

St. Croix Chippewa Indians of Wisconsin

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ST. CROIX TRIBAL COUNCIL RESOLUTION NO. 08-27-09-01

ADOPTION OF CLAIMS AGAINST PER CAPITA ORDINANCE

WHEREAS, the St. Croix Chippewa Indians of Wisconsin is a federally recognized Tribe organized under Section 16 of the Indian Reorganization Act of 1934, 25 U.S.C. part 476 and possessing a government-to-government relationship with the United States of America; and

WHEREAS, the Tribe is organized under a Tribal Constitution and By-laws approved by the Secretary of the Interior or his authorized delegate on November 12, 1942; and

WHEREAS, the St. Croix Chippewa Tribal Council is the governing body of the St. Croix Chippewa Indians of Wisconsin; and

WHEREAS, the St. Croix Chippewa Indians of Wisconsin issue monies to its enrolled members commonly referred to as "per capita" payments; and

WHEREAS, the St. Croix Chippewa Indians of Wisconsin as a sovereign have the ability to limit the availability of "per capita" monies to certain classes of financial claims against St. Croix tribal members; and

WHEREAS, the St. Croix Tribal Council, by the powers residing in them by the St. Croix Tribal Constitution, has determined a need to regulate the allowable claims against "per capita" distribution by the adoption of a tribal ordinance.

NOW THEREFORE BE IT RESOLVED that the St. Croix Tribal Council hereby adopts the attached Claims Against Per Capita Ordinance; and

BE IT FURTHER RESOLVED that this Ordinance is effective as of August 27th, 2009.

CERTIFICATION

I, the undersigned as Secretary/Treasurer of the St. Croix Tribal Council, do hereby certify that the Council is composed of five (5) members of whom 4 were present, constituting a quorum, at a meeting duly called, convened and held this 27th day of AUGUST, 2009 and that the foregoing resolution was adopted at said meeting by an affirmative vote of 4 members for 0 against and 0 members abstaining from the vote, and that said resolution has not been rescinded or amended in any way.


St. Croix Tribal Council

Lewis Taylor
Tribal Chairman
Big Sand Lake Community

Beverly Benjamin
Tribal Vice-Chairwoman
Danbury Community

David "Maabin" Merrill
Secretary/Treasurer
Round Lake Community

Elmer J. Emery
Representative
Big Sand Lake Community

Jeanne Awonohopay
Representative
Maple Plain Community

**ST. CROIX CHIPPEWA INDIANS OF WISCONSIN
CLAIMS AGAINST PER CAPITA ORDINANCE**

Enacted By Tribal Council Resolution No. 08-27-09-01

CHAPTER 1 – INTRODUCTION

- 1.01 Title This ordinance shall be known as the St. Croix Chippewa Indians of Wisconsin Claims Against Per Capita Ordinance.
- 1.02 Authority This ordinance is enacted pursuant to Article V of the Constitution and Bylaws of the St. Croix Chippewa Indians of Wisconsin.
- 1.03 Purpose This Ordinance establishes policy and rules for permitted claims against a Tribal member's per capita distribution.
- 1.04 Effective Date This ordinance shall be effective on the first day of the month following the month this ordinance is adopted by the Tribal Council of the St. Croix Chippewa Indians of Wisconsin.
- 1.05 Interpretation The provisions of this ordinance shall be interpreted and liberally construed in favor of the welfare of the citizens of the St. Croix Chippewa Indians of Wisconsin. The provisions of this ordinance shall not be deemed a limitation or repeal of any other Tribal authority.
- 1.06 Severability and Non-Liability If any section, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby. The St. Croix Chippewa Indians of Wisconsin further asserts immunity on its part and that of its employees and/or agents from any action or damages that may occur as a result of enforcement of this ordinance.
- 1.07 Repeal of Inconsistent Ordinances All ordinances and resolutions inconsistent with this ordinance are hereby repealed. To the extent that the ordinance imposes greater restrictions than those contained in any other Tribal ordinance, the provisions of this ordinance shall govern.

