

An Act

Legislative Act 18 -96

AN ACT AMENDING CHEROKEE NATION CODE, TITLE 68, "REVENUE AND TAXATION" DEFINITIONS AND REPEALING FUEL TAX PROVISIONS.

BE IT ENACTED BY THE COUNCIL OF THE CHEROKEE NATION:

SECTION ONE. Title. This Act shall be referred to as An Act Amending the Cherokee Nation Tax Code Definitions and Repealing Fuel Tax Provisions.

SECTION TWO. Purpose. The purpose of this Act is to amend the Cherokee Nation Tax Code to clarify definitions and to repeal fuel tax provisions.

SECTION THREE. Legislative History. The Rules Committee of the Cherokee Nation approved this amendment of the Cherokee Nation Tax Code, Legislative Act 1-90, as amended, at a Rules Committee meeting held on August 15, 1996.

SECTION FOUR. TITLE 68, § 3 IS HEREBY AMENDED TO READ AS FOLLOWS:

§ 3. Definitions

A. "Cherokee country" means all "Indian country" lands as defined by federal law located within the geographical boundaries of the Cherokee Nation, including but not limited to the following property located within said boundaries:

1. Land held in trust by the United States of America for the benefit of the Cherokee Nation,

2. All land within the limits of any Indian reservation, notwithstanding the issuance of any patent, including land set aside by the United States for and owned in fee by the Cherokee Nation, and including rights-of-way running through the reservation,

3. All dependent Indian communities, including land set aside by the United States for and owned in fee by the Cherokee Nation, and

4. All Indian allotments, the Indian titles to which have not been extinguished, including individual allotments held in trust by the United States or allotments owned in fee by individual Indians subject to federal law restrictions regarding disposition of said allotments and including rights-of-way running through the same.

H. "Cherokee country" means that "Indian country" as defined by 18 U.S.C. § 1151 and by federal law or those areas that are purported to be "Indian country" within the boundaries and within the jurisdiction of the Cherokee Nation which shall include but shall not be limited to individual trust land, individual restricted land, and all tribal lands:

A: B. The "Commission" means the Cherokee Nation Tax Commission as defined herein.

C. "Individual retail tobacco licensees" shall mean individuals who are licensed by the Nation and who are members of the Nation.

B: D. The "Nation" means the Cherokee Nation.

E. "Non-members" means persons who are not members of the Cherokee Nation.

E: F. "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.

G. "Restricted and trust individual lands" means Indian allotments as defined

in Sub-section A.4. herein.

~~D. "Restricted individual lands" means any land 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. H. 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.~~

~~L. "Tribal enterprises retail tobacco licensees" shall mean businesses, corporations and other business entities which are licensed by the Nation and which are owned by the Nation or in which a majority interest is owned by the Nation.~~

~~J. "Tribal lands" means the following types or combination of types of "Cherokee country" land, regardless of whether characterized as a reservation or dependent Indian community: land the title to which is held in trust by the United States for the benefit of the Nation; land held by the Nation subject to federal restrictions against alienation; and land set aside by the United States for the Cherokee Nation and owned in fee by the Nation.~~

~~G. "Tribal Lands" means:~~

~~1. 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~~

~~2. 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 FIVE. TITLE 68, § 22, ENTITLED "POWER TO COMPACT," IS HEREBY AMENDED TO READ AS FOLLOWS:

~~The Principal Chief shall have the authority to negotiate a compact or contract 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 in order to ensure that the Cherokee Nation receives certain tax exemptions and revenues to which it is entitled under federal and tribal law in an efficient and timely manner. Such compact or contract must be approved by a majority of the Council.~~

SECTION SIX. TITLE 68, CHAPTER 7, ENTITLED "CHEROKEE NATION FUEL TAX ACT," IS HEREBY REPEALED, PROVIDED THAT SAID CHAPTER 7 IS RESERVED UNDER THE SAME TITLE FOR PURPOSES OF FUTURE AMENDMENTS.

