

**COQUILLE INDIAN TRIBAL
CODE**

**Chapter 470
Part 1 – General Governmental Affairs
Transit Tax Ordinance**

COQUILLE INDIAN TRIBE
Chapter 470
Transit Tax Ordinance

Index

<u>Subchapter/ Section</u>	<u>Page</u>
470.010 General	2
1. Purpose	
2. Background and Intent	
3. Definitions	
4. Jurisdiction (reserved)	
470.100 Transit Tax	4
470.200 Exemptions	4
470.400 Withholding	4
470.500 Payment of Taxes; Reporting	5
470.600 Tax Revenue	5
470.800 Changes to Transit Tax	5
470.900 Severability	5
470.999 Sovereign Immunity	5

COQUILLE INDIAN TRIBE
Chapter 470
Transit Tax Ordinance

470.010 General

This Ordinance shall be known as the Coquille Indian Tribe Transit Tax Ordinance.

1. Purpose. The purpose of this Ordinance is to adopt, and authorize implementation of, a payroll-withholding tax applicable to certain employees.

2. Background and Intent

(a) The Tribal Council is the governing body of the Coquille Indian Tribe. Article I, Section 1 of the Tribal Constitution declares that the jurisdiction of the Tribe shall extend, to the fullest extent possible under federal laws, over all lands, waters, property, airspace, minerals and other natural resources, and any interest therein, either now or in the future, owned by the Tribe or held in trust by the United States for the Tribe. The responsibility to organize all efforts of Tribal government rests in the Tribal Council. Article VI, Section 1 of the Tribal Constitution vests the Tribal Council with the authority to enact legislation to address issues involving Tribal lands. The Tribal Council considers these authorities to be necessary to achieve Tribal goals and visions.

(b) The Tribal Council's authority includes the power to tax persons and activities within the scope of the Tribe's jurisdiction.

(c) On October 6, 2017, HR 2017 (2017) became Oregon law, and established a new tax ("State Transit Tax") of one tenth of one percent of the wages of employees who are residents of the State or perform services in the State. The legal incidence of the State Transit Tax falls on employers and does not apply to the Tribe or to its Affiliates. The Tribe, however, wishes to take voluntary steps to authorize an identical payroll withholding tax under Tribal law and to provide for collection and payment of the tax to the State.

(d) The Tribe has a need for transit-related improvements, infrastructure, equipment and services to serve its families residing within its five-county service area.

3. Definitions. In construing the provisions of this Ordinance, the following words and phrases shall have the meanings designated in this section unless a different meaning is expressly provided, or the context provides otherwise.

"Affiliate" means entities created by and wholly or majority owned and controlled by the Tribe and shall include but not be limited to the Coquille Economic Development Corporation, the Mith-ih-kwuh Economic Development Corporation, the Nasomah Health Group and the Coquille Indian Housing Authority.

COQUILLE INDIAN TRIBE
Chapter 470
Transit Tax Ordinance

“Majority owned” means that a party owns more than fifty percent of an interest, stock or other ownership of an entity.

“Qualified Employee” means an employee of the Tribe or an Affiliate.

“Qualifying Services” means services performed within the exterior boundaries of the State of Oregon or services performed by a person who is a resident of the State of Oregon or the Tribal Reservation.

"Tribal Council" means the Tribal Council of the Coquille Indian Tribe.

"Tribal Court" means the Coquille Indian Tribal Court.

“Tribal Law” means the Coquille Indian Tribe Constitution, all laws, resolutions, regulations, ordinances or other form of action by the Tribal Council or the General Council, and such regulations and policies as are duly adopted by a department or instrumentality of the Tribe in accordance with Tribal Law.

“Tribal Reservation” means (i) lands held in trust by the federal government for the benefit of the Tribe, (ii) any other lands determined to have reservation status under federal law; and (iii) lands in which the Tribe has a legal interest and that otherwise meet the criteria set forth in 25 USC 1151.

"Tribe" means the Coquille Indian Tribe. This term shall include any person or entity acting with the delegated authority of the Tribe pursuant to this Ordinance.

