

9.2.6 Imposition of Construction Tax.

A. Definitions.

1. “Construction Activities” means the performance of a contract for the construction repair or improvement of property, and includes but is not limited to constructing, building, erecting, repairing, grading, excavating, drilling, exploring, testing or adding to any building, highway, street, sidewalk, bridge, culvert, sewer, irrigation or water system, or any part thereof, power plant, electrical system, air conditioning system, heating system, transmission line, pipeline, tower, excavation, grading, water well, any other improvement or structure or any part thereof when the compensation received exceeds Twenty Five Thousand Dollars (\$25,000.00). Such activities shall not include constructing, repairing or adding to property which retains its identity as personal property.
2. “Person” is defined to mean and include any natural person, company, Tribally-owned corporation, partnership, corporation, commission, government agency, joint venture, association, trust, or other political or identifiable entity to which this Article can be applied.
3. “Prime contractor” means any person who is awarded a contract by a public employer for the physical performance of services within the jurisdiction of the Tribe.
4. “Subcontractor” means a person who has contracted with a prime contractor or with another subcontractor to perform a contract.
5. “Tribe” means the Sokaogon Chippewa Community.

B. Construction Tax. Upon every person engaging or continuing in the business of contracting or performing a contract for or engaging in any non-residential Commercial for-profit construction activities for a price, commission, fee or wage on land within the jurisdiction of the Tribe, there is hereby levied, assessed and shall be collected a tax equal to three percent (3%) of the total contract price or compensation received, including all charges related to the contract such as change orders, finance charges and late charges, from such construction activities. The tax imposed in this Section is levied upon and shall be paid by the prime contractor.

C. Subcontractors. When the work to be performed under any contract is sublet by the prime contractor to different persons, or in separate contracts to the same persons, each such subcontractor performing any part of said work shall be liable for the amount of the tax which accrues on account of the work performed by such person when the tax heretofore imposed has not been paid upon the whole contract by the prime contractor.

- D. **Payment Requirements.** Any prime contractor entering into any contract subject to the Construction Tax shall, before beginning the performance of such contract or contracts, either pay the Construction Tax in advance or execute and file with the Tax Commission a good and valid bond from a surety company authorized to do business in any state and approved by the Tax Commission conditioned on and ensuring that all taxes which may accrue to the Tribe will be paid when due. Such bonds shall be either (a) “job bonds” which guarantee payment when due of the aforesaid taxes resulting from performance of a specified job or activity regardless of date of completion; or (b) “blanket bonds” which guarantee payment when due of the aforesaid taxes resulting from performance of all jobs or activities taxable under this Section begun during the period specified therein, regardless of date of completion. The payments of the taxes due or the execution and filing of a surety bond shall be a condition precedent to the commencing work on any contract taxed hereunder. Provided, that when any bond is filed in lieu of the prepayment of the tax under this Section, that the tax shall be payable monthly on the amount received during the previous month. Any person failing either to execute any bond herein provided, or to pay the taxes in advance, before beginning the performance of any contract shall be denied the right to perform such contract until such person complies with such requirements, and the Tax Commission is hereby authorized to proceed either under the Tax Code or by injunction to prevent any activity in the performance of such contract until either a satisfactory bond is executed and filed, or all taxes are paid in advance, and a temporary injunction enjoining the execution of or commencement of work under such contract shall be granted without notice by any judge authorized by law to grant injunctions.
- E. **Material Purchase Certificates.** Any person liable for a tax under this Section may apply for and obtain a material purchase certificate from the Tax Commission which may entitle the holder to purchase materials and services that are to become a component part of the structure to be erected or repaired with no sales or use taxes due. Provided, that the contractor applying for the contractor’s material purchase certificate shall furnish the Tax Commission a list of all work sublet to others, indicating the amount of work to be performed, and the names and addresses of each subcontractor.
- F. **State and Local Taxation.** The tax imposed under this Title shall be in lieu of all other state or local sales or use taxes. To ensure against state or local taxation, the Tribe may require any person liable for the tax due hereunder to purchase component materials or supplies from or through Tribal suppliers, to be delivered FOB Sokaogon Chippewa Community Mole Lake Reservation. In all contracts where the Tribe or a Tribal entity is a party, the contract shall include a clause requiring that all materials and supplies be purchased by or through the Tribe or a Tribal entity and delivered FOB Sokaogon Chippewa Community Mole Lake Reservation.