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Cherokee Council House
Cherokee, Qualla Boundary (NC)

Date: APR 16 2012

ORDINANCE NO. 179 (2012)

WHEREAS, Tribal Council established Cherokee Code Chapter 105 to govern taxation;
and

WHEREAS, in furtherance of the protection of the Tribe it is necessary for the Tribe to
adopt a responsible person ordinance.

NOW THEREFORE BE IT RESOLVED by the Tribal Council of the Eastern Band of
Cherokee Indians assembled, at which a quorum is present, that new
Cherokee Code Section 105-44 shall read as follows:

Sec. 105-44. Personal Liability

a) Definitions.--The following definitions apply in this section:

(1) Business entity.--A corporation, a limited liability company, or a partnership.

(2) Responsible person.--Any of the following:

a. The president, treasurer, or chief financial officer of a corporation.

b. A manager of a limited liability company or a partnership.

c. An officer of a corporation, a member of a limited liability company, or
a partner in a partnership who has a duty to deduct, account for, or pay
taxes listed in subsection (b) of this section.

d. A partner who is liable for the debts and obligations of a partnership
under N. C. G.S. 59-45 or N. C. G.S. 59-403.

(b) Responsible Person.--Each responsible person in a business entity is personally and
individually liable for all of the taxes listed in this subsection. If a business
entity does not pay a tax it owes, the Tribe may enforce the responsible
person's liability for the tax by sending the responsible person a notice of
the taxes owed. The taxes for which a responsible person may be held
personally and individually liable are:

(1) All Levy taxes collected by the business entity upon its taxable
transactions.

(2) All Levy taxes due upon taxable transactions of the business entity but upon which it failed to collect the tax, but only if the person knew, or in the exercise of reasonable care should have known, that the tax was not being collected.

(3) The Privilege tax.

(c) Distributions.--An officer, partner, trustee, or receiver of a business entity required to file a report with the Tribe who has custody of funds of the entity and who allows the funds to be paid out or distributed to the owners of the entity without having remitted to the Tribe any taxes that are due is personally liable for the payment of the tax. The Tribe may enforce an individual's liability under this subsection by sending the individual a notice of the taxes owed.

(e) Statute of Limitations.--The period of limitations for sending notice of unpaid taxes under this section to a responsible person expires one year after the time for filing the Levy or Privilege tax return.

BE IT FURTHER ORDAINED that this amendment shall be effective upon ratification by the Principal Chief, and all prior ordinances and resolutions that are inconsistent with this ordinance are rescinded.

Submitted by the Office of the Attorney General