

Kickapoo Tribe in Kansas

Net Gaming Revenue Allocation Ordinance

KICKAPOO TRIBE IN KANSAS

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ARTICLE I

PURPOSE OF NET GAMING REVENUE ALLOCATION ORDINANCE

Section 1. The Kickapoo Tribe in Kansas owns and operates the Golden Eagle Casino located within the confines of the Kickapoo Reservation near Horton, Kansas. The primary purpose of this casino is to improve the economic condition of members of the tribe. The casino shall employ tribal members and net revenues generated by the casino shall be used to fund tribal government operation and programs, promote tribal economic development, and provide for the general health, education and welfare of the Kickapoo Tribe in Kansas and its members, as provided in this Ordinance.

Section 2. In accordance with Federal Law (25U.S.C. 2710)(b) (2) and (3), the Kickapoo Tribe in Kansas hereby formalizes its plan for the allocation of such net gaming revenues for Tribal purposes and for Per Capita distributions to its General Membership.

ARTICLE II

DEFINITIONS

The following definitions shall apply to applicable words or terms used in this Ordinance.

- a. Eligible Tribal Member: any living enrolled member of the Kickapoo Tribe in Kansas of the Kickapoo Reservation in Kansas, who has not relinquished or waived his rights to be on the tribal roll, who otherwise meets the criteria established by this Ordinance.
- b. Tribal Council: the governing body of the Kickapoo Tribe in Kansas responsible for the day-to-day operations of the tribe.
- c. General Council: all enrolled members of the Kickapoo Tribe in Kansas, twenty-one years or older, present during a General Council meeting.
- d. Gaming Enterprise: refers to the Golden Eagle Casino facility (and/or any other Class II or III gaming facility, excluding charitable gaming operations approved by the Tribal Council, in which the Kickapoo Tribe in Kansas has an interest in the net revenues of said facility).
- e. Net Gaming Revenue: the revenue retained by the Kickapoo Tribe in Kansas after all expenses and dues, including but not limited to loan payments, player winnings, equipment costs, adequate contingency reserves, supplies, casino employee wages and salaries, fees, etc., are expended or allocated from the gross revenues to operate the Gaming Enterprise.
- f. Per Capita: payments made or distributed to all eligible tribal members of the Kickapoo Tribe in Kansas, which funds are paid from a specified portion of the Gaming Enterprise's Net Gaming Revenue.
- g. Per Capita Pay Period: the semi-annual period of time established by the General Council used to calculate actual Net Gaming Revenue for the period. These pay periods shall be from January 1, to June 30 and July 1 to December 31 of each year.
- h. Distribution Date: dates established for the distribution of Per Capita Payments. Those dates set by the General Council are June 15, and December 15 of each year.

ARTICLE III

ALLOCATION OF NET GAMING REVENUE

Section 1. The Kickapoo Tribe in Kansas dedicates its Net Gaming Revenues to the following purposes or programs and in the percentages shown.

- a. 31% of the Net Gaming Revenues shall be used to fund or supplement Tribal Government Operations and Programs. This percentage allocation includes the Kickapoo Gaming Commission and their allocation is not to exceed \$750,000.00.
- b. 30% of the Net Gaming Revenues shall be used for Per Capita distributions to all enrolled eligible tribal members. An equal share will be deposited into a contingency fund for each pending appeal received by the eligibility date for that distribution period as defined by Article II, sec.n. When an appeal ruling is made, the pending per capita payments will either be distributed for appeals won or returned for the next distribution period on appeals lost.
- c. 39% of the Net Gaming Revenues shall be used to fund tribal economic development, including but not limited to developing tribal business enterprises, business opportunities, goods, and services that may provide employment to its members, and financial returns to the tribe and its members.
- d. As the money in the money market account with "Alliance Capital" becomes liquid, the liquid portion will be applied to the next Per Capita Distribution period. This action will continue until the money market account no longer exists.

Section 2. The purposes and proportions for the expenditure of Net Gaming Revenues may be changed by a majority vote of the General Council.

