

An Act

Legislative Act 4 -90

AMENDMENTS, PROPOSED 6/9/90

ACT RELATING TO ESTABLISHING A TAX CODE FOR THE CHEROKEE NATION

REVENUE AND TAXATION

Chapter 1

General Provisions

Section 21-1-1. Tax Code

21-1-1. Tax Code

The several tax laws codified herein shall be known as the Cherokee Nation Tax Code.

Section 21-1-2. Purpose

21-1-2. Purpose

The purpose of the Cherokee Nation Tax Code is to raise revenues, in a fair and efficient manner, to enable the government of the Cherokee Nation to provide governmental services to citizens of the Cherokee Nation and to promote tribal economic development, self-sufficiency and a strong tribal government. As the population and needs of the Cherokee Nation increase, with the resulting increase in the demand for governmental services partly as a result of increased employment and development with the Cherokee Nation, it is an appropriate exercise of the sovereign authority of the Cherokee Nation to require those earning income or possessing wealth on Tribal Lands or Restricted Individual Lands as defined herein to share in the costs of such governmental services.

Section 21-1-3. Definitions

For the purposes of this Title:

(a) The "Commission" means the Cherokee Nation Tax Commission as defined herein.

(b) The "Nation" means the Cherokee Nation of Oklahoma.

(c) "Person" means any natural individual, company, partnership, firm, joint venture, association, corporation, estate, trust, political entity or other identifiable entity to which this Title can be applied.

(d) "Restricted Individual Lands" means any lands the title to which is either held in trust by the United States for the benefit of any individual citizen of the Nation or held by any individual citizen of the Nation subject to restriction by the Nation exercises governmental power.

(e) "Restricted Tribal Lands" means any lands the title to which is either held in trust by the United States for the benefit of the Nation or held by the Nation subject to restriction by the United States against alienation and over which the Nation exercises governmental power.

(f) A "tax" means compulsory payment levied on wages, income, property "tangible or intangible", sales of goods, products or services, transfers of property or the severance of any minerals or oil and gas for the support of the government of the Nation.

(g) "Tribal Lands" means: (i) any lands the title to which is either held in trust by the United States for the benefit of the Nation or held by the Nation subject to restriction by the United States against alienation and over which the Nation exercises governmental power; and (ii) any lands the title to which is either held in fee by the Nation, or which is held in trust by the United States for the Nation, and land title to which was acquired by the Nation through purchase by or for the Nation.

Section 21-1-4. Severability

21-1-4. Severability

If any provision of this Title or its application to any person or circumstance, is held invalid by a final judgment of a court of competent jurisdiction, the invalidity shall not affect other provisions or application of this Title which can be given effect without the invalid provision or application, and to this end the provisions of this Title are severable.

Section 21-1-5. Effective Date

21-1-5. Effective Date

This Title shall be effective beginning 30 days after enactment of this Title by the Tribal Council of the Cherokee Nation.

Taxes imposed by this code shall be assessed and collected beginning July 1, 1990.

Chapter 2

**Cherokee Nation Tax Commission
and Enforcement Procedures**

Section 21-2-1. Establishment

21-2-1. Establishment

The Cherokee Nation Tax Commission is hereby established as a part of the executive branch of the government of the Nation.

Section 21-2-2. Membership

21-2-2. Membership

(a) The Commission shall consist of three members, at least two of whom shall be citizens of the Nation and at least two of whom shall reside within the boundaries of the Nation. To be eligible to serve as a commissioner, a person must (i) be at least 25 years of age; (ii) have a bachelor's degree from a college or university or its equivalent; (iii) be of high moral character or integrity; (iv) never have been convicted of a criminal offense other than misdemeanor traffic offenses; and (v) be physically able to carry out the duties of office.

(b) The Principal Chief of the Cherokee Nation shall select the members of the Commission, subject to confirmation by majority vote of the Council of the Cherokee Nation.

