

TITLE 68
REVENUE AND TAXATION
CHAPTER 1
GENERAL PROVISIONS

§ 1. Tax Code

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

History

Source. LA 01–90, eff. February 10, 1990.

Library References

Indians <KEY>225.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149.

§ 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 Cherokee Nation to provide governmental services to citizens of Cherokee Nation and to promote tribal economic development, self-sufficiency and a strong tribal government. As the population and needs of Cherokee Nation increase, with the resulting increase in the demand for governmental services partly as a result of increased employment and development with Cherokee Nation, it is an appropriate exercise of the sovereign authority of Cherokee Nation to require those earning income or possessing wealth in Cherokee Country as defined herein to share in the costs of such governmental services.

History

Source. LA 01–90, eff. February 10, 1990.

Amended. LA 08–90, eff. August 11, 1990.

Library References

Indians <KEY>225.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149.

§ 3. Definitions

For the purposes of this Title:

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

- a. land held in trust by the United States of America for the benefit of Cherokee Nation;
- b. 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 Cherokee Nation, and including rights-of-way running through the reservation;
- c. All dependent Indian communities, including land set aside by the United States for and owned in fee by Cherokee Nation; and
- d. 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.

2. **"Commission"** means the Cherokee Nation Tax Commission as defined herein.

3. **"Individual retail tobacco licensees"** shall mean individuals who are licensed by the Nation and who are citizens of the Nation.

4. **"Nation"** means Cherokee Nation.

5. **"Non-citizens"** means persons who are not citizens of Cherokee Nation.

6. **"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.

7. **"Restricted and trust individual lands"** means Indian allotments as defined in paragraph d of subdivision 1 of this section.

8. **"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.

9. **"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.

10. **"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 Cherokee Nation and owned in fee by the Nation.

History

Source. LA 01–90, eff. February 10, 1990.

Amended. LA 08–90, eff. August 11, 1990.

Amended. LA 18–96, eff. September 16, 1996.

§ 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.

History

Source. LA 01–90, eff. February 10, 1990.

Amended. LA 04–90, eff. June 9, 1990.

Library References

Indians <KEY>225.

Statutes <KEY>1535(14).

Westlaw Topic Nos. 209, 361.

C.J.S. Indians §§ 140 to 149.

C.J.S. Statutes §§ 117, 131 to 132, 139 to 140.

§ 5. Distribution of tax revenue

At least seventy-five percent (75%) of all future tax appropriations, from revenues other than those collected pursuant to Chapter 9 of this Title, shall be dedicated for the purpose of education, health

and human services, housing programs/projects and economic development.

History

Source. LA 07–91, eff. March 9, 1991.

Amended. LA 01–01, eff. March 12, 2001.

Amended. LA 05–06, eff. April 1, 2006.

Amended. LA 05–08, eff. May 18, 2008.

Library References

Indians <KEY>225.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149.

CHAPTER 2

CHEROKEE NATION TAX COMMISSION AND ENFORCEMENT PROCEDURES

§ 11. Establishment

The Cherokee Nation Tax Commission is hereby established as a part of the Executive Branch of the government of the Nation.

History

Source. LA 01–90, eff. February 10, 1990.

Library References

Indians <KEY>210, 225.

Westlaw Topic No. 209.

C.J.S. Indians §§ 57 to 59, 66 to 72, 140 to 149.

§ 12. Membership

A. The Commission shall consist of three (3) members, at least two (2) of whom shall be citizens of the Nation and at least two (2) 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 twenty-five (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 Cherokee Nation shall select the members of the Commission, subject to confirmation by majority vote of the Council of 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 (1) member to serve as Chairman, one (1) member to serve as Vice-Chairman and one (1) member to serve as Secretary.

D. The terms of office of the Commissioners shall be three (3) years; provided, however, that in order to stagger the expiration of office, one (1) of the first group of Commissioners appointed hereunder shall be appointed for a term of one (1) year, one (1) for a term of two (2) years, and one (1) for a term of three (3) 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 Supreme Court 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 Council Members, or the Principal Chief. Except as authorized under the Constitution of 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 (20) days of the occurrence of the vacancy, fill such vacancy for the unexpired term, subject to confirmation by a majority vote of the Council.

History

Source. LA 01–90, eff. February 10, 1990.

Amended. LA 04–90, eff. June 9, 1990.

Library References

Indians <KEY>216, 225.

Westlaw Topic No. 209.

C.J.S. Indians §§ 59, 140 to 149.

§ 13. Powers

The Commission shall have the following powers:

1. To review and study all sources of income and wealth within the Nation and all possible taxes thereon.
2. 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 or the severance of any minerals or oil and gas.
3. 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.
4. 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 (1) fiscal year for the payment of salaries, expenses and incidentals shall not, however, exceed the amount appropriated therefor by the Council.

History

Source. LA 01–90, eff. February 10, 1990.

Amended. LA 04–90, eff. June 9, 1990.

Library References

Indians <KEY>225, 413.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149, 151 to 179.

§ 14. 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.

History

Source. LA 01–90, eff. February 10, 1990.

Amended. LA 04–90, eff. June 9, 1990.

Library References

Indians <KEY>225, 413.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149, 151 to 179.

§ 15. 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.

History

Source. LA 01–90, eff. February 10, 1990.

Library References

Indians <KEY>225, 413.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149, 151 to 179.

§ 16. Salaries

The annual compensation, payable monthly, of the Chairman, Vice-Chairman and Secretary of the Commission shall be as determined in accordance with the annual budget appropriation.

History

Source. LA 01–90, eff. February 10, 1990.

Library References

Indians <KEY>225, 410.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149, 151 to 179.

§ 17. Civil actions for tax penalties and interest

In any case of failure of a person or corporation 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 District Court of Cherokee Nation. 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.

History

Source. LA 01–90, eff. February 10, 1990.

Amended. LA 13–96, eff. July 15, 1996.

Library References

Indians <KEY>500, 507, 508.

Westlaw Topic No. 209.

C.J.S. Indians §§ 151 to 179.

§ 18. Refunds of excess tax payments

Any person or corporation who believes that it has overpaid taxes under this Title may apply to the Commission for a refund within six (6) 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.

History

Source. LA 01–90, eff. February 10, 1990.

Amended. LA 13–96, eff. July 15, 1996.

Library References

Indians <KEY>225, 414.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149, 151 to 179.

§ 19. Appeals

A. The District Court of Cherokee Nation shall have original jurisdiction to hear appeals from final decisions of the Commission.

B. Any party may appeal any final decision of the Commission within thirty (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 Cherokee Nation. Thereafter the Commission shall promptly file the full record of the proceeding, including the notice of appeal, with the District Court.

C. In all appeals, the District Court shall give proper deference to the administrative expertise of the Commission. The District Court 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 District Court shall issue a written decision on all appeals.

D. The District Court may, in its discretion, award costs and attorney fees to Cherokee 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.

E. The Supreme Court shall have exclusive jurisdiction to hear an appeal from the District Court of Cherokee Nation.

History

Source. LA 01–90, eff. February 10, 1990.

Amended. LA 04–90, eff. June 9, 1990.

Amended. LA 13–96, eff. July 15, 1996.

Library References

Indians <KEY>433, 660, 661.

Westlaw Topic No. 209.

C.J.S. Indians §§ 151 to 179.

§ 20. Finality of Commission or Supreme Court action

Any final finding or determination of the Supreme Court in proceedings pursuant to 68 CNCA §

19 shall be final and binding in any other proceeding against or by the same person before the Commission or the Supreme Court.

History

Source. LA 01–90, eff. February 10, 1990.

Amended. LA 13–96, eff. July 15, 1996.

§ 21. Settlements of taxes due

A. The Commission upon unanimous consent, may compromise the liability of the taxpayer for the payment of taxes and/or interest 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 in the settlement agreement, except upon a showing of fraud, malfeasance, misrepresentation or concealment of a material fact.

History

Source. LA 01–90, eff. February 10, 1990.

Amended. LA 10–99, eff. January 28, 1999.

Library References

Indians <KEY>225, 422.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149, 151 to 179.

§ 22. Power to compact

The Principal Chief shall have the authority to negotiate a compact or contract with the State of Oklahoma in order to ensure that 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.

History

Source. LA 01–90, eff. February 10, 1990.

Amended. LA 18–96, eff. September 16, 1996.

Library References

Indians <KEY>216, 225.

Westlaw Topic No. 209.

C.J.S. Indians §§ 59, 140 to 149.

§ 23. 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 ten percent (10%) 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 ten percent (10%) 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 ten percent (10%) of the tax due for the delinquent month. An additional penalty for failure to pay tax due shall be ten percent (10%) 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 fifty percent (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 and can result in revocation of license, where payment of the total amount of such tax is a result of good cause and not as a result of negligence, design, or inadvertence. The minimum penalty shall be Five Hundred Dollars (\$500.00).

History

Source. LA 04–90, eff. June 9, 1990.

Amended. LA 10–99, eff. January 28, 1999.

Amended. LA 01–10, eff. February 14, 2010.

Library References

Indians <KEY>225, 422.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149, 151 to 179.

§ 24. 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.

History

Source. LA 04–90, eff. June 9, 1990.

Library References

Indians <KEY>225.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149.

§ 25. Initial application fee

There shall be a One Hundred Dollars (\$100.00) initial application fee in addition to annual license fees for all business licenses including sales and tobacco licenses.

History

Source. LA 04–90, eff. June 9, 1990.

Library References

Indians <KEY>225.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149.

CHAPTER 3

SALES TAX

§ 31. Definitions

For purposes of this chapter:

1. **"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.

2. **"Citizen"** is defined by Article IV, Section 1 of the Constitution of Cherokee Nation.

3. **"Event held on an irregular basis"**, for purposes of this section, means any event that does not occur on a continuous and ongoing basis, even if there is some frequency or pattern of occurrences. Events held on **"an irregular basis"** may include, but are not limited to, events held once a week or only certain weeks, events that are held every weekend or only on particular weekends, events held once a month or for only certain months, and other events that are held on a periodic basis, as well as those which occur more sporadically.

4. **"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:

a. cash paid;

b. any amount for which payment is charged, deferred, or otherwise to be made in the future, regardless of the time or manner of payment;

c. any amount for which credit or a discount is allowed by the vendor;

d. 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.

5. **"Non-profit"** means a non-profit organization that employs less than ten (10) employees.

6. **"Person"** means any individual, company, partnership, joint venture, joint agreement association, mutual or otherwise, limited liability company, corporation, estate, trust business trust receiver or trustee appointed by any state or federal court or otherwise, syndicate, this state, any county, city, municipality, school district any other political subdivision of the state, or any group or combination acting as a unit in the plural or singular number.

7. **"Promoter"** or **"organizer"** means any person who organizes or promotes a special event which results in the rental, occupation or use of any structure, lot, tract of land, sample or display case, table or any other similar items for the exhibition and sale of tangible personal property or services taxable under 68 CNCA § 32 et seq. by special event vendors.

8. **"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 Cherokee Nation.

9. **"Special event"** means an entertainment amusement recreation, or marketing event that occurs

at a single location on an irregular basis and at which tangible personal property is sold. **"Special event"** shall include, but not be limited to, gun shows, knife shows, craft shows, antique shows, flea markets, carnivals, bazaars, art shows, and other merchandise displays or exhibits.

10. **"Special event vendor"** means a person making sales of tangible personal property or services taxable under 68 CNCA § 32 et seq. at a special event within this Nation and who is not permitted under 68 CNCA § 32.

11. **"Veteran"** means a person who served in the active military, naval, or air service, Nation Guard or Military Reserve and who was discharged or released under conditions other than dishonorable.

History

Source. LA 01–90, eff. February 10, 1990.

Amended. LA 04–90, eff. June 9, 1990.

Amended. LA 08–90, eff. August 11, 1990.

Amended. LA 31–10, eff. November 17, 2010.

Amended. LA 43–12, eff. May 16, 2013.

Amended. LA 52–12, eff. June 17, 2013.

§ 32. Tax levy—Rate

A. There is hereby levied a sales tax of six percent (6%) 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. Exempt from this tax are sales to Oklahoma public schools, and to certain non-profits. Also, exempt from this tax are sales of tangible personal property or services to veterans who are enrolled citizens of Cherokee Nation who have been honorably discharged from active service in any branch of the Armed Forces of the United States, National Guard, or Military Reserve and those veterans who have been certified by the United States Department of Veterans Affairs or its successor to be in receipt of disability compensation at the one-hundred-percent rate and the disability shall be permanent and have been sustained through military action or accident or resulting from disease contracted while in such active service; provided, sales for the benefit of the person to a spouse of the eligible person or to a member of the household in which the eligible person resides and who is authorized to make purchases on the person's behalf, when such person is not present at the sale, shall also be exempt for purposes of this paragraph.

B. The Commission is hereby directed to make such assessments effective upon the first full month following the effective date as defined in LA 01–01, Section 21–1–5 of and continuing monthly thereafter.

History

Source. LA 01–90, eff. February 10, 1990.

Amended. LA 10–99, eff. January 28, 1999.

Amended. LA 46–02, eff. December 20, 2002.

Amended. LA 25–08, eff. November 14, 2008.

Amended. LA 03–09, eff. March 21, 2009.

Amended. LA 43–12, eff. May 16, 2013.

Amended. LA 52–12, eff. June 17, 2013.

Cross References

Tax paid once, see 68 CNCA § 44.

Library References

Indians <KEY>225.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149.

§ 33. 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 LA 01–90, Section 21–1–5 shall apply for a license.

History

Source. LA 04–90, eff. June 9, 1990.

Library References

Indians <KEY>225, 226.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149.

§ 34. Retail sales license

The retail sales license shall be valid for one (1) 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.

History

Source. LA 04–90, eff. June 9, 1990.

Library References

Indians <KEY>225, 226.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149.

§ 35. Application for special event permit

A. Application. Every promoter or organizer of a special event shall file an application for a special event permit with the Cherokee Nation Tax Commission at least twenty (20) days before the beginning of the special event. If more than one special event is to be held at the same location during a single calendar year, all may be included in one (1) application, and a separate permit will be issued for each event. Each permit will include the dates of the event to be held, and must be prominently displayed at the site of the event for its duration. If an applicant wishes to have permits issued for additional events after an application has been previously submitted, another supplemental application must be filed for the additional events. The application form for a special event permit may be obtained from the Revenue and Taxation Dept., Cherokee Nation Tax Commission, P.O. Box 948 Tahlequah, OK 74464.

B. Fee. There is a fee of One Hundred Dollars (\$100.00) for each application filed, which must be remitted with the application.

C. Tax. A flat fee will be the responsibility of the promoter or organizer which will be assessed for each special event in lieu of tribal sales tax and will be determined by the Cherokee Nation Tax Commission.

D. Promoter or organizer to distribute vendors' reporting forms. Special event promoters and organizations are required to provide sales report forms to special event vendors that will be selling tangible personal property and services at the event.

E. List of vendors. Within fifteen (15) days following the conclusion of the special event, the organizer or promoter shall also submit a list of vendors at each event that hold a valid sales tax permit issued under 68 CNCA § 33. The list shall include the vendor's name, address, telephone number and sales tax permit number.

F. Failure to comply. Failure by the promoter to comply with the requirements of this section or failure by vendors of the promoter's previous special events to comply with the provisions of subsection (B) of this section shall be subject to penalty and interest.

G. Penalty and interest. If any amount of tax imposed by this code is not paid before the same becomes delinquent, interest at the rate of ten percent (10%) per month until payment of the tax, shall be calculated and collected as part of the delinquent tax. Interest may not be waived.

History

Source. LA 31–10, eff. November 17, 2010.

Library References

Indians <KEY>225, 226, 414, 417.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149, 151 to 179.

CHAPTER 4

TOBACCO TAX

§ 41. Definitions

For the purposes of this chapter:

1. **"Cigarette"** means all rolled tobacco or any substitute therefore, wrapped in paper or any substitute therefor and weighing not to exceed three (3) pounds per thousand (1,000) cigarettes.
2. **"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.
3. **"Contraband"** means any cigarettes, tobacco or related products upon which all applicable Cherokee Nation taxes have not been paid.
4. **"Decal"** means a picture, design, or label made to be transferred (as to glass) from specially prepared paper.

5. **"Firmly affixed"** means permanently attached, directly to the device, using the adhesive provided on the decal and does not include placing decal on the device using any other object, surface, or separate adhesive strip or apparatus.

6. **"Permit"** or **"license"** means a written warrant or license granted by the Commission.

7. **"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 within 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.

8. **"Sale"** or **"sales"** means all sales, barter, exchanges or other transfers of ownership of cigarettes or tobacco products from one person to another, or the use or consumption occurring in Cherokee country in the first instance, of cigarettes or tobacco products from outside Cherokee country, upon which the tax imposed by this chapter has not been placed or paid.

9. **"Stamp"** means the stamp or stamps produced by the Commission by which the tax levied hereunder is paid.

10. **"Tobacco"** means either cigarettes or tobacco products.

11. **"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.

12. **"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.

13. **"Vending machines"** or **"machine"** means any coin-operated machine that dispenses a product in exchange for money and operates unattended, except for refills and repairs.

14. **"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 in Cherokee country; provided, that, at least seventy-five percent (75%) of the entire amount of gross sales occurring in Cherokee country are made at wholesale. Irrespective of the foregoing requirements, any 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.

History

Source. LA 01–90, eff. February 10, 1990.

Amended. LA 08–90, eff. August 11, 1990.

Amended. LA 46–02, eff. December 20, 2002.

Amended. LA 05–06, eff. April 1, 2006.

§ 42. Tax on cigarettes

There is hereby levied upon the sale, use, gift, possession or consumption of cigarettes occurring in Cherokee country a tax which shall be assessed at the rate established by the Cherokee Nation/State of Oklahoma Tobacco Tax Compact, as amended or superseded by agreement of both parties.

History

Source. LA 01–90, eff. February 10, 1990.

Amended. LA 04–90, eff. June 9, 1990.

Amended. LA 08–90, eff. August 11, 1990.

Amended. LA 05–06, eff. April 1, 2006.

Amended. LA 10–08, eff. May 19, 2008.

Amended. LA 15–09, eff. June 22, 2009.

Library References

Indians <KEY>225.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149.

§ 43. Tax on tobacco products

There is hereby levied upon the sale, use, gift, possession, or consumption of tobacco product occurring in Cherokee country a tax which shall be assessed at the rate established by the Cherokee Nation/State of Oklahoma Tobacco Tax Compact, as amended or superseded by agreement of both parties.

History

Source. LA 01–90, eff. February 10, 1990.

Amended. LA 04–90, eff. June 9, 1990.

Amended. LA 08–90, eff. August 11, 1990.

Amended. LA 15–09, eff. June 22, 2009.

Library References

Indians <KEY>225.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149.

§ 44. Tax paid once

Such taxes pursuant to 68 CNCA §§ 42 and 43 shall be paid only once on any cigarettes or tobacco products sold, used, received, or possessed in Cherokee country. Cigarettes and tobacco products, on which taxes pursuant to 68 CNCA §§ 42 and 43 have been paid, are exempt from the taxes imposed by 68 CNCA § 32.

History

Source. LA 01–90, eff. February 10, 1990.

Amended. LA 08–90, eff. August 11, 1990.

Amended. LA 10–99, eff. January 28, 1999.

Library References

Indians <KEY>225.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149.

§ 45. 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.

History

Source. LA 01–90, eff. February 10, 1990.

