

# **FOREST COUNTY POTAWATOMI COMMUNITY TAX COMMISSION**

## **Guidance on Executive Director Discretion Administering the Tax Regulations as Applied to Businesses Wholly Owned by the FCPC**

**Questions Asked:** “Is the banking information requested on the Business Tax Registration Form required for businesses wholly owned by the FCPC?”

“Is bi-monthly remittance of sales and use tax for businesses wholly owned by the FCPC required when the FCPC government ultimately controls the finances of the business?”

### **Application of the Tax Regulations to the Question Presented.**

The purpose for requiring banking information on the Business Tax Registration Form is solely enforcement driven. Having the banking information for the business allows the Tax Commission to serve collection actions available under the regulations upon the financial institution.

There is no need for this information when FCPC wholly owns the business and the FCPC government controls the finances of the business. In these situations, there is no foreseeable need for enforcement actions. Furthermore, it is Executive Council Policy not to release banking information of the FCPC and wholly owned enterprises are included in this Policy.

Based on the analysis above as applied to the question presented, the Tax Commission has determined that the Executive Director has the discretion to waive the requirement on the Business Tax Registration Form for banking information if FCPC wholly owns the business and the FCPC government controls the finances of the business.

The purpose for requiring bi-monthly remittance in Section 8.3.3 for businesses with monthly sales over \$21,500 per month is to ensure the Tax Commission is receiving remitted taxes in a timely manner and to give timely notice of a missed due date before the amount of tax owed grows too large.

There is no need for bi-monthly remittance when FCPC wholly owns the business and the FCPC government controls the finances of the business. In these situations, there is no foreseeable need for enforcement actions. Furthermore, it is a significant administrative burden on the wholly owned business without the requisite furtherance of legitimate tax policy initiatives of the FCPC Tax Commission to justify the burden.

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Based on the analysis above as applied to the question presented, the Tax Commission has determined that the Executive Director has the discretion to waive the bi-monthly remittance requirement in Section 8.3.3 of the Tax Regulations if FCPC wholly owns the business and the FCPC government controls the finances of the business.