(c) The Principal Chief shall, at the time of making the initial appointments and also at the time of making each appointment to fill a vacancy on the Commission as provided herein, designate one member to serve as Chairman, one member to serve as Vice Chairman and one member to serve as Secretary.

(d) The terms of office of the commissioners shall be three years; provided, however, that in order to stagger the expiration of terms of office, on of the first group of commissioners appointed hereunder shall be appointed for a term of one year, one for a term of two years, and one for a term of three years.

(e) Commissioners shall serve their terms of office free from political influence from any department of the government of the Nation and may be removed only for cause, after a hearing by the Judicial Appeals Tribunal under such rules and procedures as prescribed by the Council. A petition for removal for cause may be brought by a vote of the majority of Tribal Council Members, or the Principal Chief. Except as authorized under the Constitution of the Cherokee Nation, no member of the Commission shall, directly or indirectly, solicit, receive or in any manner be concerned in soliciting or receiving any assessment, subscription or contribution for any political organization, candidacy or other political purpose. No member of the Commission shall be a member of any tribal or local committee of a political party, or an officer or a member of a committee of a partisan political club, or a candidate for nomination or election to any paid tribal office, or take part in the management or affairs of any tribal political party or in any political campaign, except to exercise his or her right as a citizen privately to express his or her opinion and to cast his or her vote.

(f) In the event of a vacancy in the membership of the Commission, the Principal Chief shall, within twenty days of the occurrence of the vacancy, fill such vacancy for the unexpired term, subject to confirmation by a majority vote of the Council.

Section 21-2-3. Powers

21-2-3. Powers

The Commission shall have the following powers:

(a) To review and study all sources of income and wealth within the Nation and all possible taxes thereon.

(b) To recommend to the Council such taxes as would be beneficial to the Nation, including without limitation taxes on wages, income, property (tangible and intangible), sales of goods, products or services, transfers of property of the severance of any minerals or oil and gas.

(c) To enforce and administer the provisions of the Cherokee Nation Tax Code and to adopt by majority vote such other rules and regulations as it deems necessary for the proper functioning of the Commission and administration of Cherokee Nation Tax Code.

(d) To devise an operational structure for itself and for any staffing requirements it may find necessary to the fulfillment of the duties and obligations contained herein, any such plan to be presented to the Council. The total amount disbursed by the Commission in any one fiscal year for the payment of salaries, expenses and incidentals shall not, however, exceed the amount appropriated therefore by the Council.

Section 21-2-4. Additional Powers

21-2-4. Additional Powers

The Commission shall be empowered with all necessary powers of control over all such entities as would normally fall within the purview of such Commission, or of those entities over which specific control is granted to the Commission by the Council. Without limiting the generality of the foregoing statement, the Commission or any member thereof, in the performance of its duties as defined by law, shall have the power to administer oaths, to conduct hearings, to deputize law enforcement officers for purposes of enforcement of this code and to compel the attendance of witnesses and the production of the books, records and papers of any person, firm, association or corporation within the jurisdiction of the Nation for the purpose of the enforcement, assessment or collection of any tax.

Section 21-2-5. Limitations; Recommendations

21-2-5. Limitations; Recommendations

The Commission shall exercise only that authority granted herein, but may make additional recommendations to the Council at any time it deems proper.

Section 21-2-6. Salaries

21-2-6. Salaries

The annual Compensation, payable monthly, of the Chairman, Vice Chairman and Secretary-Member of the Commission shall be as determined in accordance with the Annual Budget Appropriation.

Section 21-2-7. Civil Actions for Tax Penalties and Interest

21-2-7. Civil Actions for Tax Penalties and Interest

In any case of failure of a person liable for taxes under this Title to pay the taxes, penalties or interest due, the amount of such taxes, penalties and interest may be recovered in a civil action before the Judicial Appeals Tribunal of the Cherokee Nation or in any other court of competent jurisdiction. Such actions must be brought within three (3) years of the due date of any tax payment or tax return or the actual date of payment of any tax, whichever is the later, except in any case involving fraud, in which case an action must be brought within three (3) years of the discovery of the fraud.