ST. CROIX CHIPPEWA INDIANS OF WISCONSIN CLAIMS AGAINST PER CAPITA ORDINANCE

CHAPTER 2 – DEFINITIONS

- 2.01 Elder Any person who is fifty-five years of age or more and is enrolled member of the St. Croix Chippewa Indians of Wisconsin.
- 2.02 Elder Abuse The failure of a tribal member to repay a loan made to them by an Elder.
- 2.03 Payment of a Per Capita Share The time at which preparation of checks and all preparatory activity concerning a Per Capita Distribution is complete and checks for Per Capita Shares, other than those which may be affected by claims hereunder, are placed in the U.S. Mail or delivered to another independent delivery service.
- 2.04 Per Capita Distribution A distribution made by the Tribe to its Tribal Members on an equal per capita basis pursuant to its (Per Capita Distribution Ordinance) then in effect, and in accordance with Section 11(b)(3) of the Indian Gaming Regulatory Act, 25 U.S.C. §2710(b)(3), or any successor statute, and any other distribution of Tribal assets or earnings disbursed on a per capita basis to Tribal Members.
- 2.05 Per Capita Share Each Tribal Member's equal pro rata share of a Per Capita Distribution, without reduction for any withholding, garnishment or levy permitted by this Ordinance, but after withholding at the source required by Federal income tax law.
- 2.06 Tribal Member A person duly enrolled as a Member of the St. Croix Chippewa Indians of Wisconsin in accordance with the Constitution and Bylaws of the Tribe.
- 2.07 Tribe The St. Croix Chippewa Indians of Wisconsin.
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ST. CROIX CHIPPEWA INDIANS OF WISCONSIN CLAIMS AGAINST PER CAPITA ORDINANCE

CHAPTER 3 – REGULATIONS

- 3.01 Character of Per Capita Distribution/ No Right to Compel Per Capita
Distributions shall be made when and as determined or declared in accordance with the (per capita ordinance).
- 3.02 **Character of Per Capita Distribution / No Right to Compel.** Per Capita
Distributions shall be made, when and as determined or declared in accordance with Per Capita Distribution Ordinance and any and all other applicable laws of the Tribe, out of assets and earnings of the Tribe, and such assets and earnings shall retain their character as property of the Tribe until Payment of Per Capita Shares is actually made therefrom. No Tribal Member, nor any person claiming any right derived from a Tribal Member, including creditors of a Tribal Member, shall be entitled to compel the making of any Per Capita Distribution prior to the time of Payment thereof, and making each Per Capita Distribution, and the amount and timing thereof, shall at all times prior to Payment be subject to elimination or modification pursuant to any amendment to the then effective Per Capita Distribution Ordinance adopted in accordance with the Constitution and laws of the Tribe; provided that nothing contained herein shall preclude an action in the Tribal Court of the Tribe seeking to require any official or body of the Tribe to perform any administrative or ministerial duty required of him, her or them under the then effective Per Capita Distribution Ordinance. No Tribal Member, nor any person claiming any right derived from a Tribal Member, including creditors of a Tribal Member, shall have any right, title, interest or entitlements in any Per Capita Share unless and until Payment of Per Capita Distribution to which it relates occurs, and any right, title interest and / or entitlement accruing at Payment shall be subject to Section 3.03 hereof.
- 3.03 **Permitted Claims Against Per Capita Shares.**
- a. The following claims shall be recognized and enforced by the Tribe against a Per Capita Share at the time of Payment of the Per Capita Distribution of which it is a part and prior to the distribution of such Per Capita Share to a Tribal Member:
- (1) Any debt or monetary obligation then due and owing by the Tribal Member to

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the Tribe, whether by acceleration or otherwise, which (i) has been established by a judgment of the Tribal Court permitting recovery from such Tribal Member's Per Capita Share, or (ii) is stated in writing signed by the Tribal Member and in which the Tribal Member has agreed in writing may be recovered from his Per Capita Share upon delinquency, default, or other event;

(2) Any order of garnishment issued by the Tribal Court for purposes of child support pursuant to the Recognition of Foreign Child Support Orders, the Children's Code or other applicable law of the Tribe;

(3) Any federal income tax levy issued against the income or property of the Tribal Member held by the Tribe; and

(4) Any debt owed to an Elder, when the payment period for the debt has passed, or when it appears unlikely that the debtor intends to repay the obligation to the Elder. The penalty for Elder Abuse should be consistent with Tribal law and customs.

b. In the event that multiple claims described above are made against the same Per Capita Share: (i) federal tax levies described in paragraph a(3), above, shall have the first priority, except to the extent they allow prior payment of child support, (ii) child support payable under paragraph a(2), above, shall have the next priority, (iii) recovery of debts and obligations to the Tribe shall have the next priority.

3.04 **No Other Claims.** Except as specifically provided in Section 3.03, the Tribe shall not recognize or enforce any claim, garnishment, levy, attachment, assignment or other right or interest in a Per Capita Share. The Tribe shall pay the full amount of the Per Capita Share, less any claim recognized under Section 3.03, to the Tribal member whose interest in the Per Capita Distribution is represented thereby at the time of Payment, unless the Per Capita Distribution Ordinance shall otherwise required the payment of such Tribal Member's Per Capita Share to a trustee or other fiduciary pursuant to an arrangement established to protect such Tribal Member's interests.
