

*Washoe Tribe of Nevada and California*

**Law & Order Code**

---

**TITLE 32 – AD VALOREM POSSESSORY INTEREST TAX**

---

*[Enacted on 8/8/14 – Resolution 2014-WTC-43. Effective Date: 8/30/14. Current Through Date: 9/8/14.]*

**TABLE OF CONTENTS**

32-10	Definitions .....	1
32-20	Tax Imposed; Assessment .....	2
32-30	Valuation.....	2
32-40	Rate of Tax .....	2
32-50	Exemption; Waiver.....	3
32-60	Taxpayer Reporting Requirements .....	3
32-70	Method of Collection of Possessory Interest Tax.....	3
32-80	General Provisions. ....	4

*Washoe Tribe of Nevada and California*

**Law & Order Code**

---

**TITLE 32 – AD VALOREM POSSESSORY INTEREST TAX**

---

*[Enacted on 8/8/14 – Resolution 2014-WTC-43. Effective Date: 8/30/14. Current Through Date: 9/8/14.]*

- 32-10**            **Definitions**
- 32-10-010        “Ad Valorem Value” shall mean the fair market value of the possessory interest subject to taxation.
- 32-10-020        “Assessment date” means each January 1st.
- 32-10-030        “BIA” or “Bureau” means the United States Bureau of Indian Affairs.
- 32-10-040        “Council” or “Tribal Council” means the Washoe Tribal Council.
- 32-10-050        “Possessory Interest” shall mean any interest in real property obtained under a lease, sublease, permit, easement, or right-of-way granted by the Tribe or issued by the BIA on behalf of the Tribe, for the purposes of engaging in trade or commerce.
- 32-10-060        “Real Property” includes the land itself, all buildings, structures, and improvements or other fixtures on it. A building or structure shall include the building or structure itself, together with all improvements or fixtures annexed to the building or structure, which are integrated with and of permanent benefit to the building or structure, regardless of the present use of the building, and which cannot be removed without substantial damage to itself or to the building or structure; provided, however, that real property shall not include tools, implements, machinery, and equipment attached to or installed in real property for use in the business or production activity conducted thereon, regardless of size, weight or method of attachment.
- 32-10-070        “Taxpayer” shall mean any individual, firm, partnership, joint venture, association, corporation, municipal corporation, estate, trust, business trust, receiver, or any group or combination acting as a unit having a possessory interest in any real property located within the jurisdiction of the Tribe.
- 32-10-080        “Tribe” means the Washoe Tribe of Nevada and California and its authorized officials, agents, agencies, subdivisions, corporate entities, and representatives.

32-10-090 “Within the Jurisdiction of the Tribe” means within the exterior boundaries of the Washoe Reservation and includes all territory within these limits whether held in fee or trust and includes, to the fullest extent permissible under N.R.S. §372.805, as now written or subsequently amended, those places, “on an Indian reservation or Indian colony.”

**32-20 Tax Imposed; Assessment.**

32-20-010 A Tax is hereby imposed on Possessory Interests of Real Property Within the jurisdiction of the Tribe.

32-20-020 The Tax imposed hereunder shall be computed by multiplying the value of a Possessory Interest annually on the Assessment Date by the Tax Rate.

32-20-030 Taxes assessed shall constitute a lien against the lease, sublease, permit, easement, or right-of-way in favor of the Tribe.

32-20-040 The Possessory Interest Tax shall be paid annually by each Taxpayer in two installments, with 50% of the annual assessment due by February 1<sup>st</sup> of each year and the other 50% of the annual assessment due by August 1<sup>st</sup> of the same calendar year.

**32-30 Valuation.**

32-30-010 The value of a Possessory Interest shall be determined as provided in this section, or by any other method adopted by regulation by the Tribe which accurately reflects fair market value:

- A. Fair Market Value Method. The value of a Possessory Interest may be determined on the basis of the selling prices of comparable leases, subleases, permits, easements, or rights-of-way (whether within or without the jurisdiction of the Tribe) which are sold by willing sellers to willing buyers, neither of whom are under a compulsion to act.
- B. Present Value of Income Method. The value of a Possessory Interest may be determined by computing the capitalized value of the gross income to be received from the lease, sublease, permit, easement, or right-of-way less the reasonable expenses to be incurred in producing the income. Such capitalization shall be done for the remaining life of the lease, sublease, permit, easement, or right-of-way. If the term is indefinite, for the purpose of this method, the term shall be presumed to be twenty-five (25) years.
- C. The Tribe may engage private appraisal firms for the valuation of possessory interests and determination of valuation factors.