Section 21-2-8. Refunds of Excess Tax Payments

21-2-8. Refunds of Excess Tax Payments

Any person who believes that it has overpaid taxes under this Title may apply to the Commission for a refund within six months of the overpayment. Any tax paid, which after a hearing pursuant to the rules and regulations adopted by the Commission is found to be in excess of that required to be paid, shall be refunded to the person paying the tax, or credited against taxes due from the taxpayer.

Section 21-2-9. Appeals

21-2-9. Appeals

(a) The Judicial Appeals Tribunal shall have exclusive jurisdiction to hear appeals from final decisions of the Commission.

(b) Any party may appeal any final decision of the Commission with 30 days after such decision by filing a notice of appeal with the Commission, paying tax as determined by the Commission and serving a copy to the Nation. Thereafter the Commission shall promptly file the full record of the proceeding, including the notice of appeal, with the Judicial Appeals Tribunal.

(c) In all appeals, the Judicial Appeals Tribunal shall give proper deference to the administrative expertise of the Commission. The Judicial Appeals Tribunal shall not set aside, modify or remand any determination by the Commission unless it finds that the determination is arbitrary and capricious, unsupported by substantial evidence or contrary to law. The Judicial Appeals Tribunal shall issue a written decision on all appeals, which decision shall be final.

(d) The Judicial Appeals Tribunal may, in its discretion, award costs and attorneys' fees to the Nation against any appellant whose appeal was frivolous, malicious, or in bad faith. Such fees shall be assessed and collected as a tax imposed under this title.

Section 21-2-10. Finality of Commission or Judicial Appeals Tribunal Action

21-2-10. Finality of Commission or Judicial Appeals Tribunal Action.

Any final finding or determination of the Commission which is not timely appealed, and any final determination of the Judicial Appeals Tribunal in proceedings pursuant to Section 21-2-9 shall be final and binding in any other proceeding against or by the same person before the Commission or the Judicial Appeals Tribunal.

Section 21-2-11. Settlements of Taxes Due

21-2-11. Settlements of Taxes Due

(a) If at any time the Commission in good faith is in doubt of the liability of the taxpayer for the payment of taxes, it may compromise the liability by entering in writing with the taxpayer a settlement agreement that adequately protects the interests of the Nation.

(b) If entered into after any court acquires jurisdiction of the matter, a settlement agreement shall be part of the stipulated order or judgment disposing of the case.

(c) As a condition for entering into a settlement agreement, the Commission may require the provision of security for payment of any taxes due according to the terms of the settlement agreement.

(d) A settlement agreement is conclusive as to the liability or nonliability for payment of taxes relating to the periods referred to in the settlement agreement, except upon a showing of fraud, malfeasance, misrepresentation or concealment of a material fact.

Section 21-2-12. Power to Compact

21-2-12. Power to Compact

The Principal Chief shall have the authority to negotiate a compact with the State of Oklahoma under which the Oklahoma Tax Commission may enforce the provisions of this Title and assume the powers and duties of the Commission, and in return retain a portion of the total tax revenue collected pursuant to this Title. Such compact must be approved by a majority of the Council.

Section 21-2-13. Penalty and Interest

21-2-13. Penalty and Interest

(a) If any amount of Tax imposed by this code is not paid before the same becomes delinquent, interest, at the rate of one percent (1%) per month until payment of the tax, shall be calculated and collected as part of the delinquent tax. Interest may not be waived.

(b) A penalty for failure to file Monthly Tobacco Reports shall be one percent (1%) per month of the tax due for each and any part of a month that the monthly report is delinquent, however this penalty shall not exceed 5% of the tax due for the delinquent month. An additional penalty for failure to pay tax due shall be five percent (5%) per month of the tax due for each and any part of a month that the tax is delinquent, however this penalty shall not exceed 50% per month of the tax due for the delinquent month. Penalties will not be subject to waiver, except at the discretion of the Commission, where payment of the total amount of such delinquent tax has been made and failure to timely report and/or pay such tax is a result of good cause and not as a result of negligence, design, or inadvertence. The minimum penalty shall be twenty (\$20) dollars.