Amended. LA 04–90, eff. June 9, 1990.

Library References

Indians <KEY>225.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149.

§ 46. 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.

History

Source. LA 01–90, eff. February 10, 1990.

Library References

Indians <KEY>225.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149.

§ 47. Payment of tax

A. Every wholesaler who shall operate in Cherokee country 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 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 the Commission and pay the proper tax as required by the code.

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 the Commission and pay the proper tax as required 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 the Commission and pay the proper tax as required by this code.

History

Source. LA 01–90, eff. February 10, 1990.

Amended. LA 04–90, eff. June 9, 1990.

Amended. LA 08–90, eff. August 11, 1990.

Library References

Indians <KEY>225.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149.

§ 48. Exclusions from taxation

A. Notwithstanding the provision of 68 CNCA § 47(C) or any other provision of law, any natural person who shall come into possession or ownership of cigarettes or tobacco products outside Cherokee country 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:

1. Cigarettes—one thousand (1,000) individual cigarettes;
2. Cigars—five hundred (500) individual cigars;
3. Other tobacco products—no more than two (2) pounds total.

B. Notwithstanding the provisions of 68 CNCA § 47(C) 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.

History

Source. LA 01–90, eff. February 10, 1990.

Amended. LA 08–90, eff. August 11, 1990.

Library References

Indians <KEY>225.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149.

§ 49. Unstamped tobacco contraband

A. Any cigarettes or tobacco products found in the custody or control of any person upon which a tax stamp is required to have been placed which does not bear a proper tax stamp or have other evidence of the proper tax having been paid as required paid by this code 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 Commission may seize contraband, sell contraband and forward proceeds to 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.

C. Any cigarettes or tobacco products upon which a tax stamp is affixed found in the custody or control of an unlicensed wholesaler or unlicensed retailer is hereby declared contraband and is subject to seizure, forfeiture and sale.

D. Cigarettes and tobacco products held by, in the custody of, or under the control of any tobacco retailer who has not applied for and received a valid Cherokee Nation Tax Commission, or state of Oklahoma tobacco retailer license, within the fourteen (14) county area of Cherokee Nation at any location which does not constitute "Indian country" as defined by federal law, are hereby declared contraband and are subject to seizure, forfeiture and sale.

History

Source. LA 01–90, eff. February 10, 1990.

Amended. LA 04–90, eff. June 9, 1990.

Amended. LA 08–90, eff. August 11, 1990.

Library References

Indians <KEY>225.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149.

§ 50. Records

The Commission shall promulgate rules requiring that all wholesalers and retailers of tobacco within the tribal jurisdiction maintain for not less than three (3) 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.

History

Source. LA 01–90, eff. February 10, 1990.

Amended. LA 04–90, eff. June 9, 1990.

Amended. LA 08–90, eff. August 11, 1990.

Library References

Indians <KEY>225, 412.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149, 151 to 179.

§ 51. Reports

Every wholesaler or retailer of cigarettes or tobacco products shall submit 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 sold and such other information pertinent to their business done in Cherokee country 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 in Cherokee country as the Commission shall require.

History

Source. LA 01–90, eff. February 10, 1990.

Amended. LA 04–90, eff. June 9, 1990.

Amended. LA 08–90, eff. August 11, 1990.

Library References

Indians <KEY>225.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149.

§ 52. 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.

History

Source. LA 01–90, eff. February 10, 1990.

Library References

Indians <KEY>225.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149.

§ 53. Repealed by LA 05–06, eff. April 1, 2006

History

The repealed section, relating to sales between wholesalers and retailers, was derived From LA

04–90.

§ 54. Collection of tax

Wholesalers may only sell cigarettes and tobacco products to retailers licensed by the Commission and retailers may only buy cigarettes and tobacco products from entities licensed by the Commission. The Commission may require the wholesaler or retailer 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. There is hereby created a fund not to exceed One Million Dollars (\$1,000,000.00), to make loans available to tobacco retailers that are adversely and wrongfully affected by the Oklahoma Tax Commission emergency rules passed on February 22, 2006. The Nation will be repaid for such loans through the rebate amount that the Oklahoma Tax Commission sends to the Nation. The appropriate staff of the Legislative and Executive Branches are hereby directed to produce procedures for the fair and equitable allocation of these funds.

History

Source. LA 04–90, eff. June 9, 1990.

Amended. LA 05–06, eff. April 1, 2006.

Library References

Indians <KEY>225.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149.

§ 55. Wholesaler licensing

Every wholesaler of cigarettes or tobacco products must apply 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 in Cherokee country. Forms for such application and license shall be provided by the Commission. Wholesalers of cigarettes or tobacco products operating in Cherokee country as of the effective date as defined in LA 01–90, Section 21–1–5 shall apply for a tobacco wholesaler license within one (1) month of such effective date.

History

Source. LA 01–90, eff. February 10, 1990.

Amended. LA 08–90, eff. August 11, 1990.

Library References

Indians <KEY>225, 226.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149.

§ 56. Tobacco wholesaler license

The tobacco wholesaler license shall be valid for one (1) 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.

History

Source. LA 01–90, eff. February 10, 1990.

Amended. LA 08–90, eff. August 11, 1990.

Library References

Indians <KEY>225, 226.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149.

§ 57. 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 in Cherokee country. The Commission may issue retailer licenses only for places of business or retail outlets located on individual restricted land, individual trust land or tribal land. Forms for such application and license shall be provided by the Commission. Retailers of cigarettes or tobacco product operating in Cherokee country as of the effective date as defined in LA 01–90, Section 21–1–5 shall apply for a tobacco retailer license within one (1) month of such effective date.

History

Source. LA 01–90, eff. February 10, 1990.

Amended. LA 08–90, eff. August 11, 1990.

Library References

Indians <KEY>225, 226.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149.

§ 58. Tobacco retailer license

The tobacco retailer license shall be valid for one (1) 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.

History

Source. LA 01–90, eff. February 10, 1990.

Library References

Indians <KEY>225, 226.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149.

§ 59. Other unlawful acts

It shall be unlawful for any retailer to sell cigarettes and tobacco products in Cherokee country without first applying for and receiving a tobacco retailer license at any location constituting Cherokee country. It shall further be unlawful for any retailer to sell cigarettes and tobacco products within the fourteen (14) county area of Cherokee Nation at any location which does not constitute "Indian country," as defined by federal law, without first affixing tax stamps or paying tax as required by the State of Oklahoma and/or without first applying for and receiving a tobacco retailer license from the State of Oklahoma. Failure to conspicuously post a valid Cherokee Nation Tax Commission, or state tobacco retailer license at the location establishes a presumption of violation of this section.

History

Source. LA 08–90, eff. August 11, 1990.

Library References

Indians <KEY>225, 611.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149, 151 to 179.

§ 60. 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 in Cherokee country. The Commission may issue vending machine licenses only for vending machines located on individual restricted land, individual trust land or tribal land. Forms for such application and permits shall be provided by the Commission. Wholesalers or retailers of cigarettes or tobacco products operating any vending machines in Cherokee country as of the effective date as defined in LA 01-90, 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 (1) calendar year from the date of issue and shall be nontransferable and nonassignable. 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 in Cherokee country and is subject to seizure and sale as is provided by law.

D. Every owner(s) of any vending machine or machines must apply for and receive from the Commission a vending machine permit prior to operating any vending machine in Cherokee country. The Commission may issue vending machine permits only for vending machines located on individual restricted land, individual trust land or tribal land. The Commission shall provide forms for such application and permits. Owner(s) of any vending machines operated in Cherokee country as of the effective date as defined in LA 46-02, Section 16 shall apply for a vending machine permit within ninety (90) days after approval of this act.

E. The vending machine permit shall be valid for one (1) calendar year from the date of issue and shall be nontransferable and nonassignable. A separate permit shall be required for each separate vending machine. The permit shall be firmly affixed to the vending machine in such a manner as to be clearly visible to the public and to persons purchasing vending machine products therefrom. Any operating vending machine from which any kind of product may be purchased not having a vending machine permit attached thereto is contraband in Cherokee country and is subject to seizure and sale as is provided by law.

F. This act shall not apply to any machine operated for legal gaming purposes at a gaming establishment decaled by the Cherokee Nation Gaming Commission, to any machine kept at a regular place of business of distributors or manufactures for sale or lease without being operated.

G. The license tax levied by this enactment shall be in addition to all other taxes levied by law.

H. When such machine shall have been seized or possession taken to prevent further unlawful use thereof, the same shall remain under the exclusive jurisdiction of the Cherokee Nation Tax Commission upon payment of the proper tax, penalty and costs, or until the same is disposed of under applicable law for the collection of the taxes due, together with penalties and costs.

I. It shall be the responsibility of the owner(s) to purchase a permit for each vending machine that will be placed in a place of business located within the Cherokee Nation 14-county jurisdictional boundaries.

History

Source. LA 01–90, eff. February 10, 1990.

Amended. LA 08–90, eff. August 11, 1990.

Amended. LA 46–02, eff. December 20, 2002.

Library References

Indians <KEY>225, 226.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149.

§ 61. Civil fine for violations

The Commission may impose a fine for each violation of possession, control or sale of contraband cigarettes or tobacco in an amount equal to the retail value of the contraband cigarettes. This fine may include cigarettes or tobacco sold and not in the possession of the violator. In addition, the Commission may impose a fine, not to exceed Ten Thousand Dollars (\$10,000.00) for retail possession, control, transportation or sale of cigarettes and tobacco without a tobacco wholesale or retail license issued by the Commission.

§ 62. Criminal penalty

It is a crime to possess contraband cigarettes as defined in 68 CNCA § 49(A).

History

Source. LA 05–06, eff. April 1, 2006.

Library References

Indians <KEY>225, 423.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149, 151 to 179.

CHAPTER 5

CHEROKEE NATION/STATE TOBACCO TAX COMPACT

§ 71. Short title

This Act shall be known and may be cited as the "Cherokee Nation/State Tobacco Tax Compact Act of 2008."

TOBACCO TAX COMPACT BETWEEN THE STATE OF OKLAHOMA AND THE CHEROKEE NATION

August 2008

WHEREAS, the CHEROKEE Nation (hereinafter referred to as the "Nation"), is a federally-recognized Indian Tribe with inherent sovereign powers of self-government predating the formation of the United States;

WHEREAS, the State of Oklahoma (hereinafter referred to as "State") is an independent sovereign state within the United States of America possessed of full powers of state government;

WHEREAS, the Nation and its members are in possession of various tracts of land in its jurisdiction within the state, known and commonly referred to as "Indian Country";

WHEREAS, federal Indian law recognizes that tribal jurisdiction is extant in Indian Country regarding the rights of Indian Nations to pass their own laws and be governed by them, including the right to sell cigarettes and other tobacco products to tribal members free from State taxation; and

WHEREAS, the State recognizes the financial, cultural, educational and economic contributions of the Nation to the State and its members, and the Nation recognizes the need to develop and maintain good Tribal/State governmental relations.

NOW, THEREFORE, the Cherokee Nation, by and through its Principal Chief, Chad Smith, and the State of Oklahoma, by and through its Governor, Brad Henry, do hereby enter into this Compact for the mutual benefit of the Nation and the State, to-wit:

1. Regardless of any subsequent enactment by the State of any laws or administrative rules regarding the rate of taxation on the sale of cigarettes and other tobacco products, only the

provisions of this Compact shall govern the minimum Tribal rate of taxation and payment to the State on the retail sales of cigarettes and other tobacco products in the Nation's Indian Country as defined by federal law, including 18 U.S.C. § 1151, hereinafter referred to as "Compact Jurisdiction", when said retail sales are made by (a) businesses owned by the Nation, (b) licensees who are members of the Nation, or (c) businesses licensed by the Nation in which the majority interest is owned by the Nation or members of the Nation, provided that nothing herein shall prohibit the Nation from enacting any laws and/or regulations regarding the retail sale, use or possession of cigarettes and other tobacco products in the Nation's Jurisdiction that would not be in conflict with the provisions set forth herein. The entities or groups described in clauses (a), (b), and (c) of this paragraph shall be collectively referred to as the "Retailers" or individually as a "Retailer." Nothing contained herein shall impair the ability of the Oklahoma Tax Commission to regulate cigarette manufacturers, importers, wholesalers, distributors, distributing agents, jobbers, or warehousemen ("Wholesalers"), provided such regulation shall not interfere with the rights of the Nation or its Retailers under this Compact.

2. (a). The Nation agrees to require as a condition to licensing and continuation of licensing that all Retailers comply with the provisions of this Compact

(b). The Nation shall furnish to the State the following information with respect to each of the Retailers unless unavailable to the Nation:

1. The owner's name(s) and address(es);
2. A list of any tax-related permits held;
3. For any Tobacco business of the Nation not in operation on July 1, 2008, documentation or certification that business premises are located within the Compact Jurisdiction.
4. The location of offices and business records; and
5. A copy of any reports by any Wholesalers or Retailers to the Nation documenting all sales of cigarettes and other tobacco products within the Compact Jurisdiction;
6. The current list of all Wholesalers providing Retailers within the Compact Jurisdiction with cigarettes or tobacco products; and
7. Any complaints, audit reports or concluded investigation findings related to the wholesale or retail sale of cigarettes or tobacco products within the Compact Jurisdiction.

(c). The State agrees to provide the following information from the Oklahoma Tax Commission to the Nation's Tax Commission unless unavailable to the Oklahoma Tax Commission:

1. The name and address of Wholesalers licensed by the State;
2. The number and dollar amount of Compact stamps purchased by Wholesalers for sale to Retailers;

3. A copy of any reports by Wholesalers or Retailers to the State documenting wholesale or retail sales within the Compact Jurisdiction;
4. A current list of all Wholesalers providing the Retailers with cigarettes or tobacco products;
5. Any complaints, audit reports or concluded investigation findings related to the wholesale or retail sale of cigarettes or tobacco products within the Compact Jurisdiction; and

The State and Nation stipulate and agree, for the sole purposes of the provisions of paragraph 2(c) hereof, the Nation is and shall be considered by the State as a "foreign country" for purposes of permissible disclosures to the Nation pursuant to 68 O.S. § 205C.7. and the Nation is and shall be considered by the State as an "international authority" for purposes of 68 O.S. § 312J.

The State and Nation further stipulate and agree, for the sole purposes of the provisions of paragraph 2(c) hereof, this Compact shall constitute a "contract" between the Nation and the Oklahoma Tax Commission for purposes of permissible disclosures to the Nation pursuant to 68 O.S. § 205C.16.

The Nation and the State, in consideration hereof, stipulate and agree that any information received from the records and files of the Oklahoma Tax Commission or the Cherokee Nation Tax Commission will be treated and considered as confidential and privileged, to be used for the Nation's or the State's purposes in the administration and collection of the Tobacco Payment and the Tribal Tax provided herein which are the subject of this Compact, and not be disclosed to any third party, including, but not limited to the Nation's Retailers and any and all manufacturers, distributors and wholesalers of cigarettes and other tobacco products. A disclosure to a governmental agency for regulatory or enforcement purposes, in a court proceeding or arbitration to enforce the provisions of this Compact or to a court in response to a subpoena or other court order, shall not constitute a breach of this paragraph.

3. In exchange for the Nation's imposition of the Tribal Tax described in Paragraph 4 below and for the other obligations agreed to by the Nation herein, the State agrees to accept a reduced excise tax payment in lieu of the excise and all other taxes generally imposed upon cigarettes and tobacco products by Title 68 of the Oklahoma Statutes ("Tobacco Payment") for all sales of cigarettes and tobacco products by Retailers within the Compact jurisdiction, without reference to the Tribal membership or non-membership status of the ultimate purchasing consumer, in the amount of fifty percent (50%) of all applicable State taxes on cigarettes and other tobacco products. Provided, however, for any Retailer located within twenty (20) miles of the state line between Oklahoma and Kansas, Oklahoma and Arkansas or Oklahoma and Missouri, in existence and doing business as of January 1, 2009, ("Border Retailer") the Tobacco Payment shall be in the amount of twenty-five percent (25%) of all applicable State taxes on cigarettes and other tobacco products ("Border Rate") until such time as the State of Kansas, the State of Arkansas or the State of Missouri increases its tax on tobacco products to a rate at or above the rate currently in effect within the State. When such increase becomes effective in any such state, the Border rate provided herein shall no longer apply to the Border Retailers within twenty (20) miles of such state and the Border Retailer shall pay the Tobacco Payment provided for Retailers that are not Border Retailers. The

State agrees that an amount equal to \$2.00 per carton of cigarettes of the Tobacco Payment will be used by the State for the purpose of health care including but not limited to cancer and diabetes treatment and prevention in the Tulsa and Northeast Oklahoma area. The parties agree that the Tobacco Payment is, for purposes of the Master Settlement Agreement, a reduction in State excise taxes and all other taxes generally applicable to the sale of cigarettes and tobacco products.

The Nation agrees that the State may collect the Tobacco Payment directly from the Wholesaler, and that the Wholesaler must collect the Tobacco Payment directly from the Retailers. The Nation agrees to require the Retailers to: (A) pay the Tobacco Payment, (B) pass both the Tobacco Payment and the Tribal Tax on to the ultimate consumer in the retail price of the cigarettes or tobacco products and (C) refrain from selling, distributing, transporting, soliciting sales of or in any matter dealing with cigarette brands and products of manufacturers who do not fully comply with the requirements of 37 O.S. §§ 600.21–600.23 and only deal in tobacco products of complying manufacturers, as evidenced by their names and list of brands as maintained on the Oklahoma Attorney General's website. If any Retailer purchases cigarettes or tobacco products from an unlicensed Wholesaler or fails to comply with any of its obligations under this paragraph, the Nation shall take necessary enforcement measures to ensure compliance with this paragraph by the Retailer, provided that if the Retailer continues to violate any obligations of this paragraph ninety (90) days following notification to the Nation and Retailer from the State of such violation the State may remove such Retailer from the list of Retailers entitled to benefits under this Compact until such time as the Retailer is in compliance with its obligations hereunder, when the Retailer shall automatically be returned to the list.

If the State amends any applicable State tax on cigarettes or other tobacco products in effect as of January 1, 2008, the Nation shall have the right to cancel this Compact upon thirty days' prior written notice to the State or may elect to pay a Tobacco Payment of 50% of all State taxes generally applicable to cigarettes and tobacco products provided the Nation continues to require the Tribal Tax set forth in paragraph 4 below.

4. The State authorizes, and the Nation requires, all Wholesalers licensed by the State and selling cigarettes or tobacco products to any Retailer to: (a) collect a "Tribal Tax" on all cigarettes and tobacco products purchased by the Nation or a Retailer for resale in the Compact Jurisdiction, without reference to the membership or non-membership status of the purchasing consumer, in the amount of \$1.50 per carton of ten (10) packs of twenty (20) cigarettes, \$1.88 per carton of ten (10) packs of twenty-five (25) cigarettes, and its "Border Retailers" in the amount of \$4.07 per carton of ten (10) packs of twenty (20) cigarettes, \$5.10 per carton of ten (10) packs of twenty-five (25) cigarettes., and on other tobacco products in the amount of fourteen and six tenths percent (14.6%) of all applicable State taxes now in effect (b) remit the Tribal Tax to the Nation's Tax Commission on the same schedule as the payments described in Paragraph 3 above are made to the State; and (c) provide sufficient documentation to the State and to the Nation's Tax Commission to demonstrate that the appropriate Tribal Tax and Tobacco Payment have been remitted. The Nation may rebate to Border Retailers a payment reflecting lost profit from the Tribal Tax. If any Wholesaler selling cigarettes or tobacco products to a Retailer fails to properly collect and remit the Tribal Tax described in this paragraph, the State and Nation shall take necessary enforcement measures to ensure compliance with this paragraph by the Wholesaler.

