

CHAPTER THREE

SALES AND LODGERS' TAX; BUSINESS LICENSES

§ 1. Short Title

This chapter is known as the Absentee Shawnee Sales and Lodger's Tax and Business Licenses.

§ 2. Definitions

For the purposes of this chapter:

(a) "Gross Receipts" means the total amount of money or the value of other consideration received from performing services or selling tangible personal property within the Tribe's jurisdiction and includes, but is not limited to, any receipts from sales of tangible personal property handled on consignment, receipts from leases or rentals of tangible personal property, receipts from rental or leases of lodging, hotel rooms and amenities, admission to any place of recreation or entertainment, but excludes cash discounts allowed and taken.

(b) "Gross Taxable Rent" means the total amount paid for lodging, not including the gross receipts tax assessed on the gross receipts from the sale of lodging services.

(c) "Lodging" means the transaction of furnishing rooms or other accommodations ("lodgings") by a vendor to a vendee who for rent uses, possesses or has the right to use or possess any rooms or rooms or other unit of accommodation in a hotel, motel, resort, lodging house or other premises used for lodging of less than (30) days.

(d) "Person" means any individual, sole proprietorship, firm, partnership, joint venture, non-profit organization, association, corporation, estate, trust, political entity or other identifiable entity, including tribally owned corporations and businesses.

(e) "Sales Price" means the amount paid or charged for tangible personal property or other taxable items or service.

(f) "Tangible Personal Property" means all goods, wares, merchandise, produce, commodities and all tangible or corporeal things and substances which are capable of being possessed or exchanged.

- (g) “Vendee” means any person paying for goods or services received.

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- (h) “Vendor” means any person receiving any payment or consideration upon any taxable transaction.

§ 3. Imposition and Rate of Sales Tax

Except as otherwise provided in this ordinance, for the privilege of engaging in business within the Tribal jurisdiction, a sales tax equal to six percent (6%) of gross receipts is hereby imposed on any person engaging in business within the Tribe’s jurisdiction. This tax shall be known as the sales tax. *Amended 2/1/08 by Resolution LAS-2008-06.*

These rates may be changed from time to time by resolution of the Executive Committee.

§ 4. Exemptions

The following sales are exempt from the taxes imposed by this chapter:

- (a) Sales of livestock or agricultural goods;
- (b) Sales to the Tribe, its governmental entities and political subdivisions, and tribally-owned enterprises or businesses;
- (c) Leasing or rental of real property for residential purposes, including mobile home lots;
- (d) Leases of trust land or trust resources;
- (e) Sales by Absentee Shawnee Tribal members of traditional arts and crafts made by Absentee Shawnee Tribal members; *Amended 9/11/02 by Resolution LAS-2002-37.*
- (f) Itinerant sales by Absentee Shawnee Tribal members where the total amount of such sales of goods do not exceed five thousand dollars (\$5,000.00) a year. *Amended 9/11/02 by Resolution LAS-2002-37.*
- (g) Sales to military veterans who possess a valid Veterans Disability Sales Tax Exemption Card. The exemption card must be presented at the time of purchase. *Added 2/1/08 by Resolution LAS-2008-06.*

§ 5. Vending Machine Sales and Installment Sales

(a) The Commission shall require a vendor to pay the tax imposed by this chapter upon sales made through vending machines and similar devices.

(b) In the case of installment sales of tangible personal property, the vendor shall collect and remit the tax imposed by this chapter upon the principal amount of each installment of the purchase price at the time the installment is paid.

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§ 6. Imposition and Rate of Lodger's Tax

There is hereby imposed a tax on lodging of five percent (5%) of the gross taxable rent. The lodger's tax is in addition to the tax imposed on gross receipts from the sale of lodging and other services.

§ 7. Collection of Tax; Assessment; Penalties

(a) The vendor shall add the sales and lodging tax to the purchase price and give the purchaser a receipt for the tax collected, which shall be stated separately from the purchase price. The receipt is prima facie evidence that the purchaser has paid and the vendor has collected the tax.

(b) Every person selling property or providing services within the Tribe's jurisdiction is responsible for the collection and payment of the taxes imposed by this chapter.

(c) Any vendor who fails to collect the tax imposed or having collected the tax fails to pay it to the Tax Commission, whether such failure is the result of the vendor's acts or the result of acts or conditions beyond the vendor's control, shall be personally liable to the Tribe upon assessment by the Tax Commission for the amount of the tax plus interest at the rate specified in the Tax Administration chapter and a penalty imposed by the Commission of an amount not to exceed fifty percent (50%) of the taxes due.

§ 8. Payment of Tax; Records

(a) Every vendor engaging in the taxable transaction under this chapter shall, on or before the 15th day of the month succeeding the end of each monthly period, prepare a return for the preceding monthly period, setting forth the amount of all sales, exempt sales, taxable sales, the amount of sales tax due thereon, and such other information as the Tax Commission may require, and sign and file the return with the Tax Commission.