Section 21-2-14 Substitute Returns Prepared by Commission

21-2-14. Substitute Returns Prepared By Commission

The Commission may assess tax based on substitute returns prepared by the Commission where no timely return or report was filed by the person required to file a return or report.

Section 21-2-15. Initial Application Fee

21-2-15. Initial Application Fee

There shall be a one hundred dollars (\$100) Initial Application Fee in addition to annual license fees for all business licenses including sales and tobacco licenses.

Chapter 3

Sales Tax

Section 21-3-1. Definitions

21-3-1. Definitions

For purposes of this Chapter:

(a) "Retail Sales tax" means a compulsory payment levied on the retail sales price on all items of value or goods or services, as further defined herein, for the support of the government of the Cherokee Nation.

(b) "Retail Business enterprise" means any activity engaged in or caused to be engaged in by any Person with object of gain, benefit, or advantage, either direct or indirect by retail sales of goods or services.

(c) "Gross receipts" or "gross proceeds" means the total amount of consideration for the sales of any items of value or goods or services taxable under this Chapter, whether the consideration is in money or otherwise. "Gross receipts" or "gross proceeds" shall include, but not be limited to:

- (i) cash paid,
- (ii) any amount for which payment is charged, deferred, or otherwise to be made in the future, regardless of the time or manner of payment.
- (iii) any amount for which credit or a discount is allowed by the vendor,
- (iv) any amount of deposit paid for transfer of possession, and
- (v) any value of a trade-in or other property accepted in kind by the vendor as consideration.

There shall not be any deduction from the gross receipts or gross proceeds on account of cost of the property sold, labor service performed, interest paid, or losses, or of any expenses whatsoever, whether or not the tangible personal property sold was produced, constructed, fabricated, processed, or otherwise assembled for or at the request of the consumer as part of the sale.

Section 21-3-2. Tax Levy; Rate

21-3-2. Tax Levy; Rate

(a) There is hereby levied a sales tax of three percent (3%) on the gross receipts or gross proceeds of all items of value or goods or services bought, sold, rented, leased or exchanged, or any combination thereof, on all transactions on, through, by or with any business enterprise which is located on Tribal Lands.

(b) The Commission is hereby directed to make such assessments effective upon the first full month following the effective date as defined in Section 21-1-5 and continuing monthly thereafter.

Section 21-3-3. Retail Sales Licensing

21-3-3. Retail Sales Licensing

Every retail business enterprise must apply for and receive from the commission a "Retail Sales License" prior to establishing any place of business or retail outlet for the sale of products on Restricted tribal Lands. Forms for such application and license shall be provided by the Commission. Retail Business Enterprises operating on Restricted Tribal Lands as of the effective date as defined in section 21-1-5 shall apply for a License.

Section 21-3-4. Retail Sales License

21-3-4. Retail sales License

The Retail Sales License shall be valid for one calendar year from the date of issue and shall be nontransferable and nonassignable. A separate license shall be required for each separate location at which a retailer may establish a place of business or retail outlet. The license shall be conspicuously posted in a public area in each such place of business or retail outlet. A license fee of twenty dollars (\$20) shall be paid for each new or renewal license issued.

Chapter 4

Tobacco Tax

Section 21-4-1.

21-4-1. Definitions

For the purposes of the Chapter:

(a) "Cigarette" means all rolled tobacco or any substitute therefore, wrapped in paper or any substitute therefore and weighing not to exceed three (3) pounds per thousand (1,000) cigarettes.