The Nation may at its discretion, designate an additional tribal tax to be collected in the same manner, whose payment may be reflected by the use of either a single joint tax stamp or a second tax stamp supplied by the Nation. Should the Nation designate a higher Tribal Tax rate to be collected by the Wholesalers, the Nation must, thirty (30) days prior to its implementation, deliver written notice of its intent to implement such a tax, together with notice of its effective date to the Oklahoma Tax Commission. The Nation shall be required to bear the cost of producing any stamp that might be required should it elect a higher Tribal Tax. Nothing herein shall affect or impair the Nation's inherent authority to impose other taxes on the sale, purchase, or possession of cigarettes or tobacco products under Tribal law.

5. The Tribal Tax provided for in paragraph 4 above and the Tobacco Payment provided in Paragraph 3 above shall be collected, in advance, by the Wholesaler selling cigarettes and other tobacco products to the Retailers for resale to consumers in the Compact Jurisdiction and shall be collected at the time of the wholesale transaction. The Nation agrees that the Tribal Tax and the Tobacco Payment shall be included in the retail price and passed on to consumers, and will require the Retailers to do so. Pursuant to the terms of purchase of stamps from the State, each month the Wholesaler shall remit the Tobacco Payment to the State of Oklahoma Tax Commission and the Tribal Tax to the Nation's Tax Commission.

6. Any business, not a Retailer operating within the Compact Jurisdiction and engaging in the sale of cigarettes and other tobacco products, shall not be subject to the Compact and its provisions and shall be governed by applicable Oklahoma and Tribal law. The State may charge such retailers the excise tax imposed on cigarettes and other tobacco products provided by Title 68 of the Oklahoma Statutes.

7. The Nation agrees that it will require the Retailers to purchase cigarettes and other tobacco products only from Wholesalers that are duly licensed by the State of Oklahoma. The Nation preserves its authority to license any Wholesaler located within the Compact Jurisdiction. The Nation agrees that the Tobacco Payment provided for in this Compact applies only to the Retailers' retail sales of cigarettes to the consumer, and the Nation agrees to require its Retailers not to sell or otherwise transfer cigarettes or tobacco products stamped with the tax stamp authorized under this Compact to anyone other than the consumer. Except for transfers between Retailers authorized to sell tobacco products at the Tobacco Payment rate under this Compact, the Nation agrees to prohibit its Retailers from selling or otherwise transferring cigarettes or other tobacco products stamped with reduced tax stamps to anyone other than the consumer at retail outlets located in the Nation's Compact Jurisdiction, including sales or transfers to other retailers outside the Compact Jurisdiction.

8. Except as otherwise provided herein with respect to any additional Tribal Tax the Nation may impose, all cigarettes sold by the Retailers shall bear a single stamp, verifying that the Tobacco Payment and the Tribal Tax have been paid to the Wholesaler at the time of purchase. Except as otherwise provided herein with respect to any additional Tribal Tax the Nation may impose, the State shall bear all costs relative to the affixing of the tax stamp, unless the parties mutually agree otherwise, and shall require the Wholesaler to affix the required stamp.

9. (a) The parties agree that unstamped cigarettes, counterfeited stamped cigarettes, mutilated

stamped cigarettes and cigarettes and tobacco products on which the Tobacco Payment and the Tribal Tax required to be paid pursuant to this Compact have not been paid are contraband and that each party has the right to seize contraband within its respective jurisdiction: the Nation may seize all contraband located within the Compact Jurisdiction; and the State may seize all contraband in the State of Oklahoma, excepting the Compact Jurisdiction.

(b) The State shall exempt all sales of cigarettes and other tobacco products to and by the Nation's Retailers from sales and excise and all other taxes generally imposed by Title 68 of the Oklahoma Statutes in consideration of the agreement by the Nation to require the Retailers to make the aforementioned Tobacco Payment.

10. A. The goal of the parties shall be to resolve all disputes amicably and voluntarily whenever possible. A party asserting noncompliance or seeking an interpretation of this Compact first shall serve written notice on the other party. The notice shall identify the specific Compact provision alleged to have been violated or in dispute and shall specify in detail the asserting party's contention and any factual basis for the claim. Representatives of the Nation and state shall meet within thirty (30) days of receipt of notice in an effort to resolve the dispute. Any and all disputes arising, whether directly or indirectly, out of the interpretation, performance or enforcement of this Compact, which are not resolved by good faith negotiations within thirty (30) days, shall be determined by the US District Court for the Northern District of Oklahoma, which shall have the sole and exclusive jurisdiction of any and all such disputes. The parties hereto mutually waive any claim of sovereign immunity they might have, including but not limited to, exhaustion of tribal remedies or 11th Amendment immunity, to the extent, and only to the extent, necessary for a determination of rights and liabilities, if any, by the US District Court and the enforcement of that determination upon its becoming a final, non-appealable judgment. This waiver shall not be construed to allow any consequential, punitive, or exemplary damages against either party; neither does this waiver include the allowance of any attorney's fees or costs not specifically articulated elsewhere within this Compact. The parties agree that nothing herein is intended to create a direct right of action against the State of Oklahoma or the Nation by any person or entity not a party hereto through court action, arbitration or otherwise for any matter related to this Compact, its interpretation or performance or nonperformance of the parties hereto, except as otherwise set forth herein, and the limited waiver of sovereign immunity set forth herein shall not extend to any person entity or party other than the State of Oklahoma and the Nation.

B. In the event that the US District Court for the Northern District of Oklahoma declines to accept and exercise jurisdiction of any dispute, then, and only in that event, the following procedures may be invoked:

1. Subject to the limitation set forth in paragraph 2 of this Part, either party may refer a dispute arising under this Compact to arbitration under the rules of the American Arbitration Association (AAA), subject to enforcement or pursuant to review as provided by paragraph 2 of this Part by a federal district court. Notice of demand for arbitration shall be sent in writing to the other party. The remedies available through arbitration are limited to enforcement of the provisions of this Compact and a determination of any liabilities for a breach thereof. The parties consent to the jurisdiction of such arbitration forum and court for such limited purposes and no other, and each waives immunity with respect thereto. The expenses of arbitration shall be borne equally by the

parties. The arbitrators must be licensed attorneys. One shall be appointed by the Nation and one by the State. A third shall be appointed by the other two previously selected arbitrators. Once the first arbitrator is selected by the party invoking arbitration, the other party shall have no more than twenty (20) days from receiving written notice of the first part's election to select its arbitrator. Within twenty (20) days of selection of the second arbitrator, the two arbitrators selected by the parties will select the third arbitrator. Neutrality is required of all arbitrators, and shall not be waived as to party selected arbitrators. The expenses of arbitration shall be born equally by the parties. The arbitration shall be conducted pursuant to the Commercial Arbitration Rules ("CAR") of the American Arbitration Association ("AAA") except those rules relating to administration of the arbitration by AAA, provided that nothing in the CAR or any other rules of the AAA shall be deemed to give State courts jurisdiction over any disputes arising from this Compact. The Arbitrators shall determine the applicable law to construe the relative rights and obligations of the parties. The panel of arbitrators may modify the aforesaid procedures and shall modify the procedures on joint motion of the parties, specify such substitute and/or additional procedures as they may deem necessary.

A party asserting noncompliance or seeking an interpretation of this Compact under this section shall be deemed to have certified that to the best of the party's knowledge, information, and belief, formed after reasonable inquiry, the claim of noncompliance or the request for interpretation of this Compact is warranted and made in good faith and not for any improper purpose, such as to harass or to cause unnecessary delay or the needless incurring of the cost of resolving the dispute. If the dispute is found to have been initiated in violation of this Part, the Arbitrator, upon request or upon his or her own initiative, may impose upon the violating party an appropriate sanction, which may include an award to the other party of its reasonable expenses incurred in having to participate in the arbitration; and

2. Notwithstanding any provision of law, either party to the Compact may bring an action against the other in the US District Court for the Northern District of Oklahoma for the review of any arbitration award under paragraph 1 of this Part pursuant to the Federal Arbitration Act. The decision of the court shall be subject to appeal. Each of the parties hereto waives immunity and consents to suit therein for such limited purposes, and agrees not to raise the Eleventh Amendment to the United States Constitution or comparable defense to the validity of such waiver. Nothing herein shall be construed to authorize a money judgment other than for damages for failure to comply with an arbitration decision requiring the payment of monies.

11. This agreement shall terminate on June 30, 2013. At the end of said term, this Compact shall continue in full force and effect for consecutive terms of five (5) years, unless either party hereto gives to the other written notice that the Compact shall terminate at the end of the present term provided that such notice is received at least six (6) months prior to said termination. Nothing in this Compact shall prevent the parties by mutual agreement from establishing an earlier or later termination date or otherwise modifying this agreement

12. By entering into this Compact, the Nation does not concede that the laws of the State of Oklahoma, including its tax laws, apply to the Nation or its members regarding activities and conduct within the Compact Jurisdiction.

13. Should another Indian Nation or Tribe become entitled to more favorable Tobacco Payment terms after the execution of this Compact by virtue of execution of a new compact, other than in specifically designated areas along the Kansas, Arkansas or Missouri borders, such more favorable Tobacco Payment terms and any conditions to such Indian Tribe becoming entitled to such more favorable Tobacco Tax Payment terms may be adopted by the Nation upon written notice to the State, and shall be incorporated into this Compact and shall supersede any inconsistent terms within this Compact.

14. Neither party shall be deemed the drafter of this Compact in the event of any action to interpret its terms. Therefore, the rule of construction that in the case of an ambiguity, the ambiguity is construed against the author is not applicable. Furthermore, any rule of construction of ambiguities either in favor of or against a State or Tribal governmental entity is not applicable to this Compact.

15. The parties agree that if any provision in this Compact is found to be unenforceable, the parties shall agree in writing on a mutually acceptable substitute for such provision or agree in writing that no substitute is necessary. By entering into this Compact, the Nation further agrees that all funds received from the Tribal Tax, except for administrative expenses, shall be devoted to economic development, health, welfare, education and other governmental purposes of the Nation. It is further agreed that no such funds shall be used by the Nation, directly or indirectly to purchase tobacco nor shall be remitted or rebated to tobacco retailers, with the exception that the Nation may use the Tribal Tax to provide rebates to Border Retailers negatively impacted by the Tribal Tax rates reflected in this Compact

16. This Compact comprises the entirety of the agreement between the parties hereto. Any and all prior or contemporaneous representations, predictions, warranties or other inducements, however denominated, are merged within the terms of this Compact, and shall not survive its execution. There are no representations, promises, predictions, warranties, inducements or other agreements, however denominated, between the parties other than as set forth herein. This Compact may not be amended or modified except by written agreement, approved and executed by the parties hereto.

17. In consideration for execution of this Compact, the parties hereby fully release each other from any and all claims that either party may have against the other or their agents, representatives, employees, attorneys, insurers, assigns and successors, tribally licensed Retailers to this date, for any actions associated with failure to collect the appropriate tax on the sale of cigarettes or tobacco products under the terms of any prior Compact between the Nation and the State or applicable State law, and/or any and all other claims that either party may have against the other based upon any prior Compact, including but not limited to, full satisfaction and release of all claims and issues involved in any pending arbitration. In accord with this agreement, the parties will file a joint motion for dismissal with prejudice in those arbitration proceedings.

18. Any notice required hereunder to the State shall be delivered to the Governor of the State of Oklahoma at 2300 N. Lincoln Blvd., Room 212, Oklahoma City, Oklahoma 73105-4890. Any notice to the Nation shall be delivered to the Nation's Principal Chief at P.O. Box 948, Tahlequah, OK 74465, and to the Nation's Tax Commission at P.O. Box 948, Tahlequah, OK 74465. Notice shall be by United States mail, postage prepaid.

19. The Nation agrees to require the Retailers to maintain complete records of all purchases and sales of cigarettes and other tobacco products by brand including information related to payment of both the Tobacco Payment and the Tribal Tax. Such records shall be maintained for a period of five (5) years from the date of any purchase or sale.

20. Nothing in this Compact shall be deemed to authorize the State to regulate the Nation's government, including the Cherokee Nation Tax Commission, or to interfere in any way with the Nation's selection of its governmental officers, including members of the Cherokee Nation Tax Commission. This Compact shall not affect tribal federal or state civil adjudicatory or criminal jurisdiction.

21. The Nation agrees that the Nation and the Nation Retailers will not sell, distribute, transport, solicit sales for, or in any manner deal with cigarette brands and tobacco products of a manufacturer who does not fully comply with the requirements of 37 O.S. §§ 600.21 through 600.23, and will only deal in cigarettes and other tobacco products of complying manufacturers, as evidenced by the placement of the manufacturer's name and its product brands on the list of complying manufacturers and brands maintained on the Oklahoma Attorney General's website.

It is agreed this 3rd day of November, 2008.

Chad Smith,
Principal Chief Chad Smith
Cherokee Nation

ATTEST

Secretary of State

Brad Henry, Governor
State of Oklahoma

History

Source. LA 03–92, eff. May 11, 1992.

Amended. LA 44–03, eff. January 7, 2004.

Amended. LA 07–04, eff. March 22, 2004.

Amended. LA 28–08, eff. November 13, 2008.

Oklahoma Statutes

Legislative findings and policies concerning tobacco manufacturer liability, master settlement

agreement, see 37 O.S. § 600.21.

Participating manufacturers, escrow deposits, see 37 O.S. § 600.23.

Prevention of Youth Access to Tobacco Act, definitions, see 37 O.S. § 600.22.

Records and files of Commission confidential and privileged, exceptions, report, see 68 O.S. § 205.

Records and reports, see 68 O.S. § 312.

United States Code

Indian country defined, see 18 U.S.C. § 1151.

Library References

Indians <KEY>225.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149.

CHAPTER 6

LANDFILL USER FEE

§ 101. Short title

This chapter shall be known and may be cited as the Cherokee Nation Landfill Out-of-Nation User Fee.

History

Source. LA 02–92, eff. March 14, 1992.

Library References

Environmental Law <KEY>364.

Westlaw Topic No. 149E.

C.J.S. Health and Environment § 169.

§ 102. Purpose

It is the purpose of this chapter to impose a certain fee for waste materials generated outside the

original territorial jurisdiction of the Cherokee Nation; providing for the fee to be in addition to any other charges; providing for the fee to be deposited in a certain account; and providing for a statement of purpose for the fees collected.

History

Source. LA 02–92, eff. March 14, 1992.

Library References

Environmental Law <KEY>364.

Westlaw Topic No. 149E.

C.J.S. Health and Environment § 169.

§ 103. Definitions

As used in this chapter, unless the context otherwise requires:

1. **"Disposers"** means any person, company, business or organization that disposes of waste.
2. **"Fee"** means Out-of-Nation user fee.
3. **"Landfill"** means the Cherokee Nation Landfill.
4. **"Original territorial jurisdiction"** means all land within the fourteen (14) county area of northeastern Oklahoma as defined by the treaties of 1828, 1833 and 1835 and the Patent of 1838 between the United States of America and Cherokee Nation.

History

Source. LA 02–92, eff. March 14, 1992.

§ 104. Assessment

A. There is imposed and assessed a One Dollar and Fifty Cent (\$1.50) per ton fee for waste disposed of at the Cherokee Nation Landfill where the said waste is generated from outside the original territorial jurisdiction of Cherokee Nation.

B. The fee assessed by this section is to be charged against waste producers using the landfill in addition to any charges specified in contract or elsewhere.

History

Source. LA 02–92, eff. March 14, 1992.

Library References

Environmental Law <KEY>364.

Westlaw Topic No. 149E.

C.J.S. Health and Environment § 169.

§ 105. Reports—Provision for deposit of fees—Use of fees collected

A. The Cherokee Nation Department of Natural Resources shall prepare monthly reports indicating:

1. the tonnage of waste materials received for disposal.
2. the amount of fees assessed or collected pursuant to this chapter.
3. expenditure of fees.

B. All fees received pursuant to this act shall be credited to a separate account in the landfill operating budget.

C. The fees shall be expended for purposes of maintaining the landfill operations in an environmentally-protective manner and for the development of technical assistance programs, educational curricula, recycling and litter prevention and other programs that promote the environmental protection, health, safety and welfare of the citizens of Cherokee Nation.

D. All out-of-Nation user fees collected prior to the effective date of this chapter shall be deposited and expended in the same manner as those fees hereinafter collected.

History

Source. LA 02–92, eff. March 14, 1992.

Library References

Environmental Law <KEY>364.

Westlaw Topic No. 149E.

C.J.S. Health and Environment § 169.

CHAPTER 7

CONTROLLED DANGEROUS SUBSTANCE TAX

§ 450.1. Definitions

As used in 68 CNCA § 450.2 et seq.:

1. **"Commission"** means the Cherokee Nation Tax Commission.
2. **"Controlled dangerous substance"** means a drug, substance, or immediate precursor specified in Schedules I through V of the Uniform Controlled Dangerous Substances Act which is held, possessed, transported, transferred, sold or offered to be sold in violation of the laws of this state.
3. **"Dealer"** means a person who in violation of the Uniform Controlled Dangerous Substances Act manufactures, distributes, produces, ships, transports, or imports into Cherokee Nation or in any manner acquires or possess more than forty-two and one-half (42 1/2) grams of marihuana, or seven (7) or more grams of any controlled dangerous substance other than marihuana, or ten (10) or more dosage units of any controlled dangerous substance other than marihuana which is not sold by weight. A quantity of a controlled dangerous substance is measured by the weight of the substance whether pure, impure or dilute, or by dosage units when the controlled dangerous substance is not sold by weight, in the possession of the dealer. A quantity of a controlled dangerous substance is dilute if it consists of a detectable quantity of pure controlled dangerous substance and any excipients or fillers.

History

Source. LA 3-91, eff. February 9, 1991.

§ 450.2. Levy of tax—Calculation

There shall be levied, assessed, collected, and paid in respect to controlled dangerous substances, a tax in the following amounts:

1. On each gram of marihuana, or each portion of a gram, Three Dollars and Fifty Cents (\$3.50).
2. On each gram or portion of a gram of a controlled dangerous substance, other than marihuana, Two Hundred Dollars (\$200.00).
3. On each fifty (50) dosage units or portion thereof, of a controlled dangerous substance, that is not sold by weight, other than marihuana, One Thousand Dollars (\$1,000.00).

For the purpose of calculating the tax pursuant to this section, a quantity of marihuana or other controlled dangerous substance is measured by the weight of the substance whether pure, impure or dilute, or by dosage units when the substance is not sold by weight, in the possession of the dealer. A quantity of a controlled dangerous substance is dilute if it consists of a detectable quantity of pure controlled dangerous substance and any excipients or fillers.

History

Source. LA 3–91, eff. February 9, 1991.

Library References

Environmental Law <KEY>420.

Indians <KEY>225.

Westlaw Topic Nos. 149E, 209.

C.J.S. Health and Environment § 170.

C.J.S. Indians §§ 140 to 149.