**32-40 Rate of Tax**

32-40-010 The Possessory Interest Tax rate shall be established by Tribal Council regulations. Until another rate is established by Tribal Council regulation, the tax rate is three percent (3%).

32-40-020 Any change in the Possessory Interest Tax rate must be announced by October 1st preceding the Assessment Date for which it is effective.

**32-50 Exemption; Waiver**

32-50-010 All Possessory Interests in Real Property owned by the Tribe, a political subdivision of the Tribe, or a non-profit entity are exempt from the Possessory Interest Tax imposed by this Title 32.

32-50-020 No possessory interest with a taxable value of less than \$5000 shall be subject to the Possessory Interest Tax. Provided, however, that all possessory interests of a person who owns interests in more than one lease, sublease, permit, easement, or right-of-way shall be combined to determine the eligibility of said possessory interests for this exemption.

32-50-030 The Washoe Tribe may waive a portion of or all of any Possessory Interest Tax(es) due to be paid by a Taxpayer pursuant to this Title 32 if the Tribal Council passes a resolution granting a waiver to the Taxpayer.

**32-60 Taxpayer Reporting Requirements**

32-60-010 Taxpayers must file a Declaration of Interest Form for reporting all Possessory Interests in Real Property for purposes of valuation and assessment of Tax due.

32-60-020 Each Taxpayer shall declare his or her interest in any Possessory Interest in Real Property granted by the Tribe or issued by the BIA on behalf of the Tribe, on or before April 1st following each assessment date.

**32-70 Method of Collection of Possessory Interest Tax**

32-70-010 The tax hereby imposed shall be remitted by the Taxpayer to the Tribe.

A. The Tribal Council is the taxing authority and shall be responsible for collecting taxes under this Title 32. The Tribal Council may delegate this responsibility and authority to one or more Tribal employees or officers.

B. Tax revenues received by the Tribe pursuant to this Title 32 shall be allocated in the sound discretion of the Tribal Council.

C. The Tribal Council shall keep records of taxes collected pursuant to this Title 32 in a secure and highly confidential setting consistent with the privacy of taxpayers.

D. The Tribal Council shall from time to time issue standard forms to secure compliance with this Title 32.

32-70-020 Penalty for Failure to Pay. Failure to timely pay taxes under this Title 32 shall result in a further assessment of 5% of the tax due, increasing .5% monthly thereafter.

32-70-030 Tax Disputes. Disputes regarding any tax under this Title 32, including but not limited to disputes regarding the amount of tax owed by a party, shall be heard before the Tribal Council, or in such forum as the Tribal Council may delegate with such authority.

**32-80 General Provisions.**

32-80-010 Civil Actions. The Tribe may bring a civil action against any person and/or taxpayer to enforce compliance with this Title 32. Such action shall be brought in accordance with the applicable Civil Procedure Code. The Washoe Tribal Court shall have exclusive jurisdiction over any action to collect the Possessory Interest Tax authorized by this Title 32.

32-80-020 No Waiver of Sovereign Immunity. Nothing contained in this Title 32 is intended to be nor shall it be construed as waiving the sovereign immunity from suit or counterclaim of the Tribe, its Tribal government, or any Tribal taxing authority or Tribal agency, subdivision, corporation, or entity. All inherent sovereign rights of the Tribe as a federally recognized Indian Tribe are hereby expressly reserved.

32-80-030 Power to Adopt Regulations. The Tribal Council shall have the power to adopt any regulations necessary to the efficient administration of this Title 32 as long as such regulations are not in conflict with the provisions of this Title 32 or other applicable laws.

32-80-040 Severability. If any provision of this Title 32 or the application thereof to any person or circumstance is held to be invalid, the invalidity shall not affect other provisions or applications of the Title which can be given effect without the invalid provision or application, and to this end the provisions of this Title 32 are severable.

32-80-050 Tribal Remedies are Cumulative. The remedies of the Tribe for collection and payment of taxes, penalties and interest provided in this Title 32 are cumulative and any action taken by the Tribe does not constitute an election by the Tribe to pursue any remedy to the exclusion of any other remedy for which provision is made in this Title 32 or other applicable provisions of the Washoe Law & Order Code.