(b) "Wholesaler" means any jobber or person who is organized and existing or doing business primarily to sell cigarettes or tobacco products to and render services to retailers and who makes such sales or renders such services to retailers located on Restricted Tribal Lands or Restricted Individual Lands; provided, that, at least 75% of the entire amount of gross sales occurring on Restricted Tribal Lands or Restricted Individual Lands are made at wholesale. Irrespective of the foregoing requirements, and jobber or person who is recognized and licensed as a wholesaler in the jurisdiction wherein said jobber or person resides, is incorporated, or has its principal place of business shall be a wholesaler as defined by this Chapter, and any operator of four (4) or more cigarette vending machines shall be a wholesaler as defined by this Chapter.

(c) "Retailer" means any person who comes into possession of cigarettes or tobacco products for the purpose of selling or who sells them at retail, any person not coming with the definition of a wholesaler having possession of more than one thousand (1,000) individual cigarettes, five hundred (500) individual cigars or more than two (2) pounds of other tobacco products, and any person operating one, two, or three vending machines.

(d) "Consumer" means any person who received or comes into possession of cigarettes or tobacco products for the purpose of consuming or otherwise disposing of them in any way other than an exchange for value.

(e) "Sale" or "sales" means all sales, barters, exchanges or other transfers of ownership of cigarettes or tobacco products from one person to another, or the use or consumption occurring on Restricted Tribal Lands or Restricted Individual Lands in the first instance, of cigarettes or tobacco products from outside Restricted Tribal Lands or Restricted Individual Lands, upon which the tax imposed by this Chapter has not been placed or paid.

(f) "Stamp" means the stamp or stamps produced by the Commission by which the tax levied hereunder is paid.

(g) "Tobacco product" means any smokable product of any species of the tobacco plant, including smoking in pipes or rolling into cigarettes, any roll of tobacco for smoking irrespective of size or shape or adulteration which has a wrapper made chiefly of tobacco and includes but is not limited to those items commonly known as cigars, cheroots, or stogies, and any articles or products made from tobacco or any substitute therefore except cigarettes, and including chewing tobacco of any description and snuff.

(h) "Tobacco" means either cigarettes or tobacco products.

(i) "Vending machines" means any coin operated machine by means of which cigarettes, or tobacco products, are sold or dispensed.

(j) "Use" means the exercise of any right or power over cigarettes or tobacco products incident to the ownership thereof except sales of cigarettes or tobacco products in the regular course of business.

Section 21-14-2. Tax on Cigarettes

21-4-2. Tax on Cigarettes

There is hereby levied upon the sale, use, gift, possession or consumption of cigarettes occurring on Restricted Tribal Lands or Restricted Individual Lands a tax of five cents (\$0.05) for each package of cigarettes containing twenty (20) cigarettes or less. On any individual package containing more than twenty (20) cigarettes there is hereby levied an additional tax of five cents (\$0.05) for each additional twenty (20) cigarettes or fraction thereof. The tax on cigarettes shall be assessed and paid as follows: beginning:

	<u>20 cigarettes/package</u>	<u>20 or more per Package</u>
July 1, 1990	- \$0.01/package	\$0.02/package
August 1, 1990	- 0.02/package	0.04/package
September 1, 1990	- 0.03/package	0.06/package
October 1, 1990	- 0.04/package	0.08/package
November 1, 1990	- 0.05/package	0.10/package

Section 21-4-3. Tax on Tobacco Products

21-4-3. Tax on Tobacco Products

There is hereby levied upon the sale, use, gift, possession, or consumption of tobacco product occurring on Restricted Tribal Lands or Restricted Individual Lands a tax of five per cent (5%) of the factory list wholesale price exclusive of any trade discount, special discounts, or deals. The tax on tobacco products shall be assessed and paid as follows: beginning;

July 1, 1990	1%
August 1, 1990	2%
September 1, 1990	3%
October 1, 1990	4%
November 1, 1990	5%

Section 21-4-4. Tax Paid Once

21-4-4. Tax Paid Once

Such taxes pursuant to Sections 21-4-2 and 21-4-3 shall be

paid only once on any cigarettes or tobacco products sold, used, received, or possessed on Restricted Tribal Lands or Restricted Individual Lands. The taxes imposed by this Chapter shall be in addition to the sales tax imposed pursuant to Sections 21-3-1 and 21-3-2 of this Title.