§ 450.3. Manner of payment of tax—Intent and purpose of act

A. The tax levied by 68 CNCA § 450.2 shall be paid by affixing stamps in the manner and at the time herein set forth.

When a dealer purchases, acquires, transports, or imports into this state a controlled dangerous substance on which a tax is levied by 68 CNCA § 450.2, the dealer shall have the stamp affixed on the controlled dangerous substance immediately after receiving the controlled dangerous substance. Each stamp may be used only once.

Taxes imposed upon controlled dangerous substances by 68 CNCA § 450.2 are due and payable immediately upon acquisition or possession of a controlled dangerous substance in this state by a dealer.

B. It is the intent and purpose of this act that no dealer shall possess any controlled dangerous substance upon which a tax is imposed by 68 CNCA § 450.2 unless the tax has been paid on the controlled dangerous substance as evidenced by a stamp issued by the Commission.

History

Source. LA 3–91, eff. February 9, 1991.

Library References

Environmental Law <KEY>420.

Indians <KEY>225.

Westlaw Topic Nos. 149E, 209.

C.J.S. Health and Environment § 170.

C.J.S. Indians §§ 140 to 149.

§ 450.4. Rules and regulations—Purchase of stamps—Reporting forms—Use of stamps in administrative, civil and criminal proceedings

A. The Commission shall promulgate rules and regulations for a uniform system of providing, affixing, and displaying official stamps for any controlled dangerous substance on which the tax levied in 68 CNCA § 450.2 is imposed.

B. The official stamps to be affixed to all controlled dangerous substances shall be purchased from the commission. The dealer purchasing said stamps shall pay in cash one hundred percent (100%) of face value for each stamp at the time of purchase. The Commission shall make the stamps in denominations of Ten Dollars (\$10.00).

C. The Commission shall provide reporting forms for the reporting and payment of the taxes levied by 68 CNCA § 450.2. Dealers are not required to give their name, address, social security number, or other identifying information on the forms. Neither the Commission nor any public employee may reveal facts contained in a report required by this section, nor can any information contained in such a report be used against the dealer in any criminal proceeding, unless independently obtained, except in connection with a proceeding involving taxes due pursuant to this act from the dealer making the report.

D. A stamp denoting payment of the tax levied by 68 CNCA § 450.2 shall not be used against the taxpayer in a criminal proceeding, except that the stamp may be used against the taxpayer in connection with the administration or civil or criminal enforcement of the tax levied by 68 CNCA § 450.2.

History

Source. LA 3–91, eff. February 9, 1991.

Library References

Environmental Law <KEY>420.

Indians <KEY>225, 412.

Westlaw Topic Nos. 149E, 209.

C.J.S. Health and Environment § 170.

C.J.S. Indians §§ 140 to 149, 151 to 179.

§ 450.5. Immediate assessment and collection of tax—Delinquency—Penalties

A. The taxable period of the tax levied by 68 CNCA § 450.2 for any dealer not possessing valid stamps showing that the tax has been paid shall be declared terminated by the Commission. The Commission shall immediately assess the tax and applicable penalties from any information in its possession, notify the taxpayer, and demand immediate payment thereof. In the event of any failure or refusal to pay the tax and penalties immediately by the taxpayer, the tax shall become delinquent and the Commission shall proceed to collect such tax and penalties in the manner prescribed by law.

B. No person may bring an action to enjoin the assessment or collection of any taxes, interest or penalties imposed by the provisions of this act.

C. The tax and penalties assessed by the Commission pursuant to the provisions of this act are presumed to be valid and correctly determined and assessed. The burden is upon the taxpayer to show their incorrectness or invalidity.

History

Source. LA 3–91, eff. February 9, 1991.

Library References

Environmental Law <KEY>420.

Indians <KEY>225.

Westlaw Topic Nos. 149E, 209.

C.J.S. Health and Environment § 170.

C.J.S. Indians §§ 140 to 149.

§ 450.6. Exemptions from tax

Nothing in this act requires any person, including but not limited to pharmacists or doctors licensed by the State of Oklahoma, lawfully in possession of a controlled dangerous substance, to pay the tax levied by 68 CNCA § 450.2.

History

Source. LA 3–91, eff. February 9, 1991.

Library References

Environmental Law <KEY>420.

Indians <KEY>225.

Westlaw Topic Nos. 149E, 209.

C.J.S. Health and Environment § 170.

C.J.S. Indians §§ 140 to 149.

§ 450.7. Disposition of revenues

The revenue, including interest and penalties, collected pursuant to this act shall be paid monthly by the Commission to the Treasurer to be placed in the Drug Abuse Education Revolving Fund created in 21 CNCA § 2417. The monies shall be budgeted and expended by Cherokee Nation for drug abuse education programs.

History

Source. LA 3–91, eff. February 9, 1991.

Library References

Environmental Law <KEY>420.

Indians <KEY>225.

Westlaw Topic Nos. 149E, 209.

C.J.S. Health and Environment § 170.

C.J.S. Indians §§ 140 to 149.

§ 450.8. Civil and criminal penalties—Immunities

A. Any dealer violating the provisions of this act, except 68 CNCA § 450.9, shall pay a civil penalty of one hundred percent (100%) of the amount of the tax levied in 68 CNCA § 450.2 in addition to the actual tax levied in said section.

B. Any dealer manufacturing, distributing, producing, shipping, transporting, importing or possessing any controlled dangerous substance without affixing the appropriate stamp, upon conviction, is guilty of a crime.

C. Nothing in this act may in any manner provide immunity for a dealer from criminal prosecution pursuant to Cherokee Nation law.

History

Source. LA 3–91, eff. February 9, 1991.

Library References

Environmental Law <KEY>420.

Indians <KEY>225, 423, 623.

Westlaw Topic Nos. 149E, 209.

C.J.S. Health and Environment § 170.

C.J.S. Indians §§ 140 to 149, 151 to 179.

§ 450.9. Reuse of used stamp prohibited—Penalties

A. No person shall willfully remove or otherwise prepare any adhesive stamps, with intent to use, or cause the same to be used, after it has already been used or knowingly or willfully buy, sell, offer for sale, or give away, any such washed or restored stamp to any person, or knowingly use the same, or have in his possession any washed, restored, or altered stamp which has been removed from the controlled dangerous substance to which it had been previously affixed.

B. No person shall for the purpose of indicating the payment of any tax levied by 68 CNCA § 450.2, reuse any stamp which has heretofore been used for the purpose of paying any tax levied by 68 CNCA § 450.2, or buy, sell, offer for sale, or have in his possession, any counterfeit stamps.

C. Any person convicted of violating any provision of this section shall be guilty of a crime.

History

Source. LA 3–91, eff. February 9, 1991.

Library References

Environmental Law <KEY>420, 747.

Indians <KEY>225.

Westlaw Topic Nos. 149E, 209.

C.J.S. Health and Environment §§ 160, 170.

C.J.S. Indians §§ 140 to 149.

CHAPTER 7–A

BOAT AND MOTOR LICENSING AND TAX

§ 500. Short title

This act shall be known and may be cited as the Cherokee Nation Boat and Motor Licensing and Tax Code.

History

Source. LA 18–02, eff. June 28, 2002.

Library References

Indians <KEY>225, 226.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149.

§ 501. Purpose

The purpose of this act is to establish a boat and motor licensing system within Cherokee Nation; to raise revenues through the issuance and renewal of boat and/or motor license tags, tax and titles to enrolled citizens of Cherokee Nation.

History

Source. LA 18–02, eff. June 28, 2002.

Library References

Indians <KEY>225, 226.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149.

§ 502. General powers and duties of Tax Commission

A. The Cherokee Nation Tax Commission is hereby granted authority and jurisdiction to administer the Cherokee Nation Boat and Motor Licensing and Tax Code, and the Commission is hereby authorized to promulgate, adopt and enforce all necessary rules and regulations and prepare forms and records to enact and enforce the provisions of the Cherokee Nation Boat and Motor Licensing and Tax Code.

B. The Cherokee Nation Marshal Service is hereby granted authority and jurisdiction to enforce the provisions of and any rules pertaining to the Cherokee Nation Boat and Motor Licensing and Tax

Code within their jurisdiction.

C. The Commission shall have the authority in cases of dispute to determine the factory-delivered price of any boat or motor.

History

Source. LA 18–02, eff. June 28, 2002.

Library References

Indians <KEY>225, 226, 413.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149, 151 to 179.

§ 503. Boat and outboard motor registration

A. **"Eligible boat or motor"** shall mean any boat or motor, which is owned by a tribal citizen who resides within the reservation boundaries of Cherokee Nation and which is principally garaged within said boundaries on lands owned, leased or occupied by Cherokee Nation or any tribal citizen in trust, restricted or fee status.

B. Registration fees for boats and outboard motors are assessed for the period beginning July 1 and ending June 30 of the following year. Three (3) year registration fees are also available and are assessed for a period beginning on July 1 and ending June 30 of the third year.

C. A boat or outboard motor must be registered yearly whether in use or not. If an owner fails to do so, registration fees and penalties are due for the current year and one year previous.

D. Registration fees are based on a combination of the actual purchase price and the number of years registered.

History

Source. LA 18–02, eff. June 28, 2002.

Amended. LA 16–06, eff. February 17, 2007.

Library References

Indians <KEY>225, 226.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149.

§ 504. Registration fees and taxes

The Commission shall register and collect:

TITLE FEES

The Commission shall charge a fee of Six Dollars (\$6.00) for issuing an original or transfer certificate of title and a fee of Six Dollars (\$6.00) for issuing a duplicate certificate of title.

REGISTRATION TAX

There is hereby levied a registration tax of one and one-half percent (1 1/2%) of the value of each boat and motor upon the transfer of legal ownership of any such boat or motor registered in this Nation.

REGISTRATION FEES

1. If the actual purchase price is less than \$150.00
 - a. 1st year fee = administrative charge (\$1.00) plus \$0.50 for the first year.
 - b. 2nd year through 20th year fee = first year's fee
2. If the actual purchase price is over \$150.00
 - a. 1st year fee = administrative charge (\$1.00) plus \$0.50 for every \$100.00 of the actual purchase price or any fraction thereof. Fee shall not exceed \$100.00.
 - b. 2nd year through 10th year fee = 80% of the previous year's fee plus the administrative charge (\$1.00). Fee shall not exceed \$100.00.
 - c. 11th year through 20th year fee = 80% of the 10th year fee plus administrative charge (\$1.00).
 - d. Amounts for Codes Q1, Q2 and Q3 are based on the actual purchase price and may not be equal to one fourth, one half or three fourths of the full year price due to the \$100.00 registration fee maximum.
3. If the actual purchase price of the boat or outboard motor is not known, registration fee will be based on book value from NADA.
4. The following quarterly periods in which a boat or outboard motor is purchased or enters the 14-county tribal jurisdictional boundary area determines the portion of a full year registration fee due:

July 1 through September 30	Full year registration
October 1 through December 31	3/4 year registration
January through March 31	1/2 year registration
April 1 through June 30	1/4 year registration

5. A three-year registration fee is also available and is equal to ninety percent (90%) of the total of the individual years' fees.

History

Source. LA 18–02, eff. June 28, 2002.

Amended. LA 16–06, eff. February 17, 2007.

Library References

Indians <KEY>225, 226.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149.

§ 505. Penalty on new assignments

A. New boats and outboard motors must be registered within thirty (30) days from the date of assignment on the MSO or notarized bill of sale.

B. If not registered within thirty (30) days, twenty-five cents (\$0.25) per day penalty is due. However, the penalty will never exceed two (2) times the registration fee.

History

Source. LA 18–02, eff. June 28, 2002.

Library References

Indians <KEY>226, 423.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149, 151 to 179.

§ 506. Penalty on renewal registration

- A. Boat and outboard motor registrations expire June 30 of each year.
- B. The month of July is considered a grace month during which no penalty accrues.
- C. On August 1, the penalty accrues twenty-five cents (\$0.25) per day. However, the penalty will never exceed two (2) times the registration fee.

History

Source. LA 18–02, eff. June 28, 2002.

Library References

Indians <KEY>226, 423.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149, 151 to 179.

CHAPTER 8

FUEL TAX [REPEALED]

§§ 701 to 708. Repealed by LA 18–96, eff. September 16, 1996

History

The repealed sections, which related to a fuel tax, were derived from LA 08–94.

CHAPTER 8–A

FRANCHISE TAX

§ 1201. Corporations and organizations to which chapter applicable

The terms of this chapter shall apply to every corporation organized under the laws of Cherokee Nation, or qualified to do, or doing business in Cherokee Nation in a corporate or organized capacity by virtue of creation or organization under the laws of Cherokee Nation or any state, territory or district, or a foreign county, including associations, joint-stock companies and business trusts as defined by 68 CNCA § 1202, but not including limited liability companies as defined by 18 CNCA § 211.

History

Source. LA 14–96, eff. July 15, 1996.

Cross References

Execution, acknowledgment, filing and effective date of original certificate of incorporation and other instruments; exceptions, see 18 CNCA § 7.

Filing and other service fees, see 18 CNCA § 142.

Renewal, revival, extension and restoration of certificate of incorporation, see 18 CNCA § 120.

Library References

Indians <KEY>225.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149.

§ 1202. "Doing business" defined

When the term "**doing business**" is used in this chapter, it shall mean and include each and every act, power or privilege exercised or enjoyed in Cherokee Nation, as an incident to, or by virtue of the powers and privileges acquired by the nature of such organizations, as are enumerated in the preceding section.

History

Source. LA 14–96, eff. July 15, 1996.

Cross References

Execution, acknowledgment, filing and effective date of original certificate of incorporation and other instruments; exceptions, see 18 CNCA § 7.

Filing and other service fees, see 18 CNCA § 142.

Renewal, revival, extension and restoration of certificate of incorporation, see 18 CNCA § 120.

§ 1203. Tax on domestic corporations and business organizations

There is hereby levied and assessed a franchise or excise tax upon every corporation, association, joint-stock company and business trust organized under the laws of Cherokee Nation, equal to One Dollar and Twenty-Five Cents (\$1.25) for each One Thousand Dollars (\$1,000.00) or fraction thereof of the amount of capital used, invested or employed in the exercise of any power, privilege or right inuring to such organization, within Cherokee Nation; it being the purpose of this section to require the payment to Cherokee Nation of this tax for the right granted by the laws of Cherokee

Nation to exist as such organization and enjoy, under the protection of the laws of Cherokee Nation, the powers, rights, privileges and immunities derived from Cherokee Nation by reason of the form of such existence. Provided however, the franchise or excise tax described under this act shall not be imposed on corporations which comply with the Indian preference requirements of 40 CNCA § 301 et seq.

History

Source. LA 14–96, eff. July 15, 1996.

Cross References

Execution, acknowledgment, filing and effective date of original certificate of incorporation and other instruments; exceptions, see 18 CNCA § 7.

Filing and other service fees, see 18 CNCA § 142.

Renewal, revival, extension and restoration of certificate of incorporation, see 18 CNCA § 120.

Library References

Indians <KEY>225.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149.

§ 1204. Tax on foreign corporations and business organizations

There is hereby levied and assessed upon every corporation, association, joint-stock company and business trust, organized and existing by virtue of the laws of some other state, territory or country, now or hereafter doing business in Cherokee Nation, as hereinbefore defined, a franchise or excise tax equal to One Dollar and Twenty-Five Cents (\$1.25) for each One Thousand Dollars (\$1,000.00) or fraction thereof of the amount of capital used, invested or employed within Cherokee Nation; it being the purpose of this section to require the payment of a tax by all organizations not organized under the laws of Cherokee Nation, measured by the amount of capital, or its equivalent, used, invested or employed in Cherokee Nation for which such organization receives the benefit and protection of the government and laws of Cherokee Nation. Provided however, the franchise or excise tax described under this act shall not be imposed on corporations which comply with the Indian Preference requirements of 40 CNCA § 301 et seq.

History

Source. LA 14–96, eff. July 15, 1996.

Cross References

Execution, acknowledgment, filing and effective date of original certificate of incorporation and other instruments; exceptions, see 18 CNCA § 7.

Filing and other service fees, see 18 CNCA § 142.

Renewal, revival, extension and restoration of certificate of incorporation, see 18 CNCA § 120.

Library References

Indians <KEY>225.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149.

§ 1205. Minimum and maximum taxes

In determining the amount of tax to be levied, assessed and collected under the terms of this chapter, the minimum amount shall, in no case, be less than Ten Dollars (\$10.00) nor shall the maximum amount exceed Twenty Thousand Dollars (\$20,000.00).

History

Source. LA 14–96, eff. July 15, 1996.

Cross References

Execution, acknowledgment, filing and effective date of original certificate of incorporation and other instruments; exceptions, see 18 CNCA § 7.

Filing and other service fees, see 18 CNCA § 142.

Renewal, revival, extension and restoration of certificate of incorporation, see 18 CNCA § 120.

Library References

Indians <KEY>225.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149.

§ 1206. Corporations and organizations exempted

The terms of this article shall not apply to the following institutions, foreign or domestic: savings

and loan associations, small business investment companies licensed under the Federal Small Business Act of 1958¹, credit unions, trust companies, real estate trusts operating under the Federal Real Estate Trust Act of 1960², insurance companies, including surety and bond companies, retirement or pension funds, savings banks and savings fund societies; nor to any organization enumerated in 68 CNCA § 1201 if such organization is neither organized for profit nor operated for profit, irrespective of the form of organization.

¹ 15 U.S.C. § 631 et seq.

² 26 U.S.C. § 856 et seq.

History

Source. LA 14–96, eff. July 15, 1996.

Cross References

Execution, acknowledgment, filing and effective date of original certificate of incorporation and other instruments; exceptions, see 18 CNCA § 7.

Filing and other service fees, see 18 CNCA § 142.

Renewal, revival, extension and restoration of certificate of incorporation, see 18 CNCA § 120.

United States Code

Declaration of policy, see 15 U.S.C. § 631 et seq.

Definition of real estate investment trust, see 26 U.S.C. § 856 et seq.

Library References

Indians <KEY>225.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149.

§ 1207. No tax for year in which other tax or fee paid

The tax herein levied shall not be exacted for the fiscal year during which a domestic or foreign corporation, association or organization has paid an incorporating, filing or qualifying fee or tax to the Office of the Principal Chief or his authorized representative. However, such corporations or organizations shall file a "no tax" report to comply with such regulations as shall be adopted by the Cherokee Nation Tax Commission, who shall, upon such filing, issue a "no tax" license expiring on the next ensuing June 30th. Provided, that in the computation of the tax imposed by this chapter

no credit shall be allowed against such tax by reason of any money paid to the Office of the Principal Chief or his authorized representative as additional incorporation, qualifying or filing fee covering an increase of authorized capital or capital apportioned to Cherokee Nation.

History

Source. LA 14–96, eff. July 15, 1996.

Cross References

Execution, acknowledgment, filing and effective date of original certificate of incorporation and other instruments; exceptions, see 18 CNCA § 7.

Filing and other service fees, see 18 CNCA § 142.

Renewal, revival, extension and restoration of certificate of incorporation, see 18 CNCA § 120.

Library References

Indians <KEY>225.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149.

§ 1208. Purpose and disposition of revenue—When due

A. It is hereby declared to be the purpose of this chapter to provide for revenue for general governmental functions of Cherokee Nation.

B. All monies collected under this chapter shall be transmitted monthly to the Office of the Principal Chief or his authorized representative to be placed in an account of Cherokee Nation.

