

**IOWA TRIBE OF OKLAHOMA**  
**GAMING REVENUE**  
**ALLOCATION PLAN**  
July 17, 2010

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**Development of Rap**

- Initial Discussion at General Council Meeting
- Iowa Tribal Advisory Committee Assembled
- Public Meeting
  - > Survey
- Finalization of Gaming Revenue Allocation Plan

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**Indian Gaming Regulatory Act**

Net gaming revenues can only be used for the following purposes:

1. To fund tribal government operations or programs;
2. To provide for the general welfare of the Indian tribe and its members;
3. To promote economic development;
4. To donate to charitable organizations; or
5. To help fund operations of local government agencies.

25 U.S.C. § 2710(b)(2)(B)

**AND . . .**

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## Indian Gaming Regulatory Act

As per capita payments to tribal members if:

- The tribe has prepared a plan to allocate revenues (RAP) to the § 2710(b)(2)(B) uses;
- The RAP is approved by the Secretary of the Interior as adequate, particularly regarding the § 2710(b)(2)(B) uses;
- The interests of minors and other legally incompetent persons are protected and preserved;
- Per capita payments are disbursed to the parents or legal guardian in such amounts as may be necessary for the health, education or welfare of the minor or legally incompetent person; and
- The per capita payments are subject to Federal taxation and tribes notify members of such tax liability when payments are made.

25 U.S.C. § 2710(b)(3)

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## Office of Indian Gaming Regulations

### Allocation of Net Gaming Revenues.

Net gaming revenues allocations, broken out and totaling 100%, must:

- Reserve an adequate portion of revenues to fund tribal government operations or programs, general welfare of the tribe and its members, promote tribal economic development, donate to charitable organizations, and fund local government operations.
- Contain detailed information that allows the Office of Indian Gaming (OIG) to determine that the RAP is adequate in this area, especially for funding of tribal government programs or operations and economic development initiatives.

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## Office of Indian Gaming Regulations

### Protection of Minors and Legal Incompetents.

The interests of minors and legal guardians must be preserved by:

- Ensuring that per capita payments are made to their parents or guardians at times and in the amounts necessary for their health, education, and welfare;
- Establishing criteria for withdrawal of the funds by parents/guardians, including what is acceptable proof or receipts to justify the decision-maker's disbursement or denial of the funds, and ensuring accountability exists;
- Establishing a process, system, or forum for dispute resolution;

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## Office of Indian Gaming Regulations

### Tax Liability Notification and Withholding.

The RAP must require that:

- ▶ Members be notified of the tax liability for the per capita payments at the time of distribution
- ▶ The Tribe shall withhold taxes for recipients in accordance with 26 C.F.R. Part 31.

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## RAP Approval

- ▶ Interior has 60 days to review and act on the RAP.
- ▶ If Interior does not act within 60 days, the Tribe can appeal the inaction pursuant to 25 C.F.R. Part 2.
- ▶ The RAP is not effective without the written approval of the Secretary or his designee. The Tribe cannot distribute per capita payments without an approved RAP.

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## Proposed Allocation Plan: Section 103. Percentages.

- ◎ Tribal Government Ops & Programs 30-35%
- ◎ General Welfare 35-40%
- ◎ Per Capita Payments 0-5%
- ◎ Tribal Economic Development 23-25%
- ◎ Charitable Donations 0- 2%

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### Discretionary Allocation

- The Business Committee may authorize an allocation of five percent (5%) of net gaming revenues for Per Capita distributions unless it finds that there is an economic crisis threatening a severe reduction or suspension of Tribal programs, services or benefits. Situations that shall automatically be deemed to constitute an economic crisis during which Per Capita distributions may not be made shall be:
- A condition of insolvency; and/or
- (2) Failure of the gaming operation to return a profit in the quarter preceding the consideration of authorization of the distribution.

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### Emergency Provision

- If the Business Committee determines that an economic crisis requires the Tribe to redirect the funds otherwise allocated to Per Capita Payments, all funds not allocated to Per Capita Payments shall be allocated to either the General Welfare of the Tribe and its members or Tribal Government Operations and Programs within the parameters set out in subsection (a) such that the combination exactly reaches seventy-five percent (75%) of net gaming revenues.

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### Section 104. Eligibility for Per Capita Payments.

- ...persons meeting the qualifications for membership in the Tribe pursuant to the Tribal Constitution, and duly entered into the Tribal rolls at least sixty (60) calendar days prior to a Per Capita distribution.
- Members must be registered at least thirty (30) calendar days prior to a Per Capita distribution.
- Members who enroll in another federally recognized Indian tribe shall not be eligible for Per Capita Payments from the Iowa Tribe.
- Per Capita Payments for members who become deceased before the benefits are distributed shall become null and void upon the person's death and shall be retained by to the Iowa Tribe for re-distribution.

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**Section 105. Distribution of Per Capita Payments.**

- ⦿ Distribution by June 15 and December 15, annually if authorized
- ⦿ Equal distribution among eligible tribal members.
- ⦿
- ⦿
  - > Members opting to have Per Capita Payments placed in their bank accounts via direct deposit must provide a bank account number, bank routing number, and blank check to the Tribe so that it may set up the electronic funds transfers.
  - > Per Capita Payment distributions may not be made with cash unless done through direct deposit to a bank account. In order to create an auditable accountability system and reduce chances for misuse, distributions made be made by check, bank card, or another traceable method of payment.

