

**DELAWARE NATION
REVENUE ALLOCATION PLANS**

ARTICLE I - DECLARATION OF PUBLIC POLICY AND PURPOSE

Section 1. The Delaware Nation of Western Oklahoma, ("*the Nation*") owns and operates a gaming enterprise located within the confines of its Indian lands. The primary purpose of this casino is to improve the economic condition of members of *the Nation*. The casino will employ tribal members and the revenue generated by the casino shall be utilized to fund tribal government operations and programs and to promote the tribal economic development, moral, cultural, education and health status of the Delaware Nation and its members, as provided for in this Plan.

Section 2. Federal Law currently governs how the *net revenues* from the gaming enterprise may be expended. [25 U.S.C. Section 2710 (b) (2) (B) (3)]. *The Nation* hereby formalizes its Plan for the allocation of such net gaming revenues both, for general tribal government/operations/programs, and for Per Capita Distributions to enrolled members of the Delaware Nation.

ARTICLE II -DEFINITIONS

As used in this Plan, the following words shall have the following meanings unless the context clearly requires otherwise.

- (a) "*The Nation*" means the Delaware Nation, a federally recognized Indian Tribe exercising its jurisdiction over the land set aside from the former reservation, for its respective use, and other Indian lands they currently possess or may come to possess.
- (b) "Executive Committee" means the six-member Committee, (elected by the Delaware Nation's General Council and comprised of the President, Vice President, Secretary, Treasurer and two Committeemen), of *the Nation* which exercises the executive powers of *the Nation* pursuant to the Constitution and By-Laws of the Delaware Nation.
- (c) "General Council" means all enrolled members of the Delaware Nation, eighteen years of age and older.
- (d) "Eligible Tribal Member" means any *living enrolled* member of *the Nation* who is in good standing, and has not forfeited or waived his/her right to receive Per Capita Payments from *the Nation's* Net Gaming Revenues through disenrollment, and who is not excluded by this Plan from receiving such payments.
- (e) "Gaming Enterprise" means the Gold River Casino, (and/or any other Class II or Class III gaming facility owned and operated by *the Nation*.)

- (f) "Net Gaming Revenue" means that *revenue* from the Gaming Enterprise *remaining* at the end of each calendar month, *after* disbursement of expenses and dues, including but not limited to loan payments, player winnings, equipment costs, adequate contingency reserves, supplies, casino employee wages, salaries, fees, etc. and all other expenses, if applicable, for that month or period.
- (g) "Per Capita Payment" or "Per Capita Distribution" means those payments made or distributed from a specified portion of *the Nation's* net Gaming Revenues, from the Gaming Enterprise or, any gaming activity, to *all* eligible tribal members of the Delaware Nation.
- (h) "Per Capita Pay Period" means that period of time established by the Executive Committee that is used to calculate Net Gaming Revenue available for per Capita Payments.
- (i) "Tribal Member" means any enrolled member of *the Nation*.

ARTICLE III - ALLOCATION PLAN

Section 1. *The Nation* intends to dedicate its Net Gaming Revenue from its gaming enterprise to the following purposes/programs and, in the percentages set forth in this Article III as follows:

- (a) Thirty-three percent (33%) of Net Gaming Revenue shall be used to fund Tribal Government Operations/Administration.
- (b) Twenty-five (25%) shall be used to promote tribal economic development, including but not limited to developing and/or expanding tribal business enterprises, investing in acquisition of land, business opportunities, goods and services that will provide employment and financial returns for *the Nation* and its members and also for payment of meeting fees and/or travel expenses for members of "Commissions" developed for, or associated with economic development.
- (c) Eight percent (8%) shall be used for Community Services and programs, inclusive of social services, education, health, nutrition and burial assistance.
- (d) One percent (1%) shall be used as donations to tribal and or non-tribal charitable organizations.
- (e) Thirty-three percent (33%) of Net Gaming Revenue shall be used for distribution of Per Capita Payments to eligible tribal members.

