

**CONSTRUCTION TAX ORDINANCE  
OF THE  
HOOPA VALLEY TRIBE  
HOOPA VALLEY INDIAN RESERVATION**

**TITLE 39  
HOOPA VALLEY TRIBAL CODE**

ORDINANCE NO: 4-95

DATE APPROVED: November 7, 1995

SUBJECT: Construction Tax

WHEREAS the Hoopa Valley Tribe adopted a Constitution and Bylaws on June 20, 1972, approved by the Commissioner of Indian Affairs on August 18, 1972, subsequently ratified and confirmed by Congress on October 31, 1988, § 8, PL 100-580 [1988];

WHEREAS Article V of the Hoopa Valley Tribe Constitution establishes a Tribal Council as the governing body of the Tribe;

WHEREAS the Tribal Council has the power to administer Tribal property [§ 1.a, Art. IX, Hoopa Valley Tribe Constitution], to collect funds within the control of the Tribe [§ 1.c, Art. IX, Hoopa Valley Tribe Constitution], to provide assessments or license fees on non-members doing business or obtaining special privileges within the reservation [§ 1.f.1, Art. IX, Hoopa Valley Tribe Constitution], to promulgate and enforce assessments or license fees on members exercising special privileges or profiting from the general resources of the reservation [§ 1.f.2, Art. IX, Hoopa Valley Tribe Constitution], to promulgate and enforce ordinances governing the conduct of enrolled members of the Hoopa Valley Tribe [§ 1.k, Art. IX, Hoopa Valley Tribe Constitution], to safeguard and promote the peace, safety, and general welfare of enrolled members of the Hoopa Valley Tribe by regulating the conduct of trade and the use and disposition of property upon the reservation and thereby directly affecting non-members of the Tribe [§ 1.l, Art. IX, Hoopa Valley Tribe Constitution], to establish a Tribal Court [§ 1.m, Art. IX, Hoopa Valley Tribe Constitution] and to create subordinate bodies for the operation of economic enterprises to benefit the Tribe [§ 1.p, Art. IX, Hoopa Valley Tribe Constitution];

WHEREAS the Hoopa Valley Tribe, on its own initiative and carrying out comprehensive federal trust obligations by reason of a self-governance compact between the Hoopa Valley Tribe and the United States of America, has endeavored to construct health care facilities, residential housing, governmental offices, roads and similar infrastructure construction projects;

WHEREAS the Hoopa Valley Tribe, through its Credit Office, has offered tribal and federally financed loans, loan guarantees and similar credit instruments to assure that residential and business construction occurs on the Hoopa Valley Indian Reservation;

WHEREAS the regulation and taxation of construction contractors and subcontractors furthers the paramount intent of Tribal government to make the Hoopa Valley Indian Reservation a safe, healthy and civil place to live, do business and travel to; and

WHEREAS the Hoopa Valley Tribe provides significant services to construction contractors and subcontractors operating on or near the Hoopa Valley Indian Reservation, including without limitation fire suppression, public safety, clean water and dispute resolutions; and

THEREFORE BE IT RESOLVED that the Hoopa Valley Tribal Council hereby ordains and passes a Construction Tax Ordinance, following herewith, Title 39 to the Hoopa Valley Tribal Code;

THEREFORE BE IT FINALLY RESOLVED that this Construction Tax Ordinance supersedes inconsistent conflicting provisions of the Hoopa Valley Tribal Code, Tribal charters and any other Tribal Council ordinances, resolutions or actions whatever.

### **Title 39**

Section 1. Title - this ordinance shall be known as the Hoopa Valley Tribe Construction Tax Ordinance.

Section 2. Tax Commission - there shall be a Hoopa Valley Tribal Tax Commission; the Hoopa Valley Tribal Council shall serve as the Tax Commission;

Section 3. Construction Tax - construction contractors carrying on construction within the exterior boundaries of the Hoopa Valley Indian Reservation shall pay to the Hoopa Valley Tribal Tax Commission a Tribal construction tax in an amount equal to the California State Board of Equalization tax applicable - but for 18 CCR § 1616, this Construction Tax Ordinance and binding federal Court decisions affirming inherent Indian Tribal sovereign authority and exemption from state taxes - to acquiring or leasing construction materials, fixtures, machinery, equipment and other tangible personal property obtained to complete construction projects; construction shall encompass, but not be limited to, offices, residential housing, health facilities, roads and water and sanitation;

Section 4. Collection - the Tribal Chief Fiscal Officer shall be responsible, on behalf of the Tax Commission, for collecting the Tribal construction tax; in the instance of construction contracts between construction contractors and the Hoopa Valley Tribe, or components and instrumentalities thereof, the Tax Commission shall collect the Tribal construction tax by retaining an equivalent amount of the contract payment; in the instance of private construction contracts, construction contractors shall pay to the Tax Commission the Tribal construction tax quarterly;

Section 5. Revenue Allocation - Tribal construction tax revenues received by the Tax Commission shall be allocated in the sound discretion of the Hoopa Valley Tribal Council; Tribal construction tax revenues shall not, subject to subsequent Tribal Council deliberation and action, be a source of funding to be utilized in the Tribal annual budget process;

Section 6. Floor - the Tribal construction tax shall not apply to construction contracts in a total amount - labor and materials - less than \$150,000;

