

**Chapter 9**  
**PER CAPITA ORDINANCE**  
Shakotiwi? Stawihé Olihwa?ke  
Issues concerning where they give the money

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**9.1-1. Purpose and Policy.** The Purpose of this ordinance is:

- (a) To specify the procedure to be followed in the event that per capita payments are issued by the Tribe; and
- (b) To clearly state the responsibilities of the various entities in the distribution or maintenance of any such per capita payments.

9.1-2. *Policy.* It is the Policy of the Oneida Tribe of Indians of Wisconsin to have a consistent methodology for issuance of per capita payments, including payments derived from Gaming Revenues and regulated by the Indian Gaming Regulatory Act, 25 U.S.C. 2701 et.seq.

**9.2-1. Adoption, Amendment, Repeal.** This law is adopted by the Oneida Business Committee by resolution BC# 7-12-00-B and amended by resolution BC# 6-16-04-C.

9.2-2. This law may be amended pursuant to the procedures set out in the Oneida Administrative Procedures Act by the General Tribal Council.

9.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

9.2-4. All other Oneida laws, policies, regulations, rules, resolutions, motions and all other similar actions which are inconsistent with this policy are hereby repealed unless specifically re-enacted after adoption of this policy.

**9.3-1. Definitions.** This section shall govern the definitions of words as phrases as used herein. All words not defined herein shall be used in their ordinary and everyday sense.

9.3-2. *Adult:* shall mean those tribal members who are 18 years old or older as of August 31st of a given year.

9.3-3. *Day:* All references to “day” or “days” shall mean calendar days, unless otherwise specifically stated.

9.3-4. *Elder:* shall mean those tribal members who are age 62 years or over, or 65 years or over, as of December 31st of a given year.

9.3-5. *Minors Trust:* That account or those accounts established by the Trust Committee for the benefit of tribal members who are minors.

9.3-6. *Trust Committee:* shall mean that body designated by the General Tribal Council to manage the trust funds for the Oneida Tribe of Indians of Wisconsin and their tribal membership, and which is also responsible for the enrollment records of the Oneida Tribe. This Committee is also known as the Oneida Trust/Enrollment Committee.

**9.4-1. General.** This Article shall set forth the responsibilities delegated under this law.

9.4-2. *Supercedes.* This ordinance shall supercede any contradictory language in any other per capita payment plan.

9.4-3. *Budgetary Limitations.* This ordinance shall not be construed as mandating a per capita payment. Per capita payments shall be issued only at the direction of the General Tribal Council through adoption of a resolution.

9.4-4. *Oneida Trust Committee.* The Trust Committee shall be delegated the following responsibilities in regards to per capita activities. Any responsibility not specifically identified, and reasonably related to the activities identified herein, shall be considered a Trust Committee responsibility.

(a) Fiduciary responsibility to manage trust accounts related to per capita payments.

(b) Maintenance of the membership rolls in such a manner as to accurately identify to whom per capita payments will be made.

(c) Holding administrative hearings regarding challenges to payment or non-payment of per capita payments.

(d) Development of Tribal Allocation Plans necessary to make per capita payments.

9.4-5. *Oneida Business Committee.* The Oneida Business Committee shall be identified as having the following responsibilities regarding per capita activities. Actions reasonably related to activities defined herein, shall be considered an Oneida Business Committee activity.

(a) Identification of funds for allocation for per capita payments.

(b) Approval of Tribal Allocation Plan and forwarding the Tribal Allocation Plan for approval by the Bureau of Indian Affairs.

(c) Transfer of funds for the minors trust account to the Trust Committee in a timely manner and within a reasonable time frame.

9.4-6. *Per Capita Payments.* Per capita payments are considered benefits offered by the Oneida Tribe to the membership.

(a) Per capita benefits can be garnished only for the following purposes:

(1) Child support payments; and

(2) Debts owed to the Oneida Tribe.

(b) All requests for garnishment must be submitted by the claimant to the Oneida Appeals Commission before July 1st. Determinations by the Oneida Appeals Commission shall be forwarded before August 31st to the Oneida Trust Committee for action in the next processed per capita payment. Garnishment determination may be in the form of a percentage or for a specific dollar amount.

(c) Requests for garnishment of per capita for child support payments shall receive priority over requests for garnishment of per capita for debts owed to the Oneida Tribe.