Section 21-4-5. Evidence of Tax

21-4-5. Evidence of Tax

Payment of the taxes imposed by this Chapter may be evidenced by stamps applied to each taxable package containing tobacco which shall be furnished by and purchased from the Commission or by an impression of such stamp by use of a metering device approved by the Commission, or by invoice and receipt, or certification by wholesalers who have collected tax, as determined by the Commission.

Section 21-4-6. Impact of Tax

21-4-6. Impact of Tax

The impact of the taxes imposed by this Chapter is declared to be on the consumer, user, or possessor and when such tax is paid by any other person that payment shall be considered an advance payment and shall be added to the price to be recovered from the ultimate user, possessor, or consumer. Every wholesaler who has paid such taxes shall show, and every retailer who has paid such taxes may show, the amount of such taxes as a separate item on any invoices which they may issue.

Section 21-4-7. Payment of Tax

21-4-7. Payment of Tax

(a) Every wholesaler who shall operate on Restricted Tribal Lands or Restricted Individual Lands a warehouse, supply house, storage house, truck or other point from which distribution of cigarettes or tobacco products to retailers or vending machines ~~will--be--made--shall,--upon--withdrawal--from--storage--and--prior--to--placing--in--a--vending--machines--will--be--made~~ shall, upon withdrawal from storage and prior to placing in a vending machine or making any sale, distribution, or transfer of possession or ownership of any such cigarettes or tobacco products, cause the same to have affixed thereto such stamp or stamps as are required by this Chapter.

(b) Every retailer who comes into possession or ownership of any cigarettes or tobacco products from any source which does not have affixed thereto the proper stamps, shall within seventy-two (72) hours of receipt thereof excluding Sundays and legal holidays and prior to making any sale or distribution for consumption, cause the same to have affixed thereto such stamp or stamps as are required by this Chapter. by the commission and pay the proper tax as require by this code.

(c) Every consumer who shall come into possession or ownership of cigarettes or tobacco products from any source which does not have affixed thereto the proper stamp or stamps shall within seventy-two (72) hours of receipt thereof excluding Sundays and legal holidays and prior to the consumption, gift, or other use thereof, cause the same to have affixed thereto such stamp or stamps as are required by this Chapter. the Commission and pay the proper tax as required by this code.

Section 21-4-8. Exclusions from Taxation

21-4-8. Exclusions From Taxation

(a) Notwithstanding the provision of paragraph (c) of Section 21-4-7 or any other provision of law, any natural person who shall come into possession or ownership of cigarettes or tobacco products outside Restricted Tribal Lands or Restricted Individual Lands for personal use and consumption only, and upon which is affixed evidence showing that any taxes imposed by the jurisdiction from which said cigarettes or tobacco products were acquired to have been paid shall have exempted from payment of taxes pursuant to this chapter the following amounts of each of the following in possession and/or ownership at any one time:

- (i) Cigarettes - one thousand (1,000) individual cigarettes
- (ii) Cigars - five hundred (500) individual cigars
- (III) Other tobacco products - no more than two (2) pounds total

(b) Notwithstanding the provisions of paragraph (c) of Section 21-4-7 or any other provision of law, possession, gift, or use of noncommercial, privately produced tobacco for religious or ceremonial use shall be exempt from taxation; provided, however, that if such tobacco is sold, such sale shall be prima facie evidence that the tobacco is not intended for religious or ceremonial use.

Section 21-4-9. Unstamped Tobacco Contraband

21-4-9. Unstamped Tobacco Contraband

(a) Any unstamped cigarettes or tobacco products found in the custody or control of any person upon which a tax stamp is required to have been placed paid by this Chapter and any vehicles or tangible personal property including vending machines used in their transportation, storage, consumption, or concealment are hereby declared to be contraband and subject to seizure, forfeiture and sale. The Commissioner may seize contraband, forfeit contraband to the Commission, sell contraband and forward proceeds to the Cherokee Nation.