C. The tax levied by this chapter shall become due and payable on the 1st day of July each year, and if not paid before the next ensuing September 1st, penalties hereinafter provided shall apply.

History

Source. LA 14–96, eff. July 15, 1996.

Cross References

Execution, acknowledgment, filing and effective date of original certificate of incorporation and other instruments; exceptions, see 18 CNCA § 7.

Filing and other service fees, see 18 CNCA § 142.

Renewal, revival, extension and restoration of certificate of incorporation, see 18 CNCA § 120.

Library References

Indians <KEY>225.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149.

§ 1209. Capital—Computation

A. For the purpose of computing the amount of annual franchise tax levied upon and payable by the corporations, associations and organizations enumerated in 68 CNCA §§ 1203 and 1204, the word "**capital**" shall be construed to include the following:

Outstanding capital stock, surplus and undivided profits, which shall include any amounts designated for the payment of dividends until such amounts are definitely and irrevocably placed to the credit of stockholders, subject to withdrawal on demand, plus the amount of bonds, notes, debentures or other evidences of indebtedness maturing and payable more than three (3) years after issuance. The term "**capital**" stock where herein used shall include all written evidence of interest or ownership in the control or management of a corporation or other organization. The term "**evidence of indebtedness**" where herein used shall not include any deposit made in any bank.

B. Advances made by a parent to a subsidiary or by a subsidiary to a parent corporation, organization or association shall be eliminated by both the parent and subsidiary from the calculations necessary to determine the amount of taxable capital employed in the business of either or both the parent and subsidiary. Provided, however, advances made for purely operating expenses may, upon proper showing satisfactory to the Cherokee Nation Tax Commission, be included in such calculations.

C. The amount of capital employed in the Cherokee Nation is hereby declared to be that portion of the capital of the corporation, association or organization which equals the proportion which the property owned, or property owned and business done, in Cherokee Nation bears to the total property owned, or total property owned and total business done, by the corporation, association or organization.

D. In the determination of the amount of tax payable under this chapter where intangibles are involved, such as notes, accounts receivable, stocks, bonds, and other securities, including cash, and the business of the corporation is managed, directed and controlled from within Cherokee Nation, the value of such intangibles shall be apportioned wholly to Cherokee Nation, unless a commercial or business situs for such intangibles has been established elsewhere.

E. Management, direction and control of the corporation's business shall be deemed to be within Cherokee Nation where (1) the corporation is incorporated under the laws of Cherokee Nation, or

(2) where any corporation organized under the laws of a state transacts business in Cherokee Nation as its principal business, or maintains in Cherokee Nation its "business domicile" or "commercial domicile".

F. The portion of capital of any corporation, association or organization employed in Cherokee Nation, shall be segregated, and its value stated, based upon the proportions herein prescribed, and shall be reported to the Cherokee Nation Tax Commission; and the amount of said capital so reported shall be prima facie the measure of the value of the capital of such corporation, association or organization, apportioned to Cherokee Nation, for the purposes of this chapter.

G. The capital of a bank holding company or multi-bank holding company shall not include the capital, as defined in this chapter, of the owned bank or banks. Such banks, bank holding companies and multi-bank holding companies each shall comply with the terms of this chapter as separate corporations.

History

Source. LA 14-96, eff. July 15, 1996.

Cross References

Execution, acknowledgment, filing and effective date of original certificate of incorporation and other instruments; exceptions, see 18 CNCA § 7.

Filing and other service fees, see 18 CNCA § 142.

Renewal, revival, extension and restoration of certificate of incorporation, see 18 CNCA § 120.

Library References

Indians <KEY>225.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149.

§ 1210. Annual statement or return

A. In addition to any other statement required by law, each and every corporation, association or organization, as enumerated in 68 CNCA §§ 1201, 1203, and 1204, subject to the provisions of this chapter, shall, during the period of July 1st to August 31st, inclusive, of each year, file with the Cherokee Nation Tax Commission a statement under oath of its president, secretary or managing officer, or managing agent in Cherokee Nation, in such form, including balance sheets as at the close of its last preceding taxable year for which an income tax return was required to be filed, as the Cherokee Nation Tax Commission may prescribe, showing:

1. the amount of its authorized capital stock, interests, certificates, or other evidence of interest or ownership;
2. the amount thereof then paid up;
3. the number of units into which the same is divided;
4. the par value of each unit and the number of such units issued and outstanding;
5. the location of the office or offices;
6. the value of all property owned or used in its business and wherever located;
7. the value of all property owned or used in its business within Cherokee Nation as it existed on the last day of said year;
8. the total amount of all business wherever transacted during said year;
9. the total amount of business transacted within Cherokee Nation during such year;
10. the names of its officers and the residence and post office address of each as the same appear of record on June 30th.

B. If any corporation, association or organization making a return under the provisions of this article has no authorized capital, or if any of its shares of stock or other evidences of interest or ownership have no par value, then such corporation, association or organization shall so state in its return, and shall, in addition thereto, state the book value of its shares of stock or other evidences of interest or ownership. And it shall also, in making its return, make the showing required of all other corporations, associations and organizations; and each foreign corporation shall state the name of its registered agent in Cherokee Nation.

C. A corporation or organization subject to the tax levied by 68 CNCA § 1203 or 1204 for which the computation of capital employed in Cherokee Nation equals or exceeds Sixteen Million Dollars (\$16,000,000.00), shall file a maximum franchise tax return on such form as may be prescribed by the Cherokee Nation Tax Commission.

D. A corporation or organization subject to the tax levied by 68 CNCA § 1203 or 1204 for which the computation of capital employed in Cherokee Nation is Eight Thousand Dollars (\$8,000.00) or less shall file a minimum franchise tax return on such form as may be prescribed by the Cherokee Nation Tax Commission.

E. The Cherokee Nation Tax Commission shall prescribe a form for use by corporations or organizations subject to the minimum tax and maximum tax imposed by 68 CNCA § 1205 in order for such corporations or organizations to determine if the value of capital employed in the Cherokee Nation requires filing either a minimum franchise tax return or maximum franchise tax return. If a corporation or organization is required to file either the minimum or maximum

franchise tax return, such return shall not be subject to the requirements of subsection (A) of this section and the return shall only contain such information as may be prescribed by the Commission.

History

Source. LA 14–96, eff. July 15, 1996.

Cross References

Execution, acknowledgment, filing and effective date of original certificate of incorporation and other instruments; exceptions, see 18 CNCA § 7.

Filing and other service fees, see 18 CNCA § 142.

Renewal, revival, extension and restoration of certificate of incorporation, see 18 CNCA § 120.

Library References

Indians <KEY>225.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149.

§ 1211. Organization of business trust

The Office of the Principal Chief or his authorized representative shall not receive for filing in their office any instrument providing for the organization of any business trust unless and until a duplicate of such instrument is provided for filing with the Cherokee Nation Tax Commission, which duplicate shall show the filing references of the Office of the Principal Chief or his authorized representative in whose office the original of such instrument is filed, and it is hereby made the duty of Office of the Principal Chief or his authorized representative to see that such duplicate is immediately forwarded to the Cherokee Nation Tax Commission.

History

Source. LA 14–96, eff. July 15, 1996.

Cross References

Execution, acknowledgment, filing and effective date of original certificate of incorporation and other instruments; exceptions, see 18 CNCA § 7.

Filing and other service fees, see 18 CNCA § 142.

Renewal, revival, extension and restoration of certificate of incorporation, see 18 CNCA § 120.

§ 1212. Penalties—Uniform procedure—Operation without license—Suspension and forfeiture

A. If the report herein required and the tax levied is not filed and paid within the time provided under 68 CNCA § 1208(C), the Cherokee Nation Tax Commission shall levy and collect a penalty for such delinquency in the amount of ten percent (10%) of the tax due. Such penalty shall be collected and apportioned in the same manner as is the tax itself, and the Cherokee Nation Tax Commission may enter an order directing the suspension of the charter or other instrument of organization, under which the corporation, association or organization may be organized, and the forfeiture of all corporate or other rights inuring thereunder.

B. Any person who attempts or purports to exercise any of the rights, privileges or powers of any such domestic corporation, association or organization, or who does or attempts to do any business in Cherokee Nation in behalf of any such foreign corporation, association or organization, without having first obtained a license therefor, as provided herein, or after any such license so obtained shall have been canceled, forfeited, or expired, shall be guilty of a misdemeanor.

C. Each trustee, director or officer of any such corporation, association or organization, whose right to do business within the Cherokee Nation shall be so forfeited, shall, as to any and all debts of such corporation, association or organization, which may be created or incurred with his knowledge, approval and consent, within Cherokee Nation after such forfeiture and before the reinstatement of the right of such corporation to do business, be deemed and be held liable thereon in the same manner and to the same extent as if such trustees, directors and officers of such corporation, association or organization were partners. Any corporation, association or organization whose right to do business shall be thus forfeited shall be denied the right to sue or defend in any court of Cherokee Nation, except in a suit to forfeit the charter of such corporation, association or organization. In any suit against such corporation, association or organization on a cause of action arising before such forfeiture, no affirmative relief shall be granted to such corporation, association or organization unless its right to do business in Cherokee Nation shall be reinstated as provided herein. Every contract entered into by or in behalf of such corporation, association or organization, after such forfeiture as provided herein, is hereby declared to be voidable.

D. Notice of such suspension and forfeiture shall be forwarded by certified mail, return receipt requested, to the last-known address of the registered agent or managing officer of each corporation, association or organization, and the Cherokee Nation Tax Commission may cause notice of such suspension and forfeiture to be published in a newspaper of general circulation in the county in which the general business office of each such corporation, association or organization is located in Cherokee Nation and in the newspaper *Cherokee Phoenix*.

E. The Cherokee Nation Tax Commission shall immediately upon entering an order suspending and forfeiting any such charter or other instrument of organization, transmit the name of each such corporation, association or organization named therein to the Office of the Principal Chief or his authorized representative who shall immediately record the same and such record shall constitute

notice to the public. The suspension and forfeiture herein provided for shall become effective immediately upon such record being made and the certificate of the Office of the Principal Chief or his authorized representative shall be prima facie evidence of such suspension and forfeiture.

F. After the issuance of such order of suspension and forfeiture by the Cherokee Nation Tax Commission, the charter or other instrument of organization may only be revived and reinstated upon the payment of the accrued fees and penalties and reinstatement fee in the amount of Fifteen Dollars (\$15.00), and a showing by the corporation, association or organization of a full compliance with the laws of Cherokee Nation. Such payment of accrued fees and penalties must be made prior to the expiration of the time provided in such charter or other instrument of organization for the life of such corporation, association or organization.

History

Source. LA 14–96, eff. July 15, 1996.

Cross References

Execution, acknowledgment, filing and effective date of original certificate of incorporation and other instruments; exceptions, see 18 CNCA § 7.

Filing and other service fees, see 18 CNCA § 142.

Renewal, revival, extension and restoration of certificate of incorporation, see 18 CNCA § 120.

Library References

Corporations and Business Organizations <KEY>2615.

Indians <KEY>225, 423.

Westlaw Topic Nos. 101, 209.

C.J.S. Indians §§ 140 to 149, 151 to 179.

§§ 1213, 1214. Reserved

CHAPTER 9

MOTOR VEHICLE LICENSING AND TAX

FINDINGS, PURPOSE, DEFINITIONS

Cross References

Tribal-state motor vehicle licensing compact, see 68 CNCA § 2001.

§ 1301. Findings

A. As a sovereign, federally-recognized Indian tribe, Cherokee Nation has the power and authority to issue motor vehicle license tags to its enrolled citizens living within its territorial boundaries, in accordance with the United States Supreme Court's decision in *Sac & Fox Nation vs. Oklahoma Tax Commission*, 508 U.S. 114 (1993).

B. A large number of the Nation's citizens have expressed support for a motor vehicle licensing and registration tag code which would authorize the Cherokee Nation Tax Commission to issue tribal tags and administer a tribal tag system within the territorial area of Cherokee Nation.

C. The State public school system within Oklahoma relies in part on revenue generated by the sale of automobile license tags by the State of Oklahoma. Thousands of minor children enrolled as citizens of Cherokee Nation attend public schools in eastern Oklahoma. Therefore, to minimize the impact of the sale of automobile license tags by the Cherokee Nation Tax Commission on the public schools within Cherokee Nation, a portion of the revenues generated by the sale of such tags should be allocated to the public schools within the Nation's territorial boundaries.

D. As a federally-funded Indian school, Sequoyah High School receives no monies from the State of Oklahoma's automobile licensing revenues. Therefore, a portion of the revenue received from the issuance of vehicle license tags by Cherokee Nation should be allocated to Sequoyah High School.

E. The Cherokee Nation Immersion Program receives no monies from the State of Oklahoma automobile licensing revenues. Therefore, a portion of the revenue received from the issuance of vehicle license tags by Cherokee Nation should be allocated to the Cherokee Nation Immersion Program.

F. The Cherokee Nation Headstart Program receives no monies from the State of Oklahoma automobile licensing revenues. Therefore, a portion of the revenue received from the issuance of vehicle license tags by Cherokee Nation should be allocated to the Cherokee Nation Headstart Program.

G. If possible, Cherokee Nation should endeavor to enter into a compact with the State of Oklahoma to coordinate its motor vehicle licensing activities with those of the Oklahoma Tax Commission, to make appropriate motor vehicle licensing information available to federal, state and local law enforcement agencies, and to engage in revenue-sharing for the benefit of public schools within the territorial boundaries of Cherokee Nation.

History

Source. LA 01–01, eff. March 12, 2001.

Amended. LA 05–08, eff. May 18, 2008.

Library References

Indians <KEY>226.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149.

§ 1302. Purposes

The purpose of this act is to establish a vehicle and trailer licensing system within Cherokee Nation; to raise revenues through the issuance and renewal of vehicle and trailer license tags and titles to enrolled citizens of Cherokee Nation; to provide for the expenditures of said revenues for certain purposes, including an allocation of a portion of said revenues to the public schools within the territorial boundaries of Cherokee Nation and to Sequoyah High School; and to authorize the Principal Chief to negotiate with officials of the State of Oklahoma for a compact addressing certain matters relating to the registration and licensing of motor vehicles by the Cherokee Nation Tax Commission.

History

Source. LA 01–01, eff. March 12, 2001.

Amended. LA 05–08, eff. May 18, 2008.

Library References

Indians <KEY>225, 226.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149.

§ 1303. Short title

This Act shall be known and may be cited as the Cherokee Nation Motor Vehicle Licensing and Tax Code.

History

Source. LA 01–01, eff. March 12, 2001.

Amended. LA 05–08, eff. May 18, 2008.

Library References

Indians <KEY>225, 226.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149.

§ 1304. Definitions

For the purposes of this code, and notwithstanding any other definitions set forth elsewhere in this Title, the words and terms set forth below shall be defined as follows:

1. **"Abandoned vehicle"** means an article of personal property, any service rendered to the owner thereof by furnishing material, labor or skill for the protection, improvement, safekeeping, towing, storage or carriage thereof, has a special lien thereon, dependent on possession, for the compensation, if any, which is due such person from the owner for such service; or a vehicle that is determined to be abandoned by the Cherokee Nation District Court after proper public notice is given so an unknown owner or interest holders may attend court proceedings to protest legal change of ownership.
2. **"Act"** shall mean this act, LA 01–01.
3. **"Administrator"** shall mean the Administrator of the Commission.
4. **"All-terrain vehicle"** means a vehicle powered by an internal combustion engine manufactured and used exclusively for off-highway traveling on three or more low-pressure tires and having a seat designed to be straddled by the operator and handlebars for steering.
5. **"Assembled vehicle"** means a vehicle from which major components from two or more vehicles are being incorporated into a single unit.
6. **"Commercial trailer"** shall mean any trailer used primarily for the transportation of goods in the ordinary course of any trade or business.
7. **"Commercial vehicle"** shall mean any vehicle used primarily for the transportation of persons or goods in the ordinary course of any trade or business.
8. **"Commission"** shall mean the Cherokee Nation Tax Commission.
9. **"Eligible vehicle"** shall mean any personal vehicle, commercial vehicle, motorcycle, recreational vehicle, farm truck, farm tractor, farm trailer or other trailer, which is owned by a tribal citizen or owned by the federally-recognized Delaware Tribe of Indians for the use of conducting official government business, which is located within the historical boundaries of

Cherokee Nation and is principally garaged within said boundaries on lands owned, leased or occupied by Cherokee Nation or any tribal citizen in trust, restricted or fee status. Also included are vehicles belonging to active military personnel and college students who maintain permanent residency in the 14-county jurisdiction but are temporarily domiciled in another location. The Commission shall determine the appropriate documentation for active military personnel or college student residency, and shall develop procedures for determining whether vehicles are owned by the federally-recognized Delaware Tribe of Indians and eligible for registration and licensing.

10. **"Farm tractor"** shall mean any vehicle owned by a farmer and used primarily for pulling or towing farming equipment, tilling the soil or in other agricultural activities. Provided, that no vehicle shall be registered as a farm tractor unless the applicant produces an income tax Schedule F for the preceding year or presents a valid exemption card issued pursuant to the provisions of 68 O.S. § 1358.1. Provided, further, that said Schedule F or exemption card must pertain to the applicant, the applicant's spouse, or a business entity owned and controlled by the applicant or the applicant's spouse. Provided, further, that an applicant shall not be eligible to register more than four (4) tractors as farm tractors. Businesses shall not be included in said limitation.

11. **"Farm trailer"** shall mean any trailer owned by a farmer and used primarily for the purpose of transporting farm animals or products to market or for the purpose of transporting to the farm material or things to be used thereon, and not for commercial or industrial purposes. Provided, that no vehicle shall be registered as a farm trailer unless the applicant produces an income tax Schedule F for the preceding year or presents a valid exemption card issued pursuant to the provisions of 68 O.S. § 1358.1. Provided, further, that said Schedule F or exemption card must pertain to the applicant, the applicant's spouse, or a business entity owned and controlled by the applicant or the applicant's spouse. Provided, further, that an applicant shall not be eligible to register more than four (4) trailers as farm trailers. Businesses shall not be included in said limitation.

12. **"Farm truck"** shall mean any vehicle equipped with four or more wheels and a cargo area for the conveyance of property that is used primarily for agricultural purposes, but not for commercial or industrial purposes. Vans and sport utility vehicles shall not be eligible to carry a farm truck tag. Provided, that no vehicle shall be registered as a farm truck unless the applicant produces an income tax Schedule F for the preceding year or presents a valid exemption card issued pursuant to the provisions of 68 O.S. § 1358.1. Provided, further, that said Schedule F or exemption card must pertain to the applicant, the applicant's spouse, or a business entity owned and controlled by the applicant or the applicant's spouse. Provided, further, that an applicant shall not be eligible to register more than four (4) trucks as farm trucks. Business shall not be included in said limitation.

13. **"Low-speed electrical vehicle"** means any four-wheeled electrical vehicle that is powered by an electric motor that draws current from rechargeable storage batteries or other sources of electrical current and whose top speed is greater than twenty (20) miles per hour but not greater than twenty-five (25) miles per hour and is manufactured in compliance with the National Highway Traffic Safety Administration standards for low-speed vehicles in 49 C.F.R. § 571.500.

14. **"Major component"** means a body or cab, frame, and front end or rear end clip, if the public VIN is changed.