Section 7. Records - the Tax Commission shall keep records in a secure and highly confidential setting consistent with the privacy of taxpayers, but mindful of the accountability of the Tax Commission to enrolled members of the Hoopa Valley Tribe; taxpayers can access their own records, the Tribal Council, the Chief Fiscal Officer, the Tribal Treasurer and independent auditors can access Tax Commission records;

Section 8. Reporting - the Tax Commission shall issue a public quarterly report presenting an accurate and comprehensive fiscal statement pertaining to the Tribal construction tax, accompanied by identification of weaknesses and plans to address said weaknesses;

Section 9. Standard Forms - the Tax Commission shall from time to time issue standard forms to secure compliance with the Construction Tax Ordinance; including but not limited to:

- Taxpayer Information Disclosure
- Notice of Assessment
- Delinquency Notice
- Dispute Hearing Notice
- Tax Exemption Certificate
- Standard Tribal Construction Contract Language
- Supply Delivery and Ownership Transfer Statement

Section 10. Natural Person-Local Address - each construction contractor shall supply to the Tax Commission the on-reservation name, address and telephone no. of a natural person who shall be responsible and accountable to the Tax Commission for receiving notices; supplying information; and service of process;

Section 11. Failure to File - failure to timely file required returns or other forms shall result in a further assessment of 10% of the Tribal construction tax due;

Section 12. Failure to Pay - failure to timely pay Tribal construction taxes shall result in a further assessment of 5% of the Tribal construction tax due, increasing .5% monthly thereafter;

Section 13. Liens - the Tax Commission shall have the authority to create a tax lien against delinquent taxpayers' real and personal property and to foreclose on any such property;

Section 14. Tax Disputes - disputes respecting this Tribal construction tax shall be heard before the Tax Commission; the Tax Commission shall issue hearing rules no later than 90 days following passage of this Ordinance;

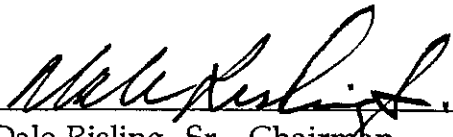
Section 15. Effective Date - the Tribal Council reaffirms that this Construction Tax Ordinance took effect on August 22, 1995 and applies to construction occurring thereafter; this Tribal construction tax shall remain in effect indefinitely;

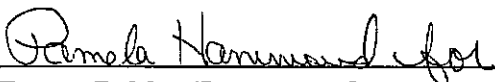
- Section 16. Not Affecting Tribe - nothing herein is intended to, or shall be so interpreted to, subject the Hoopa Valley Tribe, or its chartered components and instrumentalities, to this construction tax;
- Section 17. Policies and Rules - the Tax Commission may from time to time draft and issue policies and rules to carry out the intent of this Construction Tax Ordinance;
- Section 18. Transmission to Secretary of Interior - in conformance with § 16.b, Article II of the Self-Governance Compact between the Hoopa Valley Tribe and the United States of America, this Tribal Construction Tax shall be transmitted by the Chairman to the Secretary of the Interior.

CERTIFICATION

I, the undersigned, as Chairman of the Hoopa Valley Tribal Council, do hereby certify that the Hoopa Valley Tribal Council is composed of eight (8) members of which six (6) were present, constituting a quorum by regular meeting thereof; duly and regularly called, noticed, convened and adopted by a vote of five (5) in favor, none (0) opposed and none (0) abstaining, the Chairman not voting, and that said Ordinance has not been rescinded, amended or modified in any way.

Dated this 9th day of November, 1995.

  
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Dale Risling, Sr., Chairman  
Hoopa Valley Tribal Council

Attest:   
Darcy Baldy, Executive Secretary  
Hoopa Valley Tribal Council



IN REPLY REFER TO:

# United States Department of the Interior

BUREAU OF INDIAN AFFAIRS  
Sacramento Area Office  
2800 Cottage Way  
Sacramento, California 95825



RECEIVED  
JAN 15 1997

JAN 9 7 1997

Hoopa Valley Tribal Council

Dale Risling, Chairman  
Hoopa Valley Tribe  
P. O. Box 1348  
Hoopa, California 95546

Dear Mr. Risling:

On September 8, 1995, Vice-Chairman, Fred Moon submitted the Hoopa Valley Tribal Construction Tax Ordinance to the Secretary of the Interior, Bruce Babbitt, for approval.

On November 7, 1996, Acting Director, Office of Tribal Services, wrote to Mr. Moon informing him that the Sacramento Area Director had authority to review and approve tribal actions such as yours. During the time in Washington, D.C. awaiting approval at the Secretary's Office and subsequent forwarding to our Central Office, the Ordinance was approved in accordance with Section 16(b) of the Hoopa Valley Compact.

Review by the Deputy Regional Solicitor further confirms that approval has been granted. For this reason, the proposed Hoopa Valley Tribal Construction Tax Ordinance is returned herewith.

Sincerely,

/s/ Michael R. Smith

Acting Area Director

Enclosure

## Certificate of Approval

Pursuant to Article IX - Section 1.(f)(1) of the Constitution and By-laws of the Hoopa Valley Tribe and Section 16.b, Article II of the Hoopa Valley Self-Governance Compact between the Hoopa Valley Tribe and the United States of America. The Hoopa Valley Tribal Construction Tax Ordinance No. 4-95, adopted August 22, 1995 by the Hoopa Valley Tribal Council is hereby approved.



Acting Area Director

Date: JAN 07 1997