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**Section 105. Distribution of Per Capita Payments.**

- ⦿ Mandatory Information:
  - > Full legal name;
  - > Tribal roll number;
  - > Current address;
  - > Preferred mailing address for Per Capita Payments, if different from current address;
  - > Social Security Number or Taxpayer Identification Number ; and
  - > Preferred method of receiving Per Capita Payments:

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**Section 105. Distribution of Per Capita Payments**

- ⦿ Personal pick-up at Tribal Offices;
- ⦿ Mail; or
- ⦿ Direct deposit to a bank account.

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### Section 105. Distribution of Per Capita Payments

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### Other Requirements

- ⦿ Member responsible for:
  - > Enrolling timely
  - > Keeping address information current
  - > Providing accurate information

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### Administration of Plan

- ⦿ The Business Committee may authorize creation of an administrative position or agency to administer the Revenue Allocation Plan and supervise the RAP Trust created pursuant to Section 110 of the Plan. Any Business Committee designee created pursuant to this Plan shall be vested with rulemaking authority regarding the administration of the Plan and the RAP Trust.

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**Section 106. Unclaimed Per Capita Payments.**

- Per Capita distributions that have gone unclaimed for three hundred and sixty-five (365) calendar days or that have been returned to the Tribe because the member refused the payment, died, or enrolled in another tribe shall revert to the Per Capita Payment fund and be added to the next Per Capita distribution.

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**Section 108. Deferred Per Capita Payment Option.**

- The Iowa Tribe may establish a voluntary deferral program for adult members eligible to receive Per Capita Payments. This program would allow the adult members to postpone receipt of their Per Capita Payments until a later date. If a deferred compensation plan is established by the Tribe, it shall comply with all applicable IRS rules, laws, and regulations in order to be valid. An eligible adult member would elect to defer his or her Per Capita Payments by filing a form with the Tribe requesting deferral until further notice and directing the Tribe to place the deferred payments into the plan.

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**Section 109. Enforcement of Judgments and Debts to the Tribe.**

- The Iowa Tribe may withhold some or all of the Per Capita Payment due to an eligible member at the time of a distribution if money is owed on an outstanding judgment from a court of competent Tribal jurisdiction.
- The Iowa Tribe may withhold some or all of the Per Capita Payment due to an eligible member at the time of a distribution for any amounts owed to the Tribe by the member due to an outstanding debt or obligation.

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**Section 110. Distributions to Minors and Legal Incompetents.**

- Eligible tribal members under the age of 18 ("Minors") and eligible tribal members deemed legally incompetent to handle their own affairs by a court of competent jurisdiction ("Legal Incompetents") shall have their Per Capita distributions placed into a trust fund to be set up for their benefit (the "RAP Trust"). All tribal members shall be considered legally competent absent a finding of legal incompetency from a court of competent jurisdiction.

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**Proposed Plan Specifies:**

- Requirements for establishing a trust
- Procedures for access to funds for permitted purposes
- Disbursements for persons legally incompetent
- Record keeping

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**Minors**

- Distribution at age 18
- Financial Management Course
- Deferral Election

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### Death of Trust Beneficiary.

- In the event a RAP Trust beneficiary dies prior to receiving all of his or her accumulated Trust corpus and interest, the monies shall be distributed in the following order of priority:
  - > The children of the Minor or Legal Incompetent, if then living;
  - > In the absence of any living children, the spouse of the Minor or Legal Incompetent;
  - > In the absence of a spouse, the father and mother of the Minor or Legal Incompetent, if then living; or
  - > In the absence of parents, the siblings of the Minor or Legal Incompetent, if any brothers or sisters are then living;
  - > In the event no relatives mentioned in this section are then living, the deceased's RAP Trust funds shall be used to pay for funeral costs, with any excess distributed to the Tribe's education fund.

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### Dispute Resolution

- All disputes regarding the validity or application of this Plan or the allocation and expenditure of net revenues pursuant to this Plan shall be resolved in the Tribal courts of the Iowa Tribe.
- All disputes regarding the RAP Trust, including the administration of the RAP Trust, partial or full grant of trust funds to a parent or guardian of a Minor or Legal Incompetent, denial of a request for access to RAP Trust funds, or allegations of misuse of funds shall be resolved in the Tribal courts in accordance with the terms of the Trust, this Plan, and Iowa Tribe law.
- All disputes regarding the deferred compensation plan, if one is created, shall be resolved in the Tribal courts in accordance with the terms of the plan and Iowa Tribe law.

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### MUST KNOW THAT PER CAPS:

- Are taxable
- Can affect your eligibility for governmental benefits
- Can negatively impact tribal governmental programs, services, and benefits
- Will increase government intrusion in tribal business
- May affect tribal relations
- Have caused financial problems for some tribes
- REQUIRE increased tribal bureaucracy

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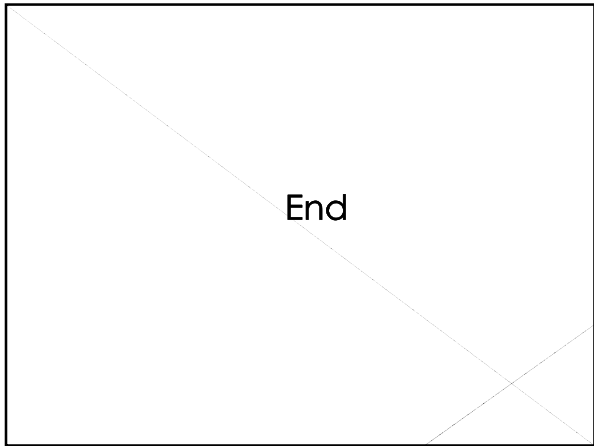
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