15. **"Manufactured home"** shall mean structures, transportable in one or more sections, which, in the traveling mode, are eight feet (8') or more in width or forty feet (40') or more in length, or, when erected on site, are more than three hundred twenty square feet (320 sq. ft.), and which are built on a permanent chassis and designed to be used as dwellings with or without permanent foundations when connected to the required utilities, and include the plumbing, heating, air conditioning and electrical systems contained thereon.

16. **"Medium-speed electrical vehicle"** means any self-propelled, electrically powered four-wheeled motor vehicle, equipped with a roll cage or crush-proof body design, whose speed attainable in one (1) mile is more than thirty (30) miles per hour but not greater than thirty-five (35) miles per hour.

17. **"Mini-truck"** means a foreign-manufactured import or domestic-manufactured vehicle powered by an internal combustion engine with a piston or rotor displacement of one thousand cubic centimeters (1,000 cu cm) or less, which is sixty-seven inches (67") or less in width, with an unladen dry weight of three thousand four hundred pounds (3,400 lbs.) or less, traveling on four or more tires, having a top speed of approximately fifty-five (55) miles per hour, equipped with a bed or compartment for hauling, and having an enclosed passenger cab.

18. **"Motorcycle"** shall mean any two or three-wheeled personal vehicle.

19. **"Nation"** shall mean Cherokee Nation.

20. **"Off-road motorcycles"** (ORM's) means a motorcycle manufactured for and used exclusively off roads, highways, and any other paved surfaces. Small street or sidewalk mini-motorcycles or scooters are not included in this category.

21. **"Person"** shall mean any natural person or legal entity legally competent to hold title to a vehicle.

22. **"Reservation boundaries of Cherokee Nation"** shall mean the territorial boundaries of the Nation as they existed as of January 1, 1900.

23. **"Personal vehicle"** shall mean any vehicle having four or more wheels, including but not limited to cars, trucks, vans and sport utility vehicles, and any motorcycle; provided however, the definition of personal vehicle shall not include a commercial vehicle as defined in subdivision 4 of this section, a farm truck as defined in subdivision 9 of this section, a farm trailer as used in subdivision 8, a farm tractor as used in subdivision 7 of this section, or a recreational vehicle as defined in subdivision 16 of this section.

24. **"Physical disability"** means an illness, disease, injury or condition by reason of which a person:

a. cannot walk two hundred (200) feet without stopping to rest;

- b. cannot walk without the use or assistance from a brace, cane, crutch, another person, prosthetic device, wheelchair or other assistive device;
- c. is restricted to such an extent that the person's forced (respiratory) expiratory volume for one (1) second, when measured by spirometry, is less than one (1) liter, or the arterial oxygen tension is less than sixty (60) mm/hg on room air at rest;
- d. must use portable oxygen;
- e. has functional limitations which are classified in severity as Class III or Class IV according to standards set by the American Heart Association;
- f. is severely limited in the person's ability to walk due to an arthritic, neurological or orthopedic condition;
- g. is certified legally blind; or
- h. is missing one or more limbs.

To qualify for a "physically disabled" plate an individual must meet one or more of the above requirements, and present sufficient documentation that they are persons qualified through the Oklahoma Department of Public Safety (DPS) as being physically disabled and having a five- (5) year expiration parking permit from DPS attesting to such disability.

25. **"Rebuilt vehicle"** shall mean any salvage vehicle which has been rebuilt and inspected for the purpose of registration and title with Cherokee Nation, another tribe or state.

26. **"Recreational vehicle"** shall mean any vehicle that is equipped to serve as temporary living quarters for recreational, camping or travel purposes and is used solely as a family or personal conveyance.

27. **"Salvage vehicle"** shall mean any vehicle which is within the last ten (10) model years and has been damaged by collision or other occurrence to the extent that the cost of repairing the vehicle for safe operation on the highway exceeds sixty percent (60%) of its fair market value, immediately prior to the damage.

28. **"Trailer"** shall mean any portable structure having two or more wheels that is built on a chassis and is designed to be towed by a vehicle and not propelled by its own power, with a width not exceeding eight (8) feet in travel mode and overall length not exceeding forty (40) feet, including the hitch or coupling, whether used for towing property or livestock or as a temporary dwelling for travel or recreational use. **"Trailer"** shall include in its meaning any mobile home until such time as it becomes affixed to the land.

29. **"Tribal citizen"** shall mean any person who is duly enrolled as a citizen of Cherokee Nation pursuant to the Cherokee Nation Membership Act, 11 CNCA § 1 et seq., LA 06-92, as amended.

30. **"Utility vehicle"** means a vehicle powered by an internal combustion engine, electric engine or combination thereof, manufactured and used exclusively for off-highway use, equipped with seating for two or more people and a steering wheel, traveling on four or more wheels.;

31. **"Vehicle"** shall mean any wheeled conveyance for carrying persons or property capable of being propelled under its own power through the use of an electric engine or internal combustion engine greater than fifty cubic centimeters (50cc), designed primarily for use on roads and/or highways and equipped with brakes, headlights, taillights, brake lights, a horn, turn signals and a rear-view mirror, the ownership of which is reflected on a certificate of title.

History

Source. LA 01–01, eff. March 12, 2001.

Amended. LA 27–01, eff. August 9, 2001.

Amended. LA 34–01, eff. September 12, 2001.

Amended. LA 29–04, eff. September 10, 2004.

Amended. LA 07–06, eff. May 17, 2006.

Amended. LA 12–06, eff. July 19, 2006.

Amended. LA 17–06, eff. September 20, 2006.

Amended. LA 08–07, eff. March 17, 2007.

Amended. LA 05–08, eff. May 18, 2008.

Amended. LA 23–08, eff. November 14, 2008.

Amended. LA 24–08, eff. November 14, 2008.

Amended. LA 04–09, eff. March 21, 2009.

Amended. LA 23–10, eff. September 22, 2010.

Amended. LA 33–10, eff. December 23, 2010.

Cross References

Documents required for registration, see 68 CNCA § 1357.

Tribal-state motor vehicle licensing compact, see 68 CNCA § 2001.

Oklahoma Statutes

Exemptions, agriculture, proof of eligibility, see 68 O.S. § 1358.1.

Code of Federal Regulations

Standard No. 500; low-speed vehicles, see 49 C.F.R. § 571.500.

§ 1305. Negotiation of compact—Effective date

A. The Principal Chief is hereby authorized to negotiate with appropriate officials of the State of Oklahoma for a compact between Cherokee Nation and the State of Oklahoma, the provisions of which would (i) allocate a portion of the revenue generated by motor vehicle license fees to the public schools within the Nation's jurisdictional area; (ii) coordinate motor vehicle title information with the appropriate state agencies; and (iii) address any other issues which may arise and may be resolved through a tribal-state compact. Provided, no such compact shall take effect until approved by way of Tribal Resolution enacted in accordance with 25 CNCA § 26 and all other parties have executed or approved the compact as required by applicable law.

B. The provisions of this act shall not take effect until the Commission adopts its rules and regulations pursuant to 68 CNCA § 1352.

History

Source. LA 01–01, eff. March 12, 2001.

Amended. LA 05–08, eff. May 18, 2008.

Cross References

Documents required for registration, see 68 CNCA § 1357.

Rules and regulations, see 68 CNCA § 1352.

Library References

Indians <KEY>216, 225, 226.

Westlaw Topic No. 209.

C.J.S. Indians §§ 59, 140 to 149.

§ 1306. Revenue sharing

A. A portion of the revenue generated from fees, taxes, penalties and fines generated in connection with the issuance of motor vehicle licenses hereunder shall be allocated to Sequoyah High School,

the Cherokee Nation Head Start program and the public schools within the reservation boundaries of Cherokee Nation and as described in subsection (B) of this section, to the Marshal Service and to certain counties and municipalities in accordance with the provisions of subsection (B) of this section.

B. Allocation of revenues. The fees, taxes, penalties and fines collected by the Commission pursuant to the provisions of this act shall be allocated and expended for the purposes set forth in the following paragraphs:

1. The fees, taxes, penalties and fines collected by the Commission shall be applied to the costs and expenses of the Commission in carrying out the provisions of this act, as authorized and appropriated in the Nation's comprehensive annual budget. Provided, however, that said costs and expenses shall be paid out of revenues remaining after the prior allocations of funds pursuant to paragraphs 2 and 3 of this subsection.

2. An amount equal to thirty-eight percent (38%) of all fees and taxes collected by the Commission shall be allocated and made available to Oklahoma public schools located within the reservation boundaries of Cherokee Nation that have students who are tribal citizens; to Sequoyah High School; and to the Cherokee Nation Head Start program in accordance with the provisions of paragraph 2 of subsection (C) of this section. Such students shall be included in a certified Cherokee student count by an eligible school under this subsection in order to participate in the allocation of revenues. Any public school located outside the reservation boundaries shall be eligible to receive a share of the allocation pursuant to paragraph 2 of subsection (C) of this section provided all three (3) of the following conditions are met with respect to such school: (a) any portion of the district of which said school is a part is within the reservation boundaries; *and* (b) any portion of the premises of said school is located within two (2) miles of the reservation boundary; *and* (c) the school has one or more enrolled Cherokee students as referenced herein.

3. Twenty percent (20%) of all fees and taxes collected by the Commission shall be made available for contribution to the cost of constructing or maintaining federal highways, state highways, or highways constructed or maintained with funds \apportioned pursuant to 47 O.S. § 1104(A) that are part of the counties' collector system, within the Nation's reservation boundaries, to be allocated among such highway projects in accordance with paragraph 3 of subsection (C) of this section.

4. An amount not to exceed twenty percent (20%) but not less than five percent (5%) of the amount of such fees and taxes remaining after the amounts appropriated pursuant to paragraphs 1, 2 and 3 of this subsection shall be available to and allocated among counties and municipalities within the Nation's reservation boundaries and/or the Cherokee Nation Marshal Service in accordance with paragraph 4 of subsection (C) of this section.

5. Any funds not appropriated or expended pursuant to paragraphs 1, 2, 3 or 4 of this subsection shall remain available in the General Fund for appropriation and expenditure pursuant to Legislative Act. All amounts apportioned under subsection (C) of this section shall be appropriated as part of the Nation's comprehensive annual budget.

C. Distribution and expenditure of revenues. All revenues set aside pursuant to subsection (B) of

this section shall be distributed and expended as follows:

1. Within ten (10) days after the end of each month during which this act is in effect, the Commission shall prepare and submit to the Controller a report setting forth separately the amounts collected by the Commission as fees, taxes, penalties and fines. The Commission shall make available any documents or records requested by the Controller to verify the accuracy of the report. In addition to the foregoing report, the Commission shall prepare and submit to the Controller any other reports as may be requested by the Controller.

The Principal Chief shall cause a copy of any report prepared pursuant to this paragraph to be delivered to the Tribal Council upon receipt of same by the Controller.

2. Each year, five percent (5%) of the revenues set aside under paragraph 2 of subsection (B) of this section shall be allocated for programs to assist public schools within Cherokee Nation with the A-F grading system, specifically to assist with teaching core subjects with emphasis placed on STEM classes/programs. This amount shall be matched with an equal amount to be paid from revenues described in paragraph 4 of subsection (B). Education services shall develop policies and procedures for the priority level of distribution for these funds. In particular, special consideration shall be granted to schools who receive a C-F and have a high enrollment of Cherokee students. The remaining ninety-five percent (95%) of the revenues set aside under paragraph 2 of subsection (B) of this section shall be distributed pro rata each year among eligible public schools, Sequoyah High School and Cherokee Nation Head Start program based on each school's qualified student enrollment determined as follows: for the purposes of this distribution formula, (a) the qualified student enrollment for each public school shall be equal to the total number of its enrolled Cherokee students, as determined annually from a certified Cherokee student count as described in paragraph 2 of subsection (B) of this section, submitted and documented by the Superintendent of each eligible public school district as of October 1 of each year, and subject to review by the Cherokee Nation Education Department; and (b) the qualified student enrollment for Sequoyah High School shall be equal to the total number of its enrolled Indian students in accordance with the most recent Bureau of Indian Affairs student count; and (c) the qualified student enrollment for Cherokee Nation Head Start shall be equal to the total amount of its enrolled Indian students, who are at least four (4) years old as of October 1 of each year, submitted and documented by the Director of the program.

The pro rata share referred to in this paragraph shall be the percentage that each such school's qualified student enrollment bears to the total qualified student enrollment of all such schools within the reservation boundaries and as described in paragraph 2 of subsection (B) of this section; Sequoyah High School; and the Cherokee Nation Head Start program. Provided, however, for any year that the available per-pupil federal education funding for Indian students attending Sequoyah High School is less than eighty-five percent (85%) of the state per-pupil expenditures for students attending public schools in the State of Oklahoma, each Indian student enrolled at Sequoyah High School shall be weighted as two (2) Indian students for the purposes of the distribution formula in this paragraph.

The Cherokee Nation Education Department is hereby authorized to develop and implement policies and procedures necessary for review and proper documentation of the student counts for

purposes of this act. Such policies and procedures shall, at a minimum, contain procedures by which appropriate parties will be notified about the requirements herein; requirements for documentation and substantiation of student count submissions; and procedures for appeal of determinations affecting an entity's student count.

3. The funds set aside under paragraph 3 of subsection (B) of this section shall be allocated each year to governmental agencies or political subdivisions for expenditure on construction or maintenance projects on federal highways, state highways, or highways constructed or maintained with funds apportioned pursuant to 47 O.S. § 1104(A) that are part of the counties' collector system, within the Nation's reservation boundaries. The projects and their respective allocations hereunder shall be identified in the comprehensive annual budget approved by the Tribal Council. These funds are to be distributed equally between Council Members for appropriation.

4. The funds set aside under paragraph 4 of subsection (B) of this section shall be allocated among the counties and municipalities within the Nation's reservation boundaries and/or to the Marshal Service in accordance with and as appropriated in the comprehensive annual budget of Cherokee Nation.

5. No funds allocated and distributed under this subsection shall be made available to the schools, highway projects, counties, municipalities or Marshal Service until appropriated as part of the comprehensive annual budget for the applicable fiscal year. Any revenue distributions to Sequoyah High School or the Cherokee Nation Head Start program pursuant to this act shall first be used to meet any matching requirements for federal funds, if applicable. The Controller, with the assistance of any officer designated by the Principal Chief, shall be responsible for calculating and making all expenditures authorized by this subsection.

History

Source. LA 01–01, eff. March 12, 2001.

Amended. LA 27–01, eff. August 9, 2001.

Amended. LA 34–01, eff. September 12, 2001.

Amended. LA 34–02, eff. October 18, 2002.

Amended. LA 19–03, eff. July 18, 2003.

Amended. LA 05–08, eff. May 18, 2008.

Amended. LA 07–10, eff. March 21, 2010.

Amended. LA 51–12, eff. December 17, 2012.

Cross References

Tribal-state motor vehicle licensing compact, see 68 CNCA § 2001.

Oklahoma Statutes

Apportionment of fees, taxes and penalties collected, see 47 O.S. § 1104.

United States Code

Bureau of Indian Affairs, see 25 U.S.C. § 1 et seq.

Library References

Indians <KEY>225, 226.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149.

DUTIES OF TAX COMMISSION—REGISTRATION OF VEHICLES—FEES AND TAXES— CERTIFICATES OF TITLE—LICENSE PLATES—PENALTIES

§ 1351. General powers and duties of Tax Commission

The Commission is hereby vested with the power, authority and duty to administer and enforce this Cherokee Nation Motor Vehicle Licensing and Tax Code. This power, authority and duty includes, but is not limited to, the calculation of all taxes, fees, penalties and fines assessed in accordance with the provisions of this act, as well as contracting with Oklahoma tag agents to distribute motor vehicle tags and process motor vehicle registration documents, if the Commission determines that utilizing Oklahoma tag agents for such purposes is in the best interests of the Nation. The Administrator shall be responsible for carrying out the rules, regulations and directives of the Commission and the Commission may delegate to the Administrator such authority as it deems proper for said purpose, provided that the authority to adopt rules and regulations pursuant to 68 CNCA § 1352 shall not be delegable to the Administrator or any other person.

History

Source. LA 01–01, eff. March 12, 2001.

Amended. LA 05–08, eff. May 18, 2008.

Library References

Indians <KEY>225, 226.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149.

§ 1352. Rules and regulations

The Commission shall adopt such rules and regulations, and amendments thereto, as it deems necessary to administer and enforce this code, which rules and regulations need not be approved by the Tribal Council, provided that said rules and regulations and any amendments thereto shall not be inconsistent with this code and shall be made available to the Council immediately after adoption. The Commission shall adopt such rules and regulations no later than one hundred fifty (150) days after the earlier of (i) the approval of a compact pursuant to 68 CNCA § 1305(A), or (ii) May 31, 2001. The rules and regulations shall provide for a process to appeal decisions of the Administrator assessing any fees, taxes, fines or penalties authorized by this act. Any decision by the Commission on a question so presented on appeal shall be final. The rules and regulations shall also set forth the procedures and requirements for perfecting the lien of a secured party against any vehicle registered pursuant to this act.

History

Source. LA 01–01, eff. March 12, 2001.

Amended. LA 27–01, eff. August 9, 2001.

Amended. LA 05–08, eff. May 18, 2008.

Cross References

Negotiation of compact—Effective date, see 68 CNCA § 1305.

Library References

Indians <KEY>225, 226, 412.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149, 151 to 179.

§ 1353. Registration of vehicles required

It shall be unlawful for any person, including without limitation any tribal citizen, to operate any vehicle on the public streets, alleys, roadways or highways within the reservation boundaries of Cherokee Nation unless such vehicle is properly registered and tagged under the provisions of this act or under the laws of the United States, a territory, a state or a federally-recognized Indian tribe with jurisdiction over the lands where such vehicle is principally garaged. Except as expressly authorized by tribal compact between Cherokee Nation and another federally-recognized Indian tribe, it shall be unlawful for the purposes of this section for any Indian to operate a motor vehicle on any tribal fee or trust or individual Indian trust or restricted land within the reservation

boundaries of Cherokee Nation if (i) said motor vehicle is tagged by another federally-recognized Indian tribe and (ii) the owner of said motor vehicle resides within the reservation boundaries of Cherokee Nation and the motor vehicle is principally garaged within the reservation boundaries of Cherokee Nation.

History

Source. LA 01–01, eff. March 12, 2001.

Amended. LA 05–08, eff. May 18, 2008.

Library References

Indians <KEY>226.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149.