SECTION SEVEN. EFFECTIVE DATE. THIS TITLE SHALL BE IN FULL FORCE AND EFFECT ACCORDING TO ITS TERMS FROM AND AFTER THE DATE OF ENACTMENT BY THE COUNCIL OF THE CHEROKEE NATION.


SECTION EIGHT. PROVISIONS AS CUMULATIVE. THE PROVISIONS OF THIS ACT SHALL BE CUMULATIVE TO EXISTING LAW.

SECTION NINE. SEVERABILITY. THE PROVISIONS OF THIS ACT ARE SEVERABLE AND IF ANY PART OR PROVISION HEREOF SHALL BE HELD VOID THE DECISION OF THE COURT SO HOLDING SHALL NOT AFFECT OR IMPAIR ANY OF THE REMAINING PARTS OR PROVISIONS OF THIS ACT.

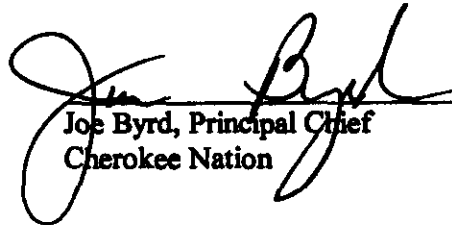
Enacted by the Council of the Cherokee Nation on the 16TH day of SEPTEMBER, 1996.


Garland Eagle, President
Cherokee Nation Council


ATTEST:


Mary Cooksey, Secretary
Cherokee Nation Council

Approved and signed by the Principal Chief this 16TH day of SEPTEMBER, 1996.


Joe Byrd, Principal Chief
Cherokee Nation

ATTEST:


Jennie Battles, Secretary-Treasurer
Cherokee Nation

YEAS AND NAYS AS RECORDED:

Troy Poteete	<u>ABSTAINED</u>	Dora Mae Watie	<u>YEA</u>
Sam Ed Bush	<u>YEA</u>	Nick Lay	<u>YEA</u>
Mary Cooksey	<u>YEA</u>	Bill Baker	<u>YEA</u>
Harold DeMoss	<u>YEA</u>	Don Crittenden	<u>YEA</u>
Paula Holder	<u>YEA</u>	Charles "Chuck" Hoskins	<u>YEA</u>
Barbara Conness	<u>YEA</u>	Harold "Jiggs" Phillips	<u>YEA</u>
William Smoke	<u>YEA</u>		
Barbara Starr-Scott	<u>YEA</u>		

**CHEROKEE NATION
ACT
ADMINISTRATIVE CLEARANCE ROUTING**

**Program Manager/
Project Manager**

Signature/Initials

Date

Department Director

Signature/Initials

Date

Executive Director

J. Jason Work
Signature/Initials

8/23/96
Date

James Garland Eagle

JGE
Signature/Initials

8/31/96
Date

Joe Byrd

J Byrd
Signature/Initials

J Byrd
Signature/Initials

9
Date

COMMENTS: _____

Submit to: Legislative Aide

Signature/Initials

9-11-96 JB
Date received for processing

ROUTING DISTRIBUTION

**Program Manager/
Project Manager**

Date sent

Department Director

Date sent

Executive Director

Date sent

James Garland Eagle

Date sent

Joe Byrd

Date sent

Comments: _____

ACT NARRATIVE

AN ACT AMENDING CHEROKEE NATION CODE, TITLE 68, "REVENUE AND TAXATION" DEFINITIONS AND REPEALING FUEL TAX PROVISIONS.

Districts this Act will affect:

All Districts

Program Operations:

Cherokee Nation Tax Commission

Departmental Contact:

L. Susan Work, Director, Division of Law & Justice

Purpose:

To repeal the tribal fuel tax provisions; to clarify the definition of Indian country.

Analysis:

The definition of Indian country has been revised to make it more consistent with federal statutory and caselaw definitions. The tribal fuel tax provisions are repealed; they are not necessary under the new state law which provides for state payments in lieu of tribal taxes to Indian nations which have tribal/state agreements.