



## Legislation Text

File #: 10-117, Version: 2

### A LEGISLATIVE ACT AMENDING TITLE 68 - REVENUE AND TAXATION OF THE CHEROKEE NATION CODE ANNOTATED; AMENDING CHAPTER 3 SECTION 31 - DEFINITIONS; AND ADDING NEW SECTION 35

#### BE IT ENACTED BY THE CHEROKEE NATION:

##### Section 1. Title and Codification.

This act shall be known as the "The Cherokee Nation Revenue and Taxation Amendment Act of 2010" and codified as Title 68, Chapter 3, Section 31 and Section 35 of the Cherokee Nation Code Annotated.

##### Section 2. Purpose.

The purpose of this act is to amend CNCA Title 68 - Revenue and Taxation, to add new definitions and provisions for special event permits.

##### Section 3. Definitions - added.

Title 68 Chapter 3, Section 31 is hereby amended as follows, to include the following new definitions:

##### § 31. Definitions

For purposes of this chapter:

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

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

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

1. Cash paid.
2. Any amount for which payment is charged, deferred, or otherwise to be made in the future, regardless of the time or manner of payment.
3. Any amount for which credit or a discount is allowed by the vendor.
4. 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.

**D. "An 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.

**E. "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.

**F. "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 Section 32 et seq. of Title 68 of the Cherokee Nation Statutes by special event vendors.

**G. "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.

**H. "Special event vendor"** means a person making sales of tangible personal property or services taxable under Section 32 et seq. of Title 68 of the Cherokee Nation Statutes at a special event within this Nation and who is not permitted under Section 32 of Title 68 of the Cherokee Nation Statutes.

#### **Section 4. Substantive Provisions - Adding New Section 35**

Title 68 Chapter 3 is hereby amended as follows, to include the following new Section 35:

##### **§ 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 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 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.** 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 Section 1364 of this title. The list shall include the vendor's name, address, telephone number and sales tax permit number.

**F. Denial of limitation.** 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 (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.

**Section 5. Provisions as cumulative**

The provisions of this act shall be cumulative to existing law.

**Section 6. Severability**

The provisions of this act are severable and if any part of provision hereof shall be held void the decision of the court so holding shall not affect or impair any of the remaining parts or provisions of this act.

**Section 7. Effective Date**

The provisions of this act shall become effective thirty (30) days from and after the date of its passage and approval.

**Section 8. Self-Help Contributions**

To the extent that this Act involves programs or services to citizens of the Nation or others, self-help contributions shall be required, unless specifically prohibited by the funding agency, or a waiver is granted due to physical or mental incapacity of the participant to contribute.