ARTICLE IV

ELIGIBILITY FOR PER CAPITA PAYMENTS

Section 1. Every living person who is an enrolled eligible tribal member of the Kickapoo Tribe in Kansas on the eligibility date is eligible to receive a Per Capita Payment, except that such person shall not be eligible for a per capita payment if he:

- a. Becomes dis-enrolled or withdraws from the tribal roll or who otherwise provides a notarized waiver of his right to a per capita payment, or
- b. is found liable for, or is convicted of or pleads guilty to, embezzlement, theft, conversion, extortion, or fraud against the Kickapoo Tribe in Kansas and/or the Golden Eagle Casino.

Section 2. In the event that an eligible tribal member dies on or after the eligibility date set for the distribution of a Per Capita Payment, then that member's final Per Capita Payment shall be made to his estate or heir's account as determined by the Department of Interior Administrative Law Judge's Order or a court of competent jurisdiction.

Section 3. Distribution shall be based on the membership list as of the eligibility date and as approved by the Tribal Council and certified by the Kickapoo Tribe in Kansas Enrollment Office. And shall include persons who have filed a completed membership application and all required documents and information with the Tribal Enrollment Office by the eligibility date and who are subsequently approved for tribal membership as stated in the Tribal Constitution.

Section 4. Appeals. Any person excluded from eligibility by the terms of this ordinance shall have the right of appeal to the General Council and will have the right to due process of the law, in accordance with the tribe's governing document, whereas the Tribal Court will have the final decision to a person's eligibility.

- i. Minor: an eligible tribal member who is otherwise eligible to participate in a Per Capita payment except that he has not reached eighteen (18) years of age on the date set for distribution.
- j. Secretary: the Secretary of the Interior or his authorized representative.
- k. Horton Field Representative: the official or other delegated representative of the Bureau of Indian Affairs in charge of the field office which has immediate federal administrative responsibility for the affairs of the tribal, band, or group for which a Net Gaming Revenue Allocation Ordinance is prepared.
- l. IGRA: the Indian Gaming Revenue Allocation Ordinance: the document submitted by the IGRA: the Indian Gaming Revenue Allocation Ordinance: the document submitted by the Kickapoo Tribe in Kansas for distributing net gaming revenues.
- m. Net Gaming Revenue Allocation Ordinance: the document submitted by the Kickapoo Tribe in Kansas for distributing net gaming revenues.
- n. Eligibility Date: the date a person is determined eligible to receive a Per Capita payment. The eligibility date is May 15 and November 15 of each year.

ARTICLE V

CALCULATION AND DISBURSEMENT OF PER CAPITA PAYMENTS

Section 1. This ordinance is set out so that all Net Gaming Revenues set in the percentages as shown in Article III, provides that every eligible tribal member of the Kickapoo Tribe in Kansas receives an equal share of such funds allocated for per capita payments.

Section 2. Each Per Capita Payment shall be disbursed within 30 days after the Per Capita Pay Period. (Article II, Section (g)).

Section 3. Each Per Capita Payment shall be made by tribal check, made payable to the enrolled eligible tribal member, except in the case of incompetents or minors. (Article V, Section (4), (5) listed below).

Section 4. Per Capita Payments to Legally Incompetent Tribal Members- Per Capita Payments to those determined to be Legally Incompetent shall take place as follows:

- a. The Tribal Council shall place the Per Capita payment, or any portion or percentage thereof, on behalf of any individual who is declared incompetent by a court of competent jurisdiction into a low-risk interest bearing trust account in a federally insured financial institution or in a direct obligatory of the United States Government or in funds invested solely in United States Government Funds.
- b. Upon the Petition of the legal guardian of the individual declared Legally Incompetent, the Tribal Court, shall pursuant to all applicable provisions of the Kickapoo Tribal Law, provide for the making of disbursements necessary for the Health, Education, Welfare, Maintenance and Support of any individual declared Legally Incompetent from the proceeds of any Per Capita Payment placed in trust. Such Petition shall include a detailed budget of monies necessary for the Health, Education, Welfare, Maintenance, and Support of the Individual declared Legally Incompetent. The Tribal Court or its appointed agent may also require that the Petitioning guardian/conservator submit receipts of expenditures made from funds disbursed hereunder before any future disbursements are made. The establishment of a regular monthly allowance from the proceeds of any Per Capita Payment placed in a trust under this Section for any individual declared Legally Incompetent shall remain at the discretion of the Tribal Court.