Section 2. Except in the case of funding provided in Section 1 (e) above for Per Capita Distribution, which amount shall remain constant at thirty-three (33%), *the Executive*

Committee shall have the authority to move not more than ten percent (10%) of the funding provided in each category (Section 1 (a) through (d)) to any other category if the funding in the category from which the money is being taken is not necessary for the stated purposes, and if the funding is required for the category into which the money is being transferred. Otherwise, the purposes and proportions for the expenditure of Net Gaming Revenue may be changed only by a vote of the General Council, as provided in Article VI herein relating to amendments required to obtain Secretarial approval of this Plan pursuant to the Indian Gaming Regulatory Act.

Section 3. The Executive Committee shall ensure that a monthly accounting is made of Net Gaming Revenues, and that each month, the appropriate percentages of such Net Gaming Revenues are earmarked and set aside for the expenditures described in Article III, Section 1 (a) through (e) above.

ARTICLE IV – ELIGIBILITY FOR PER CAPITA PAYMENTS

Section 1. Every living person who is an enrolled member of *the Nation* is eligible to receive a full Per Capita Payment, unless:

(a) that person is found guilty, or pleads guilty or no contest in a court of competent jurisdiction, to an offense involving theft, conversion, embezzlement or extortion from a gaming enterprise, or who is found by the Executive Committee to be indebted to the nation from a gaming related incident, after notice and hearing, he/she forfeits his/her rights to any per capita payment for a period of one to three years.

(b) that person becomes disenrolled or withdraws his/her membership during a Per Capita Pay Period prior to the date of distribution, in which case such person shall not receive a Per Capita Payment for that Pay period.

Section 2. In the event that an eligible tribal member dies on, or prior to the date set for distribution of the per Capita Payment, that member's final Per Capita Payment shall be made to that person's estate or heir's account pro-rated in exact proportion to the number of calendar days that person was alive during the last Per Capita Pay Period; (Total amount of Per Capita owed divided by total number of calendar days times total number of days of member's life up to the day before the death of member.)

Section 3. Distribution shall be based on the latest membership list, developed in accordance with Article III of the Tribal Constitution, approved by the Executive Committee and certified by the Delaware Nation Enrollment Specialist.

Section 4. Appeals. Any person excluded from eligibility by the terms of this Plan, shall have the right to file an appeal. (See Article VI – Appeals Process)

ARTICLE V – CALCULATION AND DISBURSEMENT OF PER CAPITA PAYMENTS

Section 1. This Plan is set out to establish *all* Net Gaming Revenues, in the percentages as shown in Article III, Section 1, (a) through (e), specifically, Section 1, (e) which provides that every eligible tribal member of the Delaware Nation receives an equal share of the 33% of Net Gaming Revenue allocated for per capita payments.

Section 2. Each Per Capita Payment shall be disbursed within thirty days after the end of the Per Capita Pay Period.

Section 3. Each Per Capita Payment, except in the case of incompetents or minors, (see Article V, Section (4), (5) listed below), shall be made by tribal check, payable only to the eligible tribal member, and shall be mailed to the member's last known address.

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 Executive Committee shall insure that a Per Capita Payment made, on behalf of any individual who is declared incompetent by a Court of competent jurisdiction, is deposited 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 Executive Committee shall provide for the making of disbursements necessary for his/her health, education, welfare, maintenance and support from the proceeds of any Per Capita Payment placed in trust. Such Petition shall include a detailed budget of monies necessary for the purposes mentioned above. The Executive Committee, or its appointee 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 monthly allowance from the proceeds of any Per Capita Payment placed in trust under this Section for any individual declared Legally Incompetent shall remain at the discretion of the Executive Committee.
- (c) Should the individual declared incompetent die, the money placed into a trust fund on his/her behalf shall be made to that individual's estate or heir's account. Per Capita Payment shall be all monies accumulated to the day before date of death and shall be pro-rated for the year individual became deceased in exact proportion to the number of calendar days that individual was alive during the last per Capita Pay Period: (Total amount of Per Capita owed divided by total number of calendar days times total number of days of individual's life up to the day before the death of the individual).