“Wages” means remuneration for services performed by an employee for an employer, including the cash value of all remuneration paid in any medium other than cash, except that “wages” does not include remuneration paid:

(a) For active service in the Armed Forces of the United States as to which no withholding is required by the Internal Revenue Code.

(b) To an employee of a common carrier to the extent that 49 U.S.C. 14503 and 40116 prohibit the remuneration from withholding for state income taxes.

(c) For domestic service in a private home, a local college club or a local chapter of a college fraternity or sorority.

(d) For casual labor not in the course of the employer’s trade or business.

(e) To an employee whose services to the employer consist solely of labor in connection with the planting, cultivating or harvesting of seasonal agricultural crops if the total amount paid to such employee is less than \$300 annually.

COQUILLE INDIAN TRIBE
Chapter 470
Transit Tax Ordinance

(f) To seamen who are exempt from garnishment, attachment or execution under title 46 of the United States Code.

(g) To persons temporarily employed as emergency forest fire fighters.

(h) To employees' trusts exempt from tax under provisions of the federal Internal Revenue Code.

(i) For services performed by a duly ordained, commissioned or licensed minister of a church in the exercise of the minister's ministry or by a member of a religious order in the exercise of religious duties required by such order, which duties are not commercial in nature.

(j) For services provided by an independent contractor.

(k) To or on behalf of an employee, a beneficiary of an employee or an alternate payee under or to an eligible deferred compensation plan that, at the time of the payment, is a plan described in section 457(b) of the Internal Revenue Code and that is maintained by an eligible employer described in section 457(e)(1)(A) of the Internal Revenue Code

4. Jurisdiction [Reserved].

470.100 Transit Tax

The Tribe hereby imposes a tax ("Transit Tax") of one-tenth of one percent of wages paid for Qualifying Services performed by a Qualifying Employee for the Tribe or an Affiliate.

470.200 Exemptions

1. The Transit Tax shall not apply to wages earned by a member of a federally recognized Indian tribe who lives and works in Indian country.
2. Any wages that are not subject to Oregon HR 2017 shall also be exempt from the Tribe's Transit Tax.
3. The Tribal Council, by resolution, may adopt additional exemptions from the Transit Tax.

470.400 Withholding

At the time of the payment of wages, the Tribe and/or any Affiliate shall deduct and withhold from the total amount of the wages paid to a Qualified Employee for Qualifying Services an amount equal to the total amount of wages, without exemption or deduction, multiplied by the rate of tax imposed under CITC 470.100.

470.500 Payment of Taxes; Reporting

1. Each employer of a Qualified Employee shall be responsible to collect and pay the Transit Tax to the Tribe. The Tribal Chief Financial Officer may designate one or more persons, including the employer of a Qualified Employee, as a Tribal Government agent for the purposes of receiving payment of the Transit Tax on behalf of the Tribe, and may terminate or suspend such agency at any time.
2. All Transit Taxes withheld and associated information shall be reported to the Tribal Chief Financial Officer (or their delegate):
 - a. On forms created by the Tribal Finance Department; and
 - b. In compliance with policy and procedures adopted by the Tribal Finance Department.

470.600 Tax Revenue

1. Unless the Tribal Council provides otherwise by resolution, Transit Tax revenue shall be unrestricted funds of Tribal government.
2. The Transit Tax collected may be provided to the State of Oregon as an equivalent to the State Transit Tax to the extent that the State Transit Tax is not applicable to and enforceable against the Tribe and its Affiliates.

470.800 Changes to Transit Tax

1. This Transit Tax shall be suspended for the Tribe and/or any Affiliate during any period of time in which the State Transit Tax applies to any such respective entity.
2. By resolution, the Tribal Council may suspend or terminate the Transit Tax or increase or decrease the Transit Tax rate.

470.900 Severability

If any provision of this Ordinance is held to be invalid, the remainder of this Ordinance shall not be affected.

470.999 Sovereign Immunity

Nothing in this Ordinance shall be construed to waive the sovereign immunity of the Coquille Indian Tribe or the sovereign immunity possessed by any of its Affiliates or other subordinate tribal entities.

COQUILLE INDIAN TRIBE
Chapter 470
Transit Tax Ordinance

History of Amendments to Chapter 470 Transit Tax Ordinance

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