

Committee: Rules  
Date: 05-19-08 Committee Date: 05-29-08

Author: Robert Huffman, CNB  
Sponsor: Councilor Meredith Frailey

**RESOLUTION NO. 49-08**

## **COUNCIL OF THE CHEROKEE NATION**

### **A RESOLUTION AUTHORIZING POTENTIAL SUSPENSION OF CHEROKEE NATION SALES TAX COLLECTION FOR NON-INDIAN LESSEES**

**WHEREAS**, the Cherokee Nation since time immemorial has exercised its sovereign power of self-government on behalf of the Cherokee people;

**WHEREAS**, the Cherokee Nation is a federally recognized Indian Nation with a historic and continual government to government relationship with the United States of America;

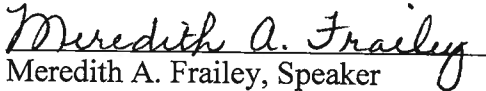
**WHEREAS**, Cherokee Nation Enterprises, L.L.C. is the gaming and entertainment arm of the Cherokee Nation, and intends to work through the Cherokee Nation to issue land leases to non-Indian business enterprises on tribal land where certain gaming facilities are located for the purpose of enhancing the gaming facilities; and

**WHEREAS**, there is a question as to the proper jurisdiction for retail sales taxes payable by non-Indian business enterprises located on Cherokee Nation Indian country.

**BE IT RESOLVED BY THE CHEROKEE NATION**, that a non-Indian business enterprise located on tribal land where a gaming facility is located may pay retail sales taxes under protest to one of the potential jurisdictional authorities. If the business chooses to pay retail sales taxes to a jurisdiction other than Cherokee Nation, then upon written notice, the Cherokee Nation Tax Commission may suspend the collection of retail sales taxes from such non-Indian business enterprise pursuant to the Commission's authority granted by LA 1-90, as amended by LA 4-90. If the retail sales tax dispute is resolved exclusively in favor of the Cherokee Nation taxation authority, the aforementioned suspension shall be removed and any retail sales taxes paid by such non-Indian business enterprise to another jurisdiction which are refunded shall be remitted to the Cherokee Nation Tax Commission (up to the amount which the Cherokee Nation Tax Commission could have collected but for the suspension).

### **CERTIFICATION**

The foregoing resolution was adopted by the Council of the Cherokee Nation at a duly called meeting on the 16<sup>th</sup> day of June, 2008, having 17 members present, constituting a quorum, by the vote of 13 yea; 4 nay; 0 abstaining.

  
Meredith A. Frailey, Speaker  
Council of the Cherokee Nation

**ATTEST:**



Don Garvin, Secretary  
Council of the Cherokee Nation

Approved and signed by the Principal Chief this 23rd day of June, 2008.



Chadwick Smith, Principal Chief  
Cherokee Nation

**ATTEST:**



Melanie Knight, Secretary of State  
Cherokee Nation

**ADMINISTRATIVE  
CLEARANCE**

**Program/Project Manager:**

Signature/Initial \_\_\_\_\_ Date \_\_\_\_\_

**Department Director:**

Signature/Initial \_\_\_\_\_ Date \_\_\_\_\_

**Group Leader:**

Signature/Initial \_\_\_\_\_ Date \_\_\_\_\_

**Government Resources:**

*Lita May* 5/19/08  
Signature/Initial \_\_\_\_\_ Date \_\_\_\_\_

**Administration Approval:**

*Meredith Frailey* 5/19/08  
Signature/Initial \_\_\_\_\_ Date \_\_\_\_\_

**LEGISLATIVE CLEARANCE:**

**Legal & Legislative Coordinator:**

*Robbi Gircher* 5-19-08  
Signature/Initial \_\_\_\_\_ Date \_\_\_\_\_

**Standing Committee & Date:**

*Rules*

**Chairperson:**

*M. Frailey* 5-19-08  
Signature/Initial \_\_\_\_\_ Date \_\_\_\_\_

**Returned to Presenter:** \_\_\_\_\_

Date \_\_\_\_\_

**Cherokee Nation  
Act/Resolution Proposal Form**

Act  Resolution

**TITLE:** A Resolution Authorizing Potential Suspension of Cherokee Nation Sales Tax Collection For Non-Indian Lessees

**DEPARTMENT CONTACT:** Robert Huffman, General Counsel for CNE

**RESOLUTION PRESENTER:** Robert Huffman, General Counsel for CNE

**COUNCIL SPONSOR:** Meredith Frailey

**NARRATIVE:**

Cherokee Nation Enterprises, L.L.C. ("CNE") is the gaming and entertainment arm of the Cherokee Nation, and intends to work through the Cherokee Nation to issue land leases to non-Indian business enterprises on tribal land where certain gaming facilities are located for the purpose of enhancing such gaming facilities.

There is a question as to the proper jurisdiction for retail sales taxes payable by non-Indian business enterprises located on Cherokee Nation Indian country. At this time, the Oklahoma Tax Commission ("OTC") intends to impose its retail sales tax on taxable transactions conducted by such non-Indian lessees. If the Cherokee Nation retail sales tax is also imposed on such non-Indian lessees, the lessees would be required to pay both sales taxes, potentially making the costs of operating a business on trust property cost-prohibitive for such non-Indian lessees. CNE believes that the businesses to be operated by such non-Indian lessees will enhance the gaming facilities.

CNE is requesting that the Cherokee Nation Tax Commission ("CNTC") suspend the Cherokee Nation retail sales tax as it applies to these non-Indian lessees conducting business on trust property where gaming facilities are located and allow such non-Indian lessees to pay sales taxes to the OTC under protest. The Cherokee Nation Attorney General intends to further discuss this sales tax issue with the OTC. In the event the issue is resolved in favor of the CNTC, any amounts refunded will be remitted to the CNTC (up to the amount the CNTC would have received but for the suspension).

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