**9.5-1. Trust Committee. General.** This section shall set forth the responsibilities of the Oneida Trust Committee.

9.5-2. *Trust Committee.* The Trust Committee is responsible for the protection and preservation of per capita payment funds for minors. As part of that responsibility, the Trust Committee is responsible for the completion and issuance of any necessary reports to the minors. The Trust Committee shall develop standard reporting procedures which establish valuation dates, frequency of reports and identify data critical to the completion of reports. Such reporting responsibilities may

be delegated to duly selected vendors.

9.5-3. *Deadlines.* The following deadlines shall apply in regards to the payment of all per capita payments. Where the dates fall on a Saturday or Sunday the deadline shall be construed to be the close of business on the following Monday.

(a) *Eligibility.* Eligibility falls into two categories, both of which must be met:

(1) *Filing Deadlines.* An individual must file an application for enrollment no later than the close of business on January 31st.

(2) *Enrollment Deadlines.* An individual is considered enrolled for the purposes of a per capita payment if the individual has been approved for enrollment by a vote of the Oneida Business Committee by February 28th.

(b) *Notice and Address Verification.* Notice and address verification forms shall be mailed by July 1st. Tribal members must return notarized notice and address verification forms by close of business on September 1<sup>st</sup> to be eligible for a per capita payment.

(c) *Payments Sent.* Per capita payments shall be mailed on September 30<sup>th</sup>.

(1) After September 30th, and through December 31, first time elder per capita payments shall be sent in the month following birth date.

(d) *Request for Prior Payment.* A request for a prior payment, for which a member was eligible, but did not receive, must be filed:

(1) for per capita payments made between January 1, 1990, and January 1, 2000, by December 31, 2000.

(2) for all future per capita payments, by September 1<sup>st</sup> of the next year. For example, if a payment is sent in 2000, then the cut off date is September 1, 2001, for a missed payment.

(3) However, tribal elders shall have until December 31, 2002 to file for years 2001 and 2002 for first-time elder per capita payments.

9.5-4. *Deceased Members.* The following rules shall apply when a deceased Tribal member is to receive a per capita payment.

(a) *Eligibility.* A Tribal member shall be considered ineligible to receive a per capita payment if the date of death falls on or before the deadline set in sec. 9.5-3(b) and after the payment date set in sec. 9.5-3(c).

(b) *Payment to Deceased Tribal Member.* When the date of death occurs between the date set in sec. 9.5-3(b) and the date of the per capita payment mailing set in sec. 9.5-3(c) the deceased Tribal member shall be issued a per capita payment in the name of the deceased member.

(c) *Prior Payments.* No estate of a deceased Tribal member shall be eligible to claim a prior per capita payment, when the per capita payment was erroneously withheld or when the per capita payment was not claimed, where the eligible tribal member failed to file a claim for a prior per capita payment while living.

9.5-5. *Unlocated Members.* Tribal members who fail to file a notice and address verification form by the deadline date, and have failed to correct an address for the previous seven years from the deadline date set in sec. 9.5-3(b) are considered ineligible.

9.5-6. *Refusal of payment.* All funds which would have been dispersed in accordance with this ordinance, but which have been refused by the individual tribal member, shall be deposited in a

pooled account. The funds in this account can only be designated for expenditure for a specific purpose as determined by the General Tribal Council. Management of the pooled account shall be the responsibility of the Trust Committee.

**9.6-1. Minors. General.** This section shall set forth a consistent method to protect and preserve the interests of minors in any per capita payment to which they might be entitled.

9.6-2. *Minor.* A minor under this law shall be considered a Tribal member age 18 or younger whose date of birth falls on or before August 31st of the per capita payment year consistent with sec. 9.5-3(c).

9.6-3. *Minor Trust Account.* In the event a per capita payment shall include minors as eligible recipients, those per capita payments shall be made to the Minor Trust Account. The Trust Committee shall establish a standard operating procedure which shall identify the set-up and monitoring of the Minor Trust Account. The Trust Committee may choose to maintain pooled or individual accounts, separate accounts for each payment or series of payments, or other combination which is in the interests of the minor and which are consistent with the terms of the Minor's Trust Agreement and the Trust Committee's Investment Policy and Fiduciary Policy.

9.6-4. *Costs of Account.* The administrative