(b) The forfeiture provisions of this Section with regard to vehicles and other personal property shall apply only to persons in possession of cigarettes or tobacco products with the intent to sell, barter, give away, or exchange the same for value; provided, that possession of more than one thousand (1,000) individual cigarettes or five hundred (500) individual cigars, or two (2) pounds of tobacco products shall create rebuttable presumption and be prima facie evidence that such cigars, cigarettes, or tobacco products are possessed with the intent to sell, barter, give away, or exchange the same for value.

Section 21-4-10. Records

21-4-10. Records

The Commission shall promulgate rules requiring that all wholesalers and retailers of tobacco within the tribal jurisdiction shall maintain for not less than three years complete and adequate records, including invoices, of all tobacco received and sold or otherwise disposed of, and tax stamps purchased paid. The Commission may inspect said records at any time to determine whether sufficient stamps have been purchased to account for all tobacco received and sold or otherwise disposed of by said wholesaler or retailer, and whether the proper tax has been paid.

Section 21-4-11. Reports

21-4-11. Reports

Every wholesaler or retailer of cigarettes or tobacco products shall submit ~~quarterly~~ monthly reports to the Commission on forms prescribed and furnished by the Commission disclosing the opening and closing inventories of unstamped tobacco; stamped-tobacco; tobacco stamps; tax paid; purchases of tobacco including the invoice number, name and address of seller, date and amount of each type of tobacco purchased and such other information pertinent to their business done on Restricted Tribal Lands or Restricted Individual Lands as the Commission shall require; and sales of tobacco; including, if sold for resale, invoice number, name and address of buyer, date and amount of each type of tobacco sold and such other information pertinent to their business done on Restricted Tribal Lands or Restricted Individual Lands as the Commission shall require.

Section 21-4-12. Wholesale and Retail Stocks to be Separate

21-4-12. Wholesale and Retail Stocks to be Separate

Every person who is both a wholesaler and retailer of cigarettes or tobacco products shall keep separate records, make separate reports, and keep all stock of tobacco separated and identifiable for the wholesale and retail portions of such person's business.

[21-4-13 - 21-4-50. Reserved]

Section 21-4-13. Sales Between Wholesalers and Retailers.

21-4-13. Sales Between Wholesalers and Retailers

Wholesalers may only sell cigarettes and tobacco products to retailers licensed by the commission and retailers may only buy cigarettes and tobacco products from wholesalers licensed by the Commission.

Section 21-4-14. Wholesaler to Collect Tax

21-4-14. Wholesaler to Collect Tax

The Commission may require the wholesaler to collect and remit tax to the Commission. Such tax collected and remitted shall be deemed an advance payment of the tax for the credit of the retailer.

Section 21-4-51. Wholesaler Licensing

21-4-51. Wholesaler Licensing

Every wholesaler of cigarettes or tobacco products must apply for and receive from the Commission a "Tobacco Wholesaler License" prior to establishing any place of business, warehouse, or wholesale outlet for the sale of cigarettes or tobacco products on Restricted Tribal Lands or Restricted Individual Lands. Forms for such application and license shall be provided by the Commission. Wholesalers of cigarettes or tobacco products operating on Restricted Tribal Lands or Restricted Individual Lands as of the effective date as defined in Section 21-1-5 shall apply for a tobacco Wholesaler License with one (1) month of such effective date.

Section 21-4-52. Tobacco Wholesaler License

21-4-52. Tobacco Wholesaler License

The Tobacco Wholesaler License shall be valid for one calendar year from the date of issue and shall be nontransferable and nonassignable. A separate license shall be required for each separate location at which a wholesaler may establish a place of business, warehouse, or wholesale outlet. The license shall be conspicuously posted in a public area in each such place of business, warehouse, or wholesale outlet. A license fee of twenty dollars (\$20.00) shall be paid for each new or renewal license issued.