§ 1354. Registration fees and taxes

Eligible vehicles and trailers may be registered with Cherokee Nation, subject to the following fees and taxes:

1. Registration fees. There is hereby levied on every eligible vehicle registered with Cherokee Nation, an annual registration fee of the following:

Registration years 1–4:	\$75.00
Registration years 5–8:	\$65.00
Registration years 9–12:	\$45.00
Registration years 13–16:	\$25.00
Registration years 17 and over:	\$10.00

a. The registration fee on an eligible vehicle previously registered with any other tribe or with any state or territory will be calculated as if the vehicle had been registered with Cherokee Nation for the same number of years it had been so previously registered.

b. Exceptions.

i. The annual registration fee for tribal citizens who present documentation that they are entitled to veteran status shall be as follows:

(I) Any active or former member of a branch of the United States military, not including veterans of foreign wars or disabled veterans, Special Fee: \$65.00 for registration years 1–4; \$45.00 for registration years 5–12; and for registration years 13 and over, the same fees as provided above in this subdivision 1 for other eligible vehicles;

(II) Veterans of foreign wars, Special Fee: \$60.00 for registration years 1–4; \$40.00 for registration years 5–12; and for registration years 13 and over, the same fees as provided above in this subdivision 1 for other eligible vehicles;

(III) Disabled veterans, Special Fee: \$5.00 for registration years 1–8; and for registration years 9 and over, no fee;

(IV) Winners of medals of honor, bronze or silver stars, equivalent medals for bravery or heroism in combat, Special Fee: \$7.00 for registration years 1–8; and for registration years 9 and over, no fee;

(V) Prisoners of war: exempt from registration fee.

ii. The annual registration fee on farm trucks and farm tractors shall be \$25.00.

iii. The annual registration fee on a commercial trailer shall be \$45.00.

iv. The annual registration fee on a farm trailer shall be \$20.00.

v. The one-time permit fee for all-terrain vehicles is \$6.00.

vi. The annual registration fee for tribal citizens who present documentation that they are personally qualified through the Oklahoma Department of Public Safety (DPS) as being physically disabled and having a five (5) year expiration parking permit from DPS shall be free of charge. Any Cherokee citizen who is eligible for a "physically disabled" license plate or whose vehicle has had modifications because of the physical disability of the owner or of an individual related to the owner within the second degree of consanguinity (parent, grandparent, child, grandchild or sibling by blood) may register the vehicle for the fee prescribed above. This fee shall be in lieu of all other registration fees provided by this act.

2. Registration tax on personal vehicles. There is hereby levied a registration tax of one and one-half percent (1 1/2%) of the actual purchase price of personal vehicles not previously registered with Cherokee Nation or any other tribe or with any state, provided that the actual purchase price is no more than twenty percent (20%) less than the average retail value. This registration tax shall also be levied upon any vehicle registered pursuant to this act upon its sale by a tribal citizen to another tribal citizen. The **"average retail value"** as used in this subdivision shall be determined from a published index of automobile values to be specified by the Commission in its rules and regulations adopted pursuant to this act.

3. Registration tax on commercial vehicles. There is hereby levied on every commercial vehicle registered with Cherokee Nation a registration tax equal to one-half (1/2) of the amount of the tax which would otherwise be imposed by subdivision 2 of this section if the vehicle were a personal vehicle. Provided, however, the owner of said vehicle shall be required to sign an affidavit, under oath, in such form as shall be prescribed by the Commission, stating that the vehicle will be used primarily for trade or business purposes, and shall either:

- a. affix the federal employer identification number of said business to the affidavit, or
- b. cause the name of the business to be permanently affixed to each side of said vehicle in letters or numerals of at least one inch (1") in height and in a color contrasting with the color of said vehicle.

Proof of trade or business purposes shall be required each year for subsequent registrations. This registration tax shall also be levied on any commercial vehicle registered pursuant to this act upon its sale by one tribal citizen to another tribal citizen.

4. Registration tax on motorcycles. There is hereby levied a registration tax on every motorcycle not previously registered with Cherokee Nation or any other tribe or with any territory or state at the same rate as described in subdivision 2 of this section. This registration tax shall also be levied on any motorcycle registered pursuant to this act upon its sale by a tribal citizen to another tribal citizen.

5. Registration tax on recreational vehicles. There is hereby levied a registration tax on every recreational vehicle not previously registered with Cherokee Nation or any other tribe or with any territory or state equal to one-half (1/2) of the amount of tax which would otherwise be imposed by subdivision 2. This registration tax shall also be levied on any recreational vehicle registered pursuant to this act upon its sale by a tribal citizen to another tribal citizen.

6. Registration tax on farm trucks and farm tractors. There shall be no registration tax levied on farm trucks or farm tractors.

7. Registration tax on farm trailers and commercial trailers. There shall be no registration tax levied on farm trailers or commercial trailers.

8. Lien for delinquent fees, etc. Any delinquent fees, taxes, penalties or interest due under the provisions of this act with respect to any vehicle shall constitute a lien of first priority against said vehicle. The Commission shall not register, title or renew the registration for any such vehicle until the delinquent fees, taxes, penalties or interest are paid.

9. Registration tax on manufactured homes.

a. There is hereby levied a registration tax on every new manufactured home not previously registered with Cherokee Nation or any other tribe or with any territory or state at the rate of one and one-half percent (1 1/2%) of the actual purchase price.

b. There is hereby levied a registration tax on every used manufactured home not previously registered with Cherokee Nation or any other tribe or with any territory or state at the rate equal to one-half (1/2) of the amount of the tax which would otherwise be imposed on a new manufactured home under paragraph a of this subdivision. The three quarter percent (3/4%) registration tax on a used manufactured home shall be applied to sixty-five percent (65%) of one half (1/2) of the actual purchase price/value.

10. Registration tax on assembled vehicles. There is hereby levied a registration tax of one and one-half percent (1 1/2%) of the actual purchase price of assembled vehicles not previously registered with Cherokee Nation or any other tribe or with any territory or state, provided that the actual purchase price is no more than twenty percent (20%) less than the average retail value. This registration tax shall also be levied upon any vehicle registered pursuant to this act upon its sale by a tribal citizen to another tribal citizen. "**Average retail value**" is determined as used in subdivision 2 of this section.

Assembled vehicles shall require:

- a. Affidavit of assembly and ownership. Affidavit shall be approved by the Cherokee Nation Tax Commission Motor Vehicle Division.
- b. Upon approval of the affidavit of assembly and ownership the Cherokee Nation Marshal Service shall conduct an inspection and permanently affix a Cherokee Nation assigned number to the vehicle.

11. Registration tax on abandoned vehicles. There is hereby levied a registration tax of one and one-half percent (1 1/2%) of the actual purchase price of abandoned vehicles not previously registered with Cherokee Nation or any other tribe or with any territory or state, provided that the actual purchase price is no more than twenty percent (20%) less than the average retail value. This registration tax shall also be levied upon any vehicle registered pursuant to this act upon its sale by a tribal citizen to another tribal citizen. "**Average retail value**" is determined as used in subdivisions 2 and 4 of this section.

The Cherokee Nation Tax Commission shall adopt rules and regulations to set forth the procedures and requirements for the ownership transfer of abandoned vehicles.

12. Registration tax for all-terrain and utility vehicles. Except for persons that possess an agricultural exemption pursuant to this section, the registration tax shall be levied upon transfers of legal ownership of all-terrain vehicles, utility vehicles and motorcycles used exclusively off roads and highways. The registration tax for new and used all-terrain vehicles, utility vehicles and motorcycles used exclusively off roads and highways shall be levied at one and one-half percent (1 1/2%) of the actual sales price of each new and used all-terrain vehicle and motorcycle used exclusively off roads and highways before any discounts or credits are given for a trade-in. The Cherokee Nation Tax Commission shall promulgate regulations as to effective date taxes on utility vehicles.

13. Registration tax for 100-percent disabled veterans. Any vehicle which is purchased by an individual who has been honorably discharged from active service in any branch of the Armed Forces of the United States or the Oklahoma National Guard and who has been certified by the United States Department of Veterans Affairs, its successor, or the Armed Forces of the United States to be a disabled veteran in receipt of compensation at the one-hundred-percent rate for a permanent disability sustained through military action or accident resulting from disease contracted while in such active service shall be exempt from registration tax. Provided, this exemption may not be claimed by an individual for more than one vehicle in a consecutive three- (3) year period.

14. Possessory/laborers' lien. Laborers who perform work and labor on or storage of a vehicle for any person under a written or verbal contract, if unpaid for the same, shall have a lien on the production of their labor, for such work, labor or storage; provided that such lien shall attach only while the title to the property remains in the original owner.

The Cherokee Nation Tax Commission shall adopt rules and regulations to set forth the procedures and requirements for possessory/laborers' liens.

15. Registration tax for mini-trucks. Mini-trucks shall be registered pursuant to the provisions of the Cherokee Nation Motor Vehicle Licensing and Tax Code. The Cherokee Nation Tax Commission shall promulgate rules for the titling and registration of mini-trucks.

Mini-trucks which have been titled and registered pursuant to the provisions of the Cherokee Nation Motor Vehicle Licensing and Tax Code may be operated on the roadways of the state of Oklahoma; provided, however, mini-trucks shall not be permitted to travel upon any highway in this state which is a part of the National System of Interstate and Defense Highways. Operators of mini-trucks shall comply with all traffic regulations and rules of conduct for the operation of motor vehicles on the roadways of the state of Oklahoma provided by law.

History

Source. LA 01–01, eff. March 12, 2001.

Amended. LA 34–01, eff. September 12, 2001.

Amended. LA 29–04, eff. September 10, 2004.

Amended. LA 03–05, eff. March 14, 2005.

Amended. LA 07–06, eff. May 17, 2006.

Amended. LA 12–06, eff. July 19, 2006.

Amended. LA 17–06, eff. September 20, 2006.

Amended. LA 05–08, eff. May 18, 2008.

Amended. LA 23–08, eff. November 14, 2008.

Amended. LA 04–09, eff. March 21, 2009.

Amended. LA 02–10, eff. February 14, 2010.

Library References

Indians <KEY>225, 226.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149.

§ 1355. Certificates of title

A. Application for certificate of title. Prior to the initial registration of any vehicle with Cherokee Nation, the owner shall apply to the Commission, on a form that the Commission shall by regulation direct, for a certificate of title for said vehicle. Prior to issuance of a certificate of title for a vehicle, the Commission shall require the applicant to furnish proof of purchase from a licensed new or used car dealer, or a properly endorsed vehicle certificate of title issued by the Commission or some other tribal, state or territorial licensing authority. Notice of liens against said vehicle shall be placed upon said title upon request of the lending institution in accordance with regulations adopted by the Commission pursuant to this act. The procedures for placing and releasing liens on vehicles and reflecting same on the certificate of title shall be provided by regulations adopted by the Commission pursuant to this act.

B. Title fees. The Commission shall charge a fee of Six Dollars (\$6.00) for issuing an original or transfer certificate of title and a fee of Six Dollars (\$6.00) for issuing a duplicate certificate of title. A receipt shall be given for said fees. If an Oklahoma tag agency issues the certificate of title, the agency shall charge the same fees as are provided in this subsection.

C. Original, transfer and duplicate titles.

1. An **"original title"** shall be issued to the first purchaser of a vehicle from a new vehicle dealer.

2. A **"transfer title"** shall be the title issued to a second or subsequent owner of an eligible vehicle whether purchased from an individual or dealer.

3. A **"duplicate title"** shall be the title issued to the owner of record of an eligible vehicle to replace a lost, stolen or mutilated original or transfer title.

D. Salvage and rebuilt title.

1. A salvage title shall be issued to any vehicle ten (10) model years and newer which has been damaged by collision or other occurrence to the extent that the cost of repairing the vehicle for safe operation on the highway exceeds sixty percent (60%) of its fair market value, immediately prior to the damage.

2. A rebuilt title shall be issued on any salvage vehicle which has been rebuilt and inspected for the purpose of registration and title with Cherokee Nation, another tribe or state.

E. Repealed by LA 24-04, eff. June 17, 2004.

F. Manufactured home title.

1. A manufactured home title shall be issued and subtitled as follows:

- a. **"Manufactured home—original title"** shall be issued to the first purchaser of a new manufactured home from a manufactured home dealer.
- b. **"Manufactured home—transfer title"** shall be the title issued to a second or subsequent owner of an eligible manufactured home whether purchased from an individual or dealer.
- c. **"Manufactured home—duplicate title"** shall be the title issued to the owner of record of an eligible manufactured home to replace a lost, stolen or mutilated original or transfer title.

History

Source. LA 01–01, eff. March 12, 2001.

Amended. LA 34–01, eff. September 12, 2001.

Amended. LA 25–04, eff. June 17, 2004.

Amended. LA 05–08, eff. May 18, 2008.

Library References

Indians <KEY>225, 226, 417.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149, 151 to 179.

§ 1356. License plates

A. Standard license plate. Each vehicle registered with the Cherokee Nation shall be issued a license plate to be properly displayed on the rear of said vehicle. The Commission shall be responsible for the design of all license plates issued hereunder which plates shall conform to the following requirements:

1. Each license plate shall be made of metal with a background and lettering of sufficient contrast so as to be easily read from a distance of not less than fifty (50) feet;
2. Each license plate shall bear the name of Cherokee Nation along the upper portion of the plate;
3. Each license plate shall bear the Cherokee Nation seal;
4. Each license plate shall bear the word Oklahoma;

5. Each license plate number shall contain no more than seven (7) characters, made up of numbers, letters or a unique combination of both, unless otherwise provided herein;
6. The identifying symbols on the license plate shall be large and clear enough to be read by the unaided eye at a distance of not less than fifty (50) feet;
7. Each license plate shall provide a space for the placement of month and year decals in two corners of the license plate;
8. The license plates for each class of vehicles shall bear some mark or decal as determined by the Commission so as to make it different from those assigned to other classes of vehicles; and
9. The Commission may in its discretion provide by regulation for special identifying symbols or legends to be placed upon personal vehicles license plates issued for:
 - a. the physically handicapped;
 - b. veterans of the Armed Forces;
 - c. winners of selected medals for heroism in combat;
 - d. past or present prisoners of war;
 - e. parents whose child has been killed as a result of service in the Armed Forces; and
 - f. past and present elected tribal officials.

The Commission shall require such documentation as it deems appropriate that the owner of the vehicle is eligible for the special symbol or legend.

B. Cherokee Nation government vehicles. The Commission shall issue without charge appropriate titles, certificates of registration, license plates and decals for any vehicle owned by Cherokee Nation or its agencies. Title to any such vehicles shall be in the name of Cherokee Nation and such vehicles shall not be sold or transferred except in accordance with applicable law.

C. Delaware Tribe of Indians government vehicles. The Commission shall issue without charge appropriate titles, certificates of registration, license plates and decals for any eligible vehicle owned by the federally-recognized Delaware Tribe of Indians, its agencies. Title to any such vehicles shall be in the name of the Delaware Tribe of Indians and such eligible vehicles shall not be sold or transferred except in accordance with applicable law.

D. Physically-disabled license plate. For those eligible individuals a specially-designed plate will be available which shall prominently display the international accessibility symbol, which is a stylized human figure in a wheelchair. Upon the death of the physically-disabled person, the special license plate shall be returned to the Tax Commission. There shall be no fee for such plate

in addition to the rate provided by this act for the registration fee of the vehicle.

E. Lost, mutilated or destroyed license plate or decal.

1. In the event of loss, mutilation or destruction of a license plate or decal issued to an eligible vehicle the owner of the vehicle shall file an affidavit showing such fact and obtain a replacement plate or decal. The charge shall be Ten Dollars (\$10.00) for each such plate or decal.

2. In the event a license plate becomes so mutilated as to make its numbers, letters or decals illegible, the owner/operator of the vehicle to which the plate was issued shall be subject to a fine of Fifty Dollars (\$50.00). Law enforcement shall have the authority to detain and cite any owner or operator of vehicles bearing such mutilated license plates.

History

Source. LA 01–01, eff. March 12, 2001.

Amended. LA 29–04, eff. September 10, 2004.

Amended. LA 05–08, eff. May 18, 2008.

Amended. LA 33–10, eff. December 23, 2010.

Library References

Indians <KEY>225, 226, 417.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149, 151 to 179.

§ 1357. Documents required for registration

A. Each applicant for vehicle registration with the Nation shall present with the completed application form the following items:

1. A valid certificate of title to the vehicle in the name of the applicant; and
2. Unless the vehicle is currently registered with Cherokee Nation pursuant to this act in the applicant's name, proof of current and valid vehicle registration with another tribe, territory or state, or if a new purchase, a copy of the bill of sale; and
3. A valid Oklahoma drivers license showing applicant's residence within the reservation boundaries of Cherokee Nation; and
4. Proof of current liability insurance policy or bond covering any liability for an accident

involving such motor vehicle, with coverage limits, exclusive of interest and costs, of not less than Ten Thousand Dollars (\$10,000.00) because of bodily injury to or death to any one (1) person in any one (1) collision or accident and, subject to said limit for one (1) person, not less than Twenty Thousand Dollars (\$20,000.00) because of bodily injury to or death of two or more persons in any one (1) collision or accident, and not less than Ten Thousand Dollars (\$10,000.00) because of injury to or destruction of property of others in any one (1) collision or accident; and

5. Evidence that the owner of the vehicle is a tribal citizen and lives within the reservation boundaries of Cherokee Nation or, if outside the boundaries, within the territorial areas of other tribes to the extent and as provided for in a compact with the State of Oklahoma approved pursuant to 68 CNCA § 1304(A).

B. Penalties for late registration.

1. Any tribal citizen residing within the reservation boundaries of Cherokee Nation, or owning and garaging a vehicle within said boundaries, who is eligible to apply for a certificate of title, certificate of registration, tag and decal for said vehicle shall have thirty (30) days after purchasing or obtaining possession of said vehicle, or thirty (30) days after the expiration of the previous tag issued by Cherokee Nation, another tribe, Oklahoma or other state or territory, within which to apply for a Cherokee Nation certificate of title, certificate of registration, tag and decal. Failure to apply within the prescribed time will result in the civil penalty of Twenty-Five Cents (\$0.25) per day beginning on the first day following the expiration of said 30-day period, provided that no such penalty shall be assessed unless and until an application for registration is made. Provided, the foregoing penalty shall not exceed two (2) times the registration fee for the vehicle and shall be assessed and collected by the Commission at the time of application for a new or renewal registration for said vehicle. No such application shall be granted until all civil penalties and fines owed by the applicant pursuant to this act are paid in full along with all other taxes and fees payable hereunder, except that penalties need not be paid if the Administrator waives the penalties in whole or in part in accordance with paragraph 2 of subsection (B) of this section. Any vehicle last registered with Cherokee Nation pursuant to this act whose tag has been expired for twelve (12) months or longer and being operated upon any tribal trust or fee land within the reservation boundaries of Cherokee Nation is hereby declared contraband and shall be subject to seizure and sale by the Commission; provided, that not less than thirty (30) days prior to the date of sale the Commission shall give notice of the date and time of sale to the owner and any lienholder whose name(s) appears on the most recent application for registration and/or lien entry form for said vehicle, by certified mail sent to the address set forth therein, during which period the owner may avoid the sale and recover the vehicle by paying all fees, taxes, fines and penalties then owing with respect to said vehicle. The proceeds of such sale shall be deposited into the General Fund and shall be available for appropriation and allocation under 68 CNCA § 1305(B), unless there is a lienholder whose lien has been perfected in accordance with the regulations of the Commission, in which event the proceeds shall be first applied to the costs of sale, then to any such lienholders in accordance with their respective priorities, and the balance, if any, into the General Fund for appropriation and allocation pursuant to this act.

2. The Administrator shall have the authority to waive penalties in whole or in part for failure to register a vehicle in accordance with this act in cases where such vehicle is proven to have been

inoperable during the registration period. Proof of inoperability may be by, but is not limited to, submission of parts or repair receipts or such other evidence deemed appropriate by the Administrator.

3. The Administrator shall have the authority to deny registration or renewal registration to any applicant when the application information submitted by the applicant is determined by the Administrator to be fraudulent or incorrect. If a vehicle is registered hereunder and thereafter the Administrator determines that the registration was made on the basis of false or fraudulent information, the Administrator shall notify the applicant-owner that the registration has been revoked. Notification shall be done by certified mail and shall be complete upon acceptance of, or refusal to accept, delivery of the notice.