Section 5. Per Capita Payments to Minors- Per Capita Payments shall be made to minors as follows:

- a. In order to provide for the future Safety, Education, Welfare, Maintenance, and Support or the children of Tribal members, the Tribal Council hereby authorizes that Per Capita Payments designated for Qualified Minor Tribal Members shall be deposited into a "Minors Trust Fund" established for the

protection of the Tribe's Minors and on behalf of each Minor in a low-risk interest bearing Trust Account in a Federally Insured Financial Institution or in a direct obligatory of the United States Government or in funds invested solely in United States Government Funds.

- b. Payments into the Minors Trust Fund shall be deposited into account(s) for the Qualified Minor Tribal Member. Said Minors' Trust Funds may be separate accounts for each Minor or may combine more than one Minors' fund, provided that separate accountings for each Minor is kept in the Tribe's permanent accounting records. Funds may be invested in a lump sum without impairing the Minors' individual interests in the same. Account balance statements shall be available to the participant, parent, parents, or legal guardian of the Qualified Minor Tribal Member upon request.
- c. The right to the monies accumulated in the "Minors Trust Fund," including all accumulated income, if any, for each Qualified Minor Tribal Member shall vest upon the Minor reaching the age of eighteen (18) years. Application for payment upon attainment of age eighteen (18) shall be approved upon sufficient evidence showing of eligibility by the person requesting the funds to the Tribal Council or its appointed agent. Distribution of any accrued per capita sums and accumulated income thereon shall be made at the end of the quarter in which the member attains age eighteen (18) years unless the beneficiary elects in writing to leave such funds invested in the trust.
- d. Prior to the Qualified Minor Tribal Member reaching the age of eighteen (18) years, the Tribal Court shall, pursuant to applicable provisions of the Kickapoo Tribal Law, have the authority to disburse proceeds of any funds placed into the "Minors Trust Fund" to the parent or legal guardian on behalf of a Qualified Minor Tribal Member. Request for such disbursements shall include a detailed budget of monies necessary for the Health, Education, Welfare, Maintenance and Support of the Minor and a detailed justification in writing and signed by the parent or legal guardian of the Minor. The Tribal Court may also require that Petitioner(s) submit receipts of expenditures made from funds disbursed hereunder before any future disbursements are made.
- e. If the Qualified Minor Tribal Member dies before reaching the age of eighteen (18) years, the money placed into the "Minors Trust Funds" on behalf of the Qualified Minor Tribal Member shall not vest. Such funds shall be disbursed to the Per Capita Fund.

Section 6. Any dispute regarding this ordinance, implementation thereof, or action taken there under shall be first presented to the General Council within 60 days after a written notice of dispute is submitted to the Secretary of the Tribal Council and the General

Council whose decision may then be appealed to the Tribal Court for the Kickapoo Tribe in Kansas, whose judicial decision shall be final.

Section 7. The Kickapoo Tribe in Kansas will include with each Per Capita Payment a statement reading: Federal Law requires that Kickapoo Tribe in Kansas to inform you that this Per Capita Payment is subject to Federal Taxation. (25 U.S.C. Section 2710 (b)(3)(d). The Kickapoo Tribe in Kansas shall withhold Federal Income Tax from each Per Capita Payment as may be required under Internal Revenue Service regulations (26 CFR part 31) and pay such tax to the Internal Revenue Service. The Kickapoo Tribe in Kansas will provide the appropriate annual tax statements to the eligible tribal member by the end of January following the tax year.

Section 8. The Tribal Council shall report on a semi-annual basis to the General Council on the status of all expenditures and investments authorized pursuant to this Ordinance.

ARTICLE VI

ADOPTION AND AMENDMENT

Section 1. This ordinance will become effective upon its approval by a majority vote of the General Council of the Kickapoo Tribe in Kansas.

Section 2. This ordinance may only be amended by a majority vote of the General Council of the Kickapoo Tribe in Kansas provided that the Tribal Council shall be authorized and is hereby directed to make required amendments as instructed by the Secretary of the Interior for compliance with 25 U.S.C. Section 2710 et seq. These amendments become effective when approved by the Secretary of Interior or his representative.