(b) The sales and/or lodger's tax as computed in the return shall be based upon the total non-exempt sales made during the month, including both cash and charge sales. The return shall compute the sales tax on the purchase price, and separately compute the lodger's tax, if applicable, on the gross taxable rent, excluding the sales tax. A credit shall be allowed for all taxes remitted to

the purchaser upon the refund of the purchase price paid for tangible personal property or other taxable items or services returned to the vendor.

(c) Every vendor shall pay the sales and/or lodger's taxes collected during a calendar month to the Commission at the same time the return for the calendar month is submitted.

(d) Each vendor engaging in any taxable transaction under this ordinance shall: (i) keep and preserve records of all sales made and other books or accounts necessary to determine the amount of tax due under this ordinance; (ii) keep and reserve for a period of five (5) years all such

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records, books, invoices and other records; and (iii) open all such records for examination at any time by the Tax Administrator or its duly authorized representative or agent.

§ 9. Business License; Issuance and Revocation

(a) As a condition of doing business within the Tribe's jurisdiction, any person who engages in business within the Tribal jurisdiction and is required to pay the sales and/or lodger's tax imposed by this chapter, shall obtain a business license from the Tax Commission. This license shall be granted and issued by the Tax Commission upon filing of an application setting forth the name of the business, its address, the ownership of the business, the type of business, and the federal identification number or social security number. License registrations must be renewed by January 1 of each year, along with any information necessary to update the application. The license is not assignable and is valid only for the person in whose name it is issued until that person ceases to do business, or until the license is revoked by the Tax Commission.

(b) Whenever a holder of a business license fails to comply with the provisions of this title, the Tax Commission, after giving ten (10) days notice in writing of the time and place of hearing to show cause why the registration should not be revoked, may hold a hearing and determine to revoke or suspend the business license.

(c) A vendor doing business within the Tribe's jurisdiction is entering into a consensual relationship with the Tribe. The vendor is agreeing to submit to the jurisdiction of the Tribe, its law and courts. The business license will reflect this agreement.

(d) The licensing fee shall be one hundred dollars (\$100.00) and must be paid upon submission of the application. *Amended 2/1/08 by Resolution LAS-2008-06.*

(e) A person required to obtain a license must file the application no later than 5 business days prior to commencing business within the Tribal jurisdiction.

§ 10. Final Sales Tax Return – Return of Registration

Any person operating under a business license shall upon discontinuance of business, file a sales tax return clearly labeled “FINAL RETURN”, and attach thereto their business license for cancellation, together with a remittance for any unpaid or accrued taxes within the time set by law for filing their next regular sales tax return.

§ 11. Failure to Comply with Tax Law and Regulations

In addition to any other penalty set forth in this title, the Commission may refuse to issue a business license to any person who fails to comply with the tax laws and regulations.

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§ 12. Use of Funds

The six percent (6%) of gross receipts sales tax shall be deposited in the Tribal Treasury.
Amended 2/1/08 by Resolution LAS-2008-06.

ABSENTEE SHAWNEE TRIBE OF OKLAHOMA
TAX COMMISSION
 2025 S. GORDON COOPER DRIVE
 SHAWNEE, OK 74801

APPLICATION FOR BUSINESS LICENSE

1.

| | | | | |
|-------------------------|--------------|------------|--|---------------------|
| <i>Name of Business</i> | | | <i>Federal Tax I.D. # or Social Security #</i> | |
| <i>Business Address</i> | | | | |
| <i>City</i> | <i>State</i> | <i>ZIP</i> | <i>Business Phone:</i> | <i>Contact Name</i> |
| | | | <i>Home Phone:</i> | |

2. Principal Owner(s) of Business:

3. Type of Business:

4. Other:

The **\$100.00 mandatory licensing fee** is required to be submitted when this application is filed.

Application must be filed no later than 5 business days prior to commencing business within the jurisdiction of the Absentee Shawnee Tribe.

All License Registrations must be renewed by January 1 of each year. License is not assignable and is valid only for the person whose name it is issued until that person ceases to do business or changes his business address, or until the license is revoked by the Tax Commission.

I declare under the penalties of law pursuant to the provisions of the Licensing and Tax Code, that the information contained in this application is true and correct. I acknowledge that as a vendor doing business within the Tribe's jurisdiction, I am entering into a consensual relationship with the Tribe and am subject to its laws, regulations and jurisdiction. By signing this application, I am agreeing to submit to the jurisdiction of the Tribe, its Laws and Courts.

Signature

Title

Date

ABSENTEE SHAWNEE TRIBE OF OKLAHOMA
TAX COMMISSION
2025 S. GORDON COOPER DRIVE
SHAWNEE, OK 74801

Business License

Issued to: _____

Located at: _____

Dated: _____

Authorized by: _____
Absentee Shawnee Tax Administrator

All License Registrations must be renewed by January 1 of each year. License is not assignable and is valid only for the person whose name it is issued until that person ceases to do business or changes his business address, or until the license is revoked by the Tax Commission. A vendor doing business within the Tribe's jurisdiction is entering into a consensual relationship with the Tribe. The vendor named above, by posting this license, is agreeing to submit to the jurisdiction of the Tribe, its laws and courts.

