembly hereby waives sovereign immunity to be sued only in the Court of Central Jurisdiction in any seizure of property matter pursuant to provisions of this chapter. However, any such action shall only be directed against the Commissioner of Finance, in his/her official capacity in order to challenge any seizure action.

(b) Any said limited waiver of sovereign immunity shall be valid only in the Court of Central Jurisdiction, and subject to further limitations in subsections (c) and (d).

(c) Any and all seizure causes of action which arise pursuant to this chapter shall be limited to actions against the Commissioner of Finance in his official capacity for an order returning any seized goods.

(d) All other causes of action which arise pursuant to this chapter shall be limited in relief to declaratory or injunctive measures and no damages, monetary or otherwise, including but not limited to attorney fees shall be permitted.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-31, § 29.

CHAPTER 7

PUBLIC SERVICE CONTRACTS OCCUPATION TAX

Section

601 . Imposition of public service contracts occupations tax.

602. Payment.

Historical and Statutory Notes

The Section of Finding and Determinations of Band Statute 1085-MLC-36 provides:

"The Findings and Determinations of the Band Assembly enacted in Band Statute 1085-MLC-30 Section 1-1.1 1 [22 MLBSA § 1] are reenacted and applicable provisions of law for each chapter of law entitled 'Band Statute 1085-MLC-31-39'. The designation '3 1-39' de notes only various chapter numbers of the same Band Statute which are established as the Public Taxation Policy of the Non-Removable Mille Lacs Band of Chippewa Indians."

Band Statute 1085-MLC-36, §§ 51 and 63 provide:

"Section 51. Declaration of band policy with regard to public service contracts. It is hereby declared by the Band Assembly in and for the Non-Removable Mille Lacs Band of Chippewa Indians that all public service contracts shall be awarded to businesses organized pursuant to Band Statute 1077-MLC-16. However, in lieu of fulfillment of this policy, it is necessary to protect the economic security of the Band that the Band act as the purchasing agent on all contracts awarded to businesses organized pursuant to the laws of the state of Minnesota and any of its political subdivisions, where such contract will execute all provisions exclusively on territories subject to the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians. Further, the Band Assembly is cognizant of the severe economic conditions and wide spread unemployment that exists amongst our sovereign people, and therefore, place a moral obligation upon all contractors for public service projects to assist in relieving such economically depressed conditions. Therefore, to effectuate the policies entered herewith, this chapter shall be liberally construed and the taxes imposed in chapter 31, Section 20 [now 22 MLBSA § 503] shall apply to all purchases of each branch of government of the Non-Removable Mille Lacs Band of Chippewa Indians, its independent and semi-independent commissions and any other political subdivision thereof."

"Section 63. Severability. If any provision of this chapter, or its application to any person or circumstances is held invalid, the remainder of the Chapter, or the application of the provision to other persons or circumstances is not affected."

Cross References

Payment of tax and filing of returns, see 22 MLBSA § 213. Procurement, see 7 MLBSA § 1 et seq.

§ 601. Imposition of public service contracts occupations tax

There is hereby imposed a Public Service Occupations Tax in an amount equal to one half of one percent of the total contractual award. Said tax shall not be in lieu of taxes imposed pursuant to 22 MLBSA § 503 on the gross receipts from materials and supply purchases necessary to fulfill any and all contractual obligations. Any contractor shall not have the options of complying with the taxation provisions of 22 MLBSA § 503 or the provisions of this section. In the event, any contractor shall be liable for taxation imposed by 22 MLBSA § 501 et seq., all material and supply purchases shall be made by the Band

and in the name 'Non-Removable Mille Lacs Band of Chippewa Indians' and resold at retail/wholesale cost, whichever is applicable, and therefore exempt from general sales tax imposed by any political subdivision of the United States of America, or the state of Minnesota and any of its political subdivisions

Historical and Statutory Notes

Source: Band Statute 1085-MLC-36, § 50.

Cross References

Capital Improvements Authority, tax exemptions, see 14 MLBSA § 12. Employment Rights Fee, see 18 MLBSA § 417.

§ 602. Payment

All said occupation taxes shall become due and payable from the proceeds of each progress payment in proportional amounts within three days after receipts by the contractor as the work proceeds throughout the completion of the contracts. A lien for any said taxes is hereby imposed upon the progress payment. The occupation tax shall be paid to the Commissioner of Finance and placed in the existing account in the name Non-Removable Mille Lacs Band of Chippewa Indians Taxation Revenue Account. Said funds not to be distributed except upon formal Revenue Resolution of the Band Assembly so directing disbursement.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-36, § 50.01.

CHAPTER 8

PERSONAL INCOME TAX

Section

701. Imposition of income tax.

Historical and Statutory Notes

The Section of Findings and Determinations of Band Statute 1085-MLC-34 provides:

'The Findings and Determinations of the Band Assembly enacted in Band Statute 1085-MLC-30 Sections 1-1.1 1 [22 MLBSA §1] are reenacted as applicable provisions of law

for each Chapter of law entitled 'Band Statute 1085-MLC-31-39'. The designation '31-39' denotes only various Chapter numbers of the same Band Statute, which are established as the Public Taxation Policy of the Non-Removable Mille Lacs Band of Chippewa Indians."

Cross References

Housing Authority, tax exemption for obligations, see 12 MLBSA § 20.
Payment of tax and filing of returns, see 22 MLBSA § 213.

§ 701. Imposition of income tax

There is hereby imposed an income tax on all personal income earned by the members of the Non-Removable Mille Lacs Band of Chippewa Indians and generated from civil service employment with the Non-Removable Mille Lacs Band of Chippewa Indians for the purpose of preemption of any income tax that may now or hereinafter be imposed by the state of Minnesota or any political sub-division thereof in the amount of one dollar.

Historical and Statutory Notes

Source: Band Statute 1085-MLC-34, § 48.

Cross References

Government employees, see 6 MLBSA § 1 et seq.

CHAPTER 9

ESTATE TAX

Section

801 . Imposition of estate tax.

Historical and Statutory Notes

The Section of Findings and Determinations of Band Statute 1085-MLC-35 provides:

"The Findings and Determinations of the Band Assembly enacted in Band Statute 1085-MLC-30, Sections 1-1.1 1 [22 MLBSA § 1] are reenacted as applicable provisions of law for each Chapter of law entitled 'Band Statute 1085-MLC-31-39'.. The designation '31-39' denotes only various Chapter numbers of the same Band Statute, which are established as

the Public Taxation Policy of the Non-Removable Mille Lacs Band of Chippewa Indians."

Cross References

Payment of tax and filing of returns, see 22 MLBSA § 213.

§ 801. Imposition of estate tax

There is hereby imposed, an estate tax upon the transfer of estates of decedents who are members of any constituent Band of the Non-Removable Mille Lacs Band of Chippewa Indians in an amount equal to one one-hundredth of a percent of the total value of the estate, for the purpose of preemption of any estate tax that may now or hereinafter be imposed by the state of Minnesota or any political subdivision

Historical and Statutory Notes

Source: Band Statute 1085-MLC-35, § 49.