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 of the children of tribal members, the Executive Committee shall have the Per Capita Payments, designated for enrolled *Minors*, deposited into a “Minors Trust Fund” established for the protection of *the Nation’s* Minors and, on the 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 enrolled Minors. Said Minors’ Trust funds may be separate accounts for each minor, or may be combined, provided that separate accountings for each Minor is kept in *the Nation’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 enrolled Minor upon request.
- (c) The right to the monies accumulated in the “Minors Trust Fund,” including all accumulated income, if any, for each enrolled Minor 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 eligibility by the person requesting the funds to the Executive Committee or its appointee. 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 trust beneficiary elects in writing to leave such funds invested in the trust.
- (d) Prior to the enrolled Minor reaching the age of eighteen (18) years, the Executive Committee shall 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 Minor. 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 Executive Committee *may* also require that Petitioner(s) submit receipts of expenditures made from funds disbursed hereunder before any future disbursements are made.
- (e) If the enrolled Minor should die before reaching the age of eighteen (18) years, the money placed into the “Minors Trust Funds” on behalf of the Minor shall be made to that minor’s estate or heir’s account. Per Capita

Payment shall be all monies accumulated to day before date of death and shall be *pro-rated for the year minor became deceased* in exact proportion to the number of calendar days that person was alive during the last Per Capita Pay Period; (Total amount of Per Capita owed divided by total number of calendar days times total number of days of member's life up to the day before the death of the member).

Section 6. The Delaware Nation will include with each Per Capita Payment a statement reading, "Federal Law requires the Delaware Nation to inform you that this Per Capita Payment is subject to Federal Taxation, (25 U.S.C., Section 2710 (b)(3)(d). The Delaware Nation 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 Delaware Nation will provide the appropriate annual tax statements to the eligible tribal members by the end of January following the tax year.

Section 7. The Executive Committee, or their appointee, shall report on a semi-annual basis to the General Council on the status of *all* expenditures and investments authorized pursuant to this Plan.

ARTICLE VI – APPEALS PROCESS

The formal appeal process is the means by which an enrolled member of the Delaware Nation may challenge administrative decisions relating to the distribution of funds, or the denial, or the rejection of requests for monetary assistance provided for in this Plan.

1. **Procedures for filing an Appeal:**

- (a) To initiate an appeal, the tribal member must write a letter within six (6) months from the date of denial or rejection describing in detail, their appeal. This letter shall be addressed to the Delaware Nation's Enrollment Specialist or designee for review with a copy to the Tribal Administrator.
- (b) The Enrollment Specialist will review the letter, contact the involved persons and make a decision regarding the Appeal. A written response will be given in writing to the tribal member within (10) work days from the receipt of the appeal. A copy of letter will be given to the Tribal Administrator.
- (c) If the decision of the Enrollment Specialist is not satisfactory to the tribal member, a final appeal may be initiated and submitted to the Delaware Nation's Executive Committee, through the tribal President, requesting a hearing. This appeal must be submitted within ten (10) work days from receipt of letter with decision from Enrollment Specialist. A copy of the Enrollment Specialist's letter must be attached.

- (d) The appeal will be placed on the agenda of the next regularly scheduled Executive Committee meeting, provided the written request for hearing has been received ten (10) working days prior to the scheduled meeting. If the written request is received less than ten (10) days prior to the scheduled meeting, the hearing for appeal will be scheduled for the next scheduled meeting of the Executive Committee. Once the date has been set for the hearing, the tribal member will be notified by Certified Mail of date, time and location.