[21-4-53 - 21-4-60. Reserved]

Section 21-4-61. Retailer Licensing

21-4-61. Retailer Licensing

Every retailer of cigarettes or tobacco products must apply for and receive from the Commission a "Tobacco Retailer License" prior to establishing any place of business or retail outlet for the sale of cigarettes or tobacco products on Restricted Tribal Lands or Restricted Individual Lands. Forms for such application and license shall be provided by the Commission. Retailers of cigarettes or tobacco product operating on Restricted Tribal Lands or Restricted Individual Lands as of the effective date as defined in Section 21-1-5 shall apply for a Tobacco Retailer License with one (1) month of such effective date.

21-4-62. Tobacco Retailer License

21-4-62. Tobacco Retailer License

The Tobacco Retailer License shall be valid for one calendar year from the date of issue and shall be nontransferable and nonassignable. A separate license shall be required for each separate location at which a retailer may establish a place of business or retail outlet. The license shall be conspicuously posted in a public area in each such place of business or retail outlet. A license fee of twenty dollars (\$20.00) shall be paid for each new or renewal license issued.

[21-4-63 - 21-4-70. Reserved]

Section 21-4-71. Vending Machine Permits

21-4-71. Vending Machine Permits

(a) Every wholesaler or retailer of cigarettes or tobacco products must apply for and receive from the Commission a "Tobacco Vending Machine Permit" prior to operating any vending machine on Restricted Tribal Lands or Restricted Individual Lands. Forms for such application and permits shall be provided by the Commission. Wholesalers or retailers of cigarettes or tobacco products operating any vending machines on Restricted Tribal Lands or Restricted Individual Lands as of the effective date as defined in Section 21-1-5 shall apply for a Tobacco Vending Machine Permit within one (1) month of such effective date.

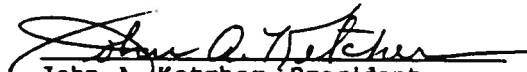
(b) The Vending Machine Permit shall be valid for one calendar year from the date of issue and shall be non-transferable and non-assignable. A separate permit shall be required for each

separate vending machine. The permit shall be attached to the vending machine in such a manner as to be clearly visible to the public and to persons purchasing cigarettes or tobacco products therefrom. A fee of ten dollars (\$10.00) shall be paid for each new or renewal permit issued.

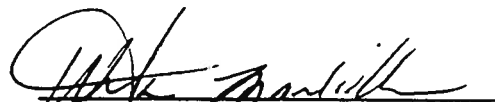
(c) Any operating vending machine from which cigarettes or tobacco products may be purchased not having a Tobacco Vending Machine Permit attached thereto is contraband on Restricted Tribal Lands or Restricted Individual Lands and is subject to seizure and sale as is provided by law.

{ 21-4-72 - 21-4-100. Reserved. }


Amendments passed by the Cherokee Nation Tribal Council on the 9th day of JUNE, 1990.


John A. Ketcher, President
Cherokee Nation Council

Approved and signed by the Principal Chief this 9th day of JUNE, 1990.


Wilma P. Mankiller,
Principal Chief,
Cherokee Nation of Oklahoma

ATTEST:


Gary D. Chapman, Secretary/Treasurer
of the Cherokee Nation of Oklahoma

YEAS AND NAYS AS RECORDED:

Amon Baker	<u>Yea</u>	Stann Hummingbird, Jr.	<u>Nay</u>
Sam Ed Bush	<u>Yea</u>	Robert McSpadden	<u>Yea</u>
Joe Byrd	<u>Yea</u>	Patsy Morton	<u>Absent</u>
Gary Chapman	<u>Yea</u>	Jeff Muskrat	<u>Yea</u>
Sam Daugherty	<u>Yea</u>	Harold Phillips	<u>Yea</u>
James Eagle	<u>Absent</u>	Goodlow Proctor	<u>Yea</u>
Joe Grayson, Sr.	<u>Yea</u>	Woodrow Proctor	<u>Yea</u>
Betty Glass	<u>Yea</u>		