4. Penalties under this section shall not apply if the vehicle has been properly registered with any other tribe, state, territory or the United States.

C. Application form. The vehicle registration application form shall be as prescribed by the Commission pursuant to regulations promulgated by it hereunder and shall include provisions whereby the applicant expressly submits himself or herself to the jurisdiction of Cherokee Nation and its courts for purposes of enforcement of this act, including without limitation the assessment and collection of any penalties, fines or interest provided for hereunder.

History

Source. LA 01-01, eff. March 12, 2001.

Amended. LA 34-01, eff. September 12, 2001.

Amended. LA 05-08, eff. May 18, 2008.

Library References

Indians <KEY>226, 417.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149, 151 to 179.

§ 1358. Operation of motor vehicle within Cherokee Nation

A. Every operator of a vehicle upon the public streets, alleys, roadways or highways within the reservation boundaries shall have in their possession a currently valid United States, state or territorial driver's license and shall exhibit such license to any law enforcement officer upon request.

B. Every owner and/or operator of a vehicle operated upon the public streets, alleys, roadways or highways within the reservation boundaries shall maintain with some insurance company or surety

company a liability insurance policy or bond, to cover any liability arising from a collision or an accident involving such motor vehicle, with limits, exclusive of interest and costs, of not less than Ten Thousand Dollars (\$10,000.00) because of bodily injury to or death of one (1) person in any one (1) collision or accident and, subject to said limit for one (1) person, not less than Twenty Thousand Dollars (\$20,000.00) because of bodily injury to or death of two or more persons in any one (1) collision or accident, and not less than Ten Thousand Dollars (\$10,000.00) because of injury to or destruction of property of others in any one (1) collision or accident. This requirement shall not apply to any operator if the owner of such vehicle has insurance with the foregoing minimum limits that covers the operator while he or she is operating the vehicle.

C. Every owner of a vehicle registered with the Nation pursuant to the provisions of this act shall carry in such vehicle at all times a current owner's security verification form identifying the vehicle, which form must be issued by an insurance company or surety company and shall produce such form upon request for inspection by any law enforcement officer or representative of the Commission and, in case of a collision or accident, the form shall be shown upon request to any person injured by said collision or whose vehicle or property has been damaged by said collision. Said form shall not be valid or sufficient unless issued by an insurance carrier authorized to transact business in the State of Oklahoma. Provided, however, that residents of other states operating a vehicle registered in another state, territory or an Indian tribe from another state must have in effect liability insurance or other coverage, together with proof of same, as is required under the financial responsibility laws of the state, territory or Indian tribe where the vehicle is registered, or liability insurance coverage or other forms of financial security, and proof thereof, that meet the requirements of Oklahoma financial responsibility laws applicable to non-residents.

D. The following shall not be required to carry an owner's or operator's security verification form or an equivalent form during operation of a vehicle and shall not be required to surrender such form for vehicle registration purposes:

1. Any vehicle owned or leased by the federal, state, territory or tribal government, or any agency or political subdivision thereof;
2. Any vehicle bearing the name, symbol or logo of a business, corporation or utility on the exterior whose business, corporation or utility has a deposit, bond, self-insurance or fleet policy on file with the Commission in an amount that meets the minimum limits of subsection (B) of this section, or the financial responsibility laws of the State of Oklahoma, whichever amount is greater, or
3. Any vehicle not required to carry such security verification form under the provisions of 47 O.S. § 7-602, as amended, replaced or recodified from time to time.

History

Source. LA 01-01, eff. March 12, 2001.

Amended. LA 05-08, eff. May 18, 2008.

Oklahoma Statutes

Certification of existence of security, online verification system, exemptions, see 47 O.S. § 7–602.

Library References

Automobiles <KEY>137.

Insurance <KEY>2646.

Westlaw Topic Nos. 48A, 217.

C.J.S. Motor Vehicles §§ 319, 327.

§ 1359. Penalties

A. Any Indian operating a vehicle registered pursuant to this act within the jurisdiction of Cherokee Nation, including without limitation any tribal citizen, who knowingly issues or promulgates false or fraudulent information in connection with either the financial security verification form or an equivalent form of an owner or operator shall be guilty of a misdemeanor punishable by a fine not exceeding Five Hundred Dollars (\$500.00) or imprisonment for not more than six (6) months or by both such fine or imprisonment.

B. Any Indian who operates a vehicle, or allows to be operated a vehicle owned by him or her, on the streets, alleys, roads and highways in the reservation boundaries of Cherokee Nation in violation of this act shall be guilty of a misdemeanor punishable by a fine not exceeding Two Hundred Fifty Dollars (\$250.00), or imprisonment for not more than thirty (30) days, or by both such fine and imprisonment.

C. Any vehicle operated in violation of any provision in 68 CNCA §§ 1353 to 1358, inclusive, shall be considered a public nuisance. The Commission shall have the authority to seize any Cherokee Nation license plate placed upon such vehicle and prohibit the return or re-registration of the vehicle until a security verification form is filed with the Commission or other appropriate action as ordered by the Commission is taken to assure that such vehicle shall not be used in violation of this act. If such vehicle has been in a collision or accident, any law enforcement officer shall impound such vehicle until a security verification form is filed with the Commission or other appropriate action as ordered by the Commission is taken.

History

Source. LA 01–01, eff. March 12, 2001.

Amended. LA 05–08, eff. May 18, 2008.

Library References

Automobiles <KEY>326.

Indians <KEY>623, 624.

Westlaw Topic Nos. 48A, 209.

C.J.S. Indians §§ 151 to 179.

C.J.S. Motor Vehicles §§ 1628 to 1638, 1730 to 1731, 1748, 1751.

§ 1360. Recognition of foreign titles and registration

It shall not be unlawful by reason of this act for any person to possess or operate a vehicle within the reservation boundaries of the Cherokee Nation so long as the vehicle is properly registered and tagged by the jurisdiction in which such persons resides or in which the vehicle is principally garaged and such jurisdiction extends like or similar recognition to the vehicle tags, certificates of title and registrations issued by the Cherokee Nation.

History

Source. LA 01–01, eff. March 12, 2001.

Amended. LA 05–08, eff. May 18, 2008.

CHAPTER 20

TRIBAL–STATE MOTOR VEHICLE LICENSING COMPACT BETWEEN CHEROKEE NATION AND THE STATE OF OKLAHOMA

§ 2001. Tribal-state motor vehicle licensing compact

This Tribal–State Motor Vehicle Licensing Compact (hereinafter, "Compact") is entered into by and between Cherokee Nation, a federally-recognized Indian tribe (hereinafter, the "Nation"), and the State of Oklahoma (hereinafter, "State"), to be effective upon the date described hereinbelow.

Section 1: Recitals

a) The Nation is a federally-recognized Indian tribe with its capitol located in the City of Tahlequah, State of Oklahoma.

b) On the 15th day of January, 2001, the Nation's Tribal Council enacted a new motor vehicle code, L.A. 01–01, pursuant to which the Nation intends to exercise its authority to issue motor vehicle licenses to its citizens within the boundaries of its jurisdictional area to the extent authorized under applicable decisions of the United States Supreme Court. Copies of L.A. 01–01 and all amendments thereto in effect as of the effective date of this Compact are attached hereto as Exhibit A. Said boundaries encompass a portion of the lands within the Indian Territory that were

ceded by the United States to the Nation pursuant to the Indian Removal Act of 1830, 4 Stat. 411, the 1835 Treaty of New Echota, 7 Stat. 478, and a fee patent executed by the President of the United States pursuant to Article 3 of said treaty. These ceded lands included what is now all of present-day Sequoyah, Adair, Cherokee, Mayes, Delaware, Rogers, Washington, Nowata and Craig Counties, and portions of present-day McIntosh, Muskogee, Wagoner, Tulsa and Ottawa Counties, in northeastern Oklahoma.

c) The Nation and the State have agreed that it would be in their respective best interests to enter into this Compact that would coordinate the Nation's motor vehicle licensing system with that of the State in the manner and to the extent set forth hereinbelow.

Section 2: Purpose and Scope

The purpose of this Compact is to set forth the agreement between the Nation and the State with respect to the Nation's licensing of motor vehicles and other vehicles owned by the Nation's enrolled citizens in accordance with the provisions of Cherokee Nation's motor vehicle licensing code, LA 01-01, as in effect on the date this Compact is effective (hereinafter, the "CN Motor Vehicle Code"); coordinating the use of and/or access to motor vehicle titling and registration information with the State for law enforcement and other purposes; developing agreed-to procedures for communicating and transmitting such information; and allocating a portion of revenues collected by the Nation from the licensing of vehicles for the benefit of schools and certain counties and municipalities within the Nation's jurisdictional area.

Section 3: Definitions

Wherever used in this Compact, the words and phrases set forth below shall have the following meanings:

a) **"Citizen"** shall mean a person who is an enrolled member of Cherokee Nation as provided in 68 CNCA § 1304.

b) **"CN Motor Vehicle Code"** shall mean L.A. 01-01 and the amendments thereto, codified as 68 CNCA § 1301 et seq., which are attached to this Compact as Exhibit A.

c) **"Indian country"** shall mean "Indian country" as that term is defined in 18 U.S.C. § 1151 and has been interpreted by the Supreme Court of the United States in *Oklahoma Tax Commission vs. Sac and Fox Nation*, 508 U.S. 114 (1993), and other decisions of said Court.

d) **"Jurisdictional area of Cherokee Nation"** shall mean the area in the State of Oklahoma that lies within the boundaries of Cherokee Nation as more particularly described in Exhibit B attached to this Compact.

e) **"Motor vehicle"** or **"Vehicle"** shall have the same meaning given to the term "Eligible vehicle" in 68 CNCA § 1304 and any other vehicle eligible for registration thereunder.

f) **"Tribal motor vehicle license"** shall mean a license plate or tag issued by Cherokee Nation for

a particular motor vehicle or other vehicle in accordance with provisions of the CN Motor Vehicle Code and of Section 3 of this Compact.

g) "**Nation**" shall mean Cherokee Nation.

h) "**State**" shall mean the State of Oklahoma.

Section 4: Tribal Motor Vehicle License

The parties stipulate and agree that the Nation, as a federally-recognized Indian tribe, has the sovereign authority to issue motor vehicle licenses in accordance with the United States Supreme Court's decision in *Oklahoma Tax Commission vs. Sac and Fox Nation*, 508 U.S. 114 (1993). However, the Nation and the State disagree in their respective interpretations of the Court's decision in *Sac and Fox Nation*, including without limitation the question of what lands or territory are to be considered "Indian country" in light of the Court's decision in that case, and by entering into this Compact the Nation and State do not intend to resolve that question. However, the Nation and State both recognize the practical difficulty in determining whether a vehicle is principally garaged in Indian country, under either party's legal interpretation of the term Indian country. Accordingly, in order to avoid the uncertainties and costs associated with litigation, and to promote a cooperative relationship between the Nation and the State of Oklahoma, the parties agree as follows:

a) The Nation agrees that it will issue tribal motor vehicle licenses only to persons who are citizens residing within the jurisdictional area of Cherokee Nation and in accordance with the provisions of the CN Motor Vehicle Code. The Nation agrees that it will not issue motor vehicle licenses to persons who reside outside the jurisdictional area of Cherokee Nation or to any person living within the jurisdictional area of Cherokee Nation who is not an enrolled citizen of Cherokee Nation.

b) The State agrees not to challenge (1) the registration of motor vehicles provided that they are registered to citizens by the Nation's Tax Commission in accordance with the CN Motor Vehicle Code and this Compact, or (2) the validity of tribal motor vehicle tags issued to persons residing within the jurisdictional area of Cherokee Nation provided that said tags are issued to a citizen in accordance with the provisions of the CN Motor Vehicle Code and this Compact.

c) Notwithstanding any other provision of this Compact, the Nation and State agree that enforcement and administration of the CN Motor Vehicle Code shall be the sole and exclusive responsibility of the Nation. This Compact shall not be construed, and is not intended, to enlarge, diminish or otherwise affect the civil or criminal law enforcement jurisdiction or obligations of either party.

Section 5: Tribal Motor Vehicle Information; Use of Oklahoma Tag Agents

a) The Nation and the State agree that each has a significant interest in sharing information relating to the registration of motor vehicles and other vehicles by the Nation and by the State so that (i) the Nation can verify registration information furnished by its citizens when applying for tribal motor

vehicle licenses for vehicles previously registered with the State of Oklahoma, and (ii) law enforcement officers and agencies of the State of Oklahoma, other states and other Indian tribes can promptly verify the ownership and the current registration status of automobile and other vehicles bearing motor vehicle or other vehicle license tags issued by the Nation. Accordingly, the Nation and the State agree to share such registration information with the State as hereinafter provided.

b) The Nation shall transmit to the Oklahoma Tax Commission (OTC) motor vehicle ownership and registration information for each vehicle it registers, which information shall be included in the OTC's motor vehicle information database so that state, local, federal and tribal law enforcement and other governmental agencies may access such information to the same extent and in the same manner that such agencies have access to such information with regard to motor vehicles registered with the OTC, in order to confirm the ownership and currency of registration of each such vehicle with the Nation's Tax Commission. The Nation shall transmit the motor vehicle ownership and registration information to the OTC no later than fifteen (15) days after the date on which the motor vehicle is registered with the Nation, except information for vehicles registered prior to the effective date of this Compact shall be transmitted no later than sixty (60) days after the Compact goes into effect. The Nation shall bear any and all costs in providing the information to the OTC.

c) The parties further agree that the Nation may negotiate appropriate agreements with Oklahoma tag agents to process the Nation's motor vehicle registration and licensing documents and transmit information relating to motor vehicles registered by the Nation to the OTC as stated in paragraph (b), above. The fees and charges for services performed by any such agents on behalf of the Nation shall be as negotiated by the Nation and the agents and neither the State nor any political subdivision of the State, including the OTC, will bear any responsibility for such fees and charges.

d) Regardless of whether the Nation engages the services of Oklahoma tag agents in transmitting motor vehicle registration and ownership information to the State pursuant to this Compact, the parties acknowledge, stipulate and agree that the State shall have no responsibility for issuing certificates of title and registration under the CN Motor Vehicle Code. The content, accuracy and maintenance of all records relating to motor vehicle titles and registration issued by the Nation shall be the sole and exclusive responsibility of the Nation.

Section 6: Payments to Oklahoma Public Schools, Sequoyah High School, Certain Highway Projects, Counties and Municipalities

The Nation has adopted the CN Motor Vehicle Code, as amended, providing for annual payments by the Nation of a portion of tribal motor vehicle licensing revenues to Oklahoma public schools, counties, municipalities, and federally- and/or state-funded highway construction or maintenance projects located within the jurisdictional area of Cherokee Nation, as well as to Sequoyah High School and the Cherokee Nation Marshal Service. Said payments shall be made by the Nation directly to the schools, agencies conducting such highway projects, counties, municipalities and Marshal Service in accordance with the CN Motor Vehicle Code, as in effect on the date on which this Compact is effective, and the annual appropriations thereunder. Provided, as a condition of this Compact, the Nation agrees to appropriate and distribute each year during which this Compact remains in effect: (1) an amount equal to thirty-eight percent (38%) of all fees and taxes collected

annually by the Cherokee Nation Tax Commission under the CN Motor Vehicle Code to said public schools and Sequoyah High School in accordance with the allocation formula set forth in 68 CNCA § 1306; (2) an amount equal to twenty percent (20%) of all such fees and taxes so collected for expenditure on the construction or maintenance of the following highways within the jurisdictional area of Cherokee Nation: federal highways, state highways or highways constructed or maintained with funds apportioned pursuant to 47 O.S. § 1104(A) that are part of the counties' collector system, all in accordance with 68 CNCA § 1306(C)(3) of said Code; and (3) an amount equal to five percent (5%) of the amount of such fees and taxes remaining after payment of the Nation's costs incurred in administering the CN Motor Vehicle Code to counties and municipalities within the jurisdictional area of the Cherokee Nation and/or to the Cherokee Nation Marshal Service, as provided in 68 CNCA § 1306(C)(4) of said Code. The Nation further agrees that it will continue making said annual payments to said schools, counties, municipalities, Marshal Service and highway construction or maintenance projects in accordance with the provisions of the CN Motor Vehicle Code, as in effect on the day this Compact becomes effective, so long as this the Compact remains in effect.

Section 7: Sovereign Powers and Jurisdiction Unaffected; No Partnership or Agency Created

Nothing in this Compact is intended or shall be construed to enlarge, diminish or otherwise affect the sovereign powers or jurisdiction of either party over any persons or territory. Nothing in this Compact shall prohibit the State from requiring motor vehicle registration and the payment of fees and taxes by any resident of this state who does not reside, or whose motor vehicle is not principally garaged, in Indian country. No provision in this Compact shall be construed as an admission, concession or acknowledgement by the State that (1) the Nation has civil or criminal jurisdiction over territory that is not "Indian country" or (2) any particular lands and/or territory constitute Indian country, either as a formal or informal reservation or otherwise. Nor shall any provision herein be construed as an admission, concession or acknowledgement by the Nation that (1) it does not have such jurisdiction over territory that is not Indian country or (2) any particular lands and/or territory do not constitute Indian country either as a formal or informal reservation or otherwise. Further, this Compact is not intended, and shall not be construed, to create a partnership, joint venture or agency relationship between the Nation and the State.

Section 8: Term

This Compact shall remain in effect for a period of ten (10) years, commencing on the effective date described in Section 9 hereof, and shall automatically renew for a like period unless prior to the end of the initial term either of the parties gives written notice to the other that the Compact shall not be renewed. Provided, however, the parties agree that either party may terminate this Compact without cause by giving the other party ninety (90) days' written notice in accordance with Section 9 hereof, and provided further that either party may terminate the Compact for cause by giving the other party twenty (20) days' written notice in accordance with said section, which notice shall state the conduct, occurrence or condition giving rise to cause for termination. Provided, the parties agree that if either is terminating for cause, the party proposing to terminate the Compact should-but is not required to-give the other party opportunity and reasonable time to cure or otherwise correct the conditions described in the notice as grounds for termination.

Section 9: Effective Date

This Compact shall go into effect when it has been executed and/or approved by all of the following: the Governor of the State of Oklahoma, the Joint Committee of the Oklahoma Legislature on State-Tribal Relations, the Principal Chief of Cherokee Nation, and the Tribal Council of Cherokee Nation.

Section 10: Notices

All notices authorized or required under this Compact shall be in writing and sent by way of certified U.S. mail to the following officials or their successors in office:

To the State of Oklahoma:

Governor Frank Keating
212 State Capitol Building
2300 North Lincoln Blvd.
Oklahoma City, OK 73105

To the Cherokee Nation:

Chad Smith, Principal Chief
Cherokee Nation
P.O. Box 948
Tahlequah, OK 74435

EXECUTED by the parties on the dates set forth below.

STATE OF OKLAHOMA

By: _____

Frank Keating, Governor

Date: _____

CHEROKEE NATION

By: _____

Chad Smith, Principal Chief

Date: _____

Approved:

Joint Committee on State-Tribal Relations

By: _____

Chairman

Date: _____

Cherokee Nation Tribal Council

[Copy of Resolution No. attached as Exhibit C]

History

Source. LA 36–01, eff. September 24, 2001.

Amended. LA 09–02, eff. March 15, 2002.

United States Code

Indian country defined, see 18 U.S.C. § 1151.

Library References

Indians <KEY>226, 235.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149.