ABSENTEE SHAWNEE TRIBE OF OKLAHOMA
TAX COMMISSION
2025 S. GORDON COOPER DRIVE
SHAWNEE, OK 74801

Business License

Issued to: _____

Located at: _____

Dated: _____

Authorized by: _____
Absentee Shawnee Tax Administrator

All License Registrations must be renewed by January 1 of each year. License is not assignable and is valid only for the person whose name it is issued until that person ceases to do business or changes his business address, or until the license is revoked by the Tax Commission. A vendor doing business within the Tribe's jurisdiction is entering into a consensual relationship with the Tribe. The vendor named above, by posting this license, is agreeing to submit to the jurisdiction of the Tribe, its laws and courts.

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SALES AND LODGER'S TAX RETURN

Reporting Period: _____, 20 ____
 Returns are due on or before the 15th day of the month following the reporting month.

| | | | | |
|-------------------------|--------------|------------|--|---------------------|
| <i>Name of Taxpayer</i> | | | <i>Federal Tax I.D. # or Social Security #</i> | |
| <i>Address</i> | | | | |
| <i>City</i> | <i>State</i> | <i>ZIP</i> | <i>Telephone Number</i> | <i>Contact Name</i> |

(A) Sales Tax Due

\$ _____ Total Gross Receipts¹
 \$ _____ Total Exempt Sales²
 \$ _____ Net Taxable Sales
 x 6% Tax Rate
 \$ _____ **Sales Tax Due**

(B) Lodger's Tax Due

\$ _____ Total Gross Taxable Rent
 x 5% Tax Rate
 \$ _____ **Lodger's Tax Due**

Total Taxes Due (A + B) * \$ _____

* Attach supporting documents.

I declare under the penalties of law pursuant to the provisions of the Licensing and Tax Code, that this return is a true, correct and complete return. Willful failure to pay taxes due will result in an additional penalty of fifty percent (50%) of taxes owed.

 Signature Title Date

¹Excludes cash discounts allowed and taken. Ref: AST Licensing and Tax Code, Chapter 3, §2(a).

¹ Ref: AST Licensing and Tax Code, Chapter 3, §4 for list of Exemptions.

ABSENTEE SHAWNEE TRIBE OF OKLAHOMA
TAX COMMISSION
 2025 S. GORDON COOPER DRIVE
 SHAWNEE, OK 74801

EXEMPT SALES DETAIL

(To be submitted with Sales and Lodger's Tax Return)

Reporting Month on Sales and Lodger's Tax Return: _____, 20 ____

| Description of Goods or Services | Reason for Exemption ¹ | Amount of Sale |
|----------------------------------|-----------------------------------|----------------|
| | | \$ |
| | | \$ |
| | | \$ |
| | | \$ |
| | | \$ |
| | | \$ |
| | | \$ |
| | | \$ |
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| | | \$ |
| | | \$ |
| | | \$ |
| | | \$ |
| | | \$ |
| | | \$ |
| | Total | \$ |

¹See Absentee Shawnee Licensing and Tax Code, Chapter 3, §4 for list of Exemptions

**ABSENTEE SHAWNEE TRIBE OK OKLAHOMA
TAX COMMISSION
2025 S. GORDON COOPER DRIVE
SHAWNEE, OK 74801**

Vendor/Peddler Guidelines

Day vendors, peddlers, etc. receiving money or anything of value for the sale of goods or services where annual gross sales total \$5,000.00 or less are subject to these guidelines, as approved by the AST Tax Commission in regular meetings held on December 17, 2002 and January 22, 2008, and which serves as a supplement to the AST Licensing and Tax Code.

Authority: AST Licensing and Tax Code, Chapter 1 and Chapter 3.

1. *All* must register by completing a **Business License Application** form. The **Business License fee for day vendors, peddlers, etc is \$25.00**, renewed annual by January 1.
2. Business License Fee(s) are waived for persons, *who qualify for exemptions as stated in Chapter 3, Sec. 4 (e), (f), and (g); and for Non-Profit Organizations.*
3. Day vendors/peddlers, etc. selling on an irregular or occasional basis must report to AST Tax Commission office prior to selling. A tax deposit of \$25.00 must be paid by vendor/peddler, which will be returned upon payment of sales taxes. The Tax Commission will issue a sales permit valid for that day only. The Vendors/Peddlers must provide record of sales to the Tax Commission.
4. Vendors/peddlers, etc. returning on a regular basis must report to AST Tax Commission office prior to selling, and in addition to above item 3 may have the option (as approved by the Tax Commission) of reporting sales and remitting taxes on a monthly basis in accordance with Chapter 3.
5. The **Sales Tax rate is 6% of total gross sales**. Sales taxes are waived for persons, *who qualify for exemptions as stated in Chapter 3, Sec. 4 (e), (f), and (g); and for Non-Profit Organizations.*