

Title 17- Tax
Chapter 5 – TERO Tax

Sec.

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Legislative History

Enacted:

Regulating Employment Rights and Taxing Employers, Ord. 189 (10/24/03), BIA (11/7/03).

Repealed:

Tribal Employment Rights Ordinance, Ord. 52 (7/9/85), Enacting Res. 85-7-52, BIA (9/4/85).

17-05.010 Title.

This Chapter shall be cited as the “Swinomish Tribal Employment Rights Ordinance Tax” and may also be referred to as the “Swinomish TERO Tax Code”.

[History] Ord. 189 (10/24/03).

17-05.020 Authority.

The authority for this Chapter is Article VI, Section 1(p) and Article VI, Section 2 of the Constitution of the Swinomish Tribe.

[History] Ord. 189 (10/24/03).

17-05.030 Definitions.

As used in this Chapter:

- (A) **“Chair”** shall mean the Chair of the Swinomish Tribal Employment Rights Office Commission.

- (B) **“Commerce”** shall include without limitation all trades, traffic distribution, communications, and transportation, provision of services, fishing, manufacturing, production, agricultural production, building, maintenance, construction, banking, mining, and energy resources production.
- (C) **“Commission”** shall mean the Swinomish Tribal Employment Rights Office Commission.
- (D) **“Commissioner”** shall mean a commissioner of the Swinomish Tribal Employment Rights Office Commission.
- (E) **“Covered Employer”** shall mean any employer employing two (2) or more employees who during any thirty (30) day period, spend, cumulatively, four (4) or more hours performing work within the exterior boundaries of the Swinomish Indian Reservation.
- (F) **“Employee”** shall include all persons earning wages for work performed on or near the Swinomish Indian Reservation.
- (G) **“Employee on the Swinomish Reservation”** shall include all employees who spend more than one-tenth (0.1) of his or her working hours per month or per pay period, whichever is shorter, on the Swinomish Indian Reservation.
- (H) **“Employer”** shall include, but is not limited to, any person, company, contractor, sub-contractor, or other entity that is located or otherwise engaged in work on the Swinomish Reservation that employs two or more persons for wages. The term **“Employer”** includes state, county, and other governmental agencies and contractor or sub-contractor of a governmental agency, and also includes the Swinomish Indian Tribal Community unless the Swinomish Indian Tribal Community is exempt from this ordinance as a result of another ordinance or an explicit provision of the Personnel Manual. The term shall also include independent contractors, and sub-contractors to any other employer.
- (I) **“Near the Reservation”** shall mean any employer located within daily commuting distance of the Reservation.
- (J) **“Person”** shall include both natural persons and artificial persons, including, but not limited to, corporations, trusts, partnerships, unions, agents, societies, sole proprietorships, and estates of descendants.
- (K) **“Indian”** shall mean any enrolled member of a federally recognized Indian Tribe.
- (L) **“Reservation”** shall mean all lands and waters within the exterior boundaries of the Swinomish Indian Reservation.
- (M) **“Senate”** shall mean the Swinomish Indian Senate.

- (N) **“Secretary”** shall mean the Secretary of the Interior or the Secretary’s duly authorized representative.
- (O) **“TERO”** shall mean the Tribal Employment Rights Ordinance and/or the Tribal Employment Rights Office.
- (P) **“Tribe”** shall mean the Swinomish Indian Tribal Community.
- (Q) **“Wages”** shall mean payment for work done on a regular basis for another person.

[History] Ord. 189 (10/24/03).

17-05.040 Applicability and Jurisdiction.

This Chapter shall be binding on all covered employer(s) regardless of whether or not they are operating within the exterior boundaries at the time of the implementation of this Chapter. This Chapter shall apply to all lands and waters within the exterior boundaries of the Swinomish Indian Reservation and other lands subject to jurisdiction of the Tribe.

[History] Ord. 189 (10/24/03).

17-05.050 Employment Rights Tax.

An Employment Rights Tax, to raise revenue for the operation of the Swinomish Tribal Employment Rights Office, is hereby imposed by the TERO Commission:

- (A) Every covered construction contractor with a contract of \$10,000.00 or more shall pay a ONE-TIME tax of one percent (1%) of the TOTAL amount of the contract. The fee may be paid in installments over the length of the contract.
- (B) Every other covered employer, with five (5) or more employees or with gross sales of \$100,000 or more, shall pay an annual fee of one half of one percent (0.5%) of the annual payroll. This fee shall not apply to tribal, educational, health, governmental or non-profit employers.
- (C) Such fees shall be paid to the Tribe and shall be placed in a special account to be used in accordance with Section 14-01.100. The Director shall be responsible for collecting said fees and is authorized to establish such rules and timely tax collection process. An employer or contractor who fails to pay the required tax shall be subject to the remedial actions provided for in Section 14-01.170.

[History] Ord. 189 (10/24/03).

17-05.060 Repealer.

Ordinance 52 and any amendments thereto are hereby repealed.

[History] Ord. 189 (10/24/03).

17-05.070 Severability.

If, for any circumstances, provisions or Sections of this Chapter are held invalid by an appropriate court, the remainder of the Chapter and other provisions or Sections will not be affected in the application of the Chapter to any person, employer and other covered by the jurisdiction.

[History] Ord. 189 (10/24/03).

17-05.080 Effective Date.

This Chapter shall be effective from the date of its approval by the Secretary of the Interior or the Secretary's designated representative.

[History] Ord. 189 (10/24/03).