2. Appeal Hearing Procedure:

- (a) During the hearing, the Executive Committee will review the appeal and give the tribal member an opportunity to address his issues and any evidence related to and in support of his initial request for assistance. The Executive Committee will also give the Enrollment Specialist an opportunity to offer any information relevant to the tribal member's request to include their specific grounds for justification for rejection of the tribal member's appeal.
- (b) At the conclusion of the evidence presented by the tribal member and the Enrollment Specialist, the Executive Committee shall excuse the tribal member and the Enrollment Specialist and go into Executive Session. The Executive Committee may, during this time, request the presence of either, or both the tribal member and the Enrollment Specialist to answer questions.
- (c) In the case where a tribal member is unable to attend the meeting, for whatever reason, the Executive Committee will ensure that the tribal member is given a fair and impartial hearing and that the tribal member will be informed of their decision by Certified mail.

3. Conclusion:

The Executive Committee may either dismiss the appeal or request the Enrollment Specialist approve the request made by the tribal member.

The ruling of the Executive Committee on the appeal shall be the final decision.

ARTICLE VII – ADOPTION AND AMENDMENT

Section 1. This Plan shall become effective upon its approval by a majority vote of *The Nation's* General Council at a duly noticed meeting.

Section 2. This Plan may only be amended by majority vote of The Delaware Nation's General Council; provided, however, that the Executive Committee shall be authorized, and is hereby directed to submit any amendments to this Plan, as required, to the Secretary of the interior or his/her designated representative, in order to obtain the Secretary's approval in compliance with 25 U.S.C. Section 2710 et seq. These

amendments become effective when approved by the Secretary of the Interior or his representative.

The Delaware Nation

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Resolution No. 02-10

A RESOLUTION TO SUBMIT THE DELAWARE NATION'S APPROVED TRIBAL REVENUE ALLOCATION PLAN IN ACCORDANCE WITH THE INDIAN GAMING REGULATORY ACT OF 1988 (Public Law 100-497)

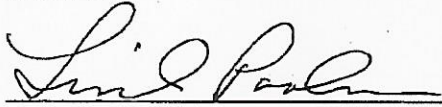
- WHEREAS,** The Delaware Nation is a sovereign, federally recognized Nation having the inherent powers of self-government and governed by an approved Constitution and Bylaws, and
- WHEREAS,** pursuant to the Constitution, "the Executive Committee of The Delaware Nation shall have full authority to act on behalf of the Nation in all other matter upon which the Nation is empowered to act now and in the future...." (Article VI, Powers, Section 2), and
- WHEREAS,** according to the Constitution, Article II and VI, the Delaware Executive Committee is designated as the entity with the power to represent and act on behalf of the Tribe in all matters concerning the general welfare of the Tribe, including the Tribal Revenue Allocation Plan, and
- WHEREAS,** in a duly called meeting of the Tribal Council, with a quorum present, on December 15, 2001, the Tribal Revenue Allocation Plan agenda item was presented and passed with 28 in favor, 0 against, and 0 abstentions, and
- WHEREAS,** in a duly called Executive Committee meeting on November 20, 2001, the Committee approved the Tribal Revenue Allocation Plan by a vote of 5 in favor, 0 against, and 0 abstentions.

NOW THEREFORE BE IT RESOLVED, the Executive Committee, in accordance with the Indian Gaming Regulatory Act of 1988 and through the procedures of the 25 Code of Federal Regulations, Part 290, approval action(s) of the Tribal Council and the Delaware Executive Committee, culminates the submission of this approved Tribal Revenue Allocation Plan, specifically, in accordance with 25 CFR Part 290, Section 290.18.


CERTIFICATION

The foregoing Resolution was adopted by the Executive Committee of The Delaware Nation on November 20, 2001, in Anadarko, Oklahoma by a vote of 5 for, 0 against and 0 abstentions, a quorum being present.

ATTEST


Linda Poolaw, Secretary

APPROVED


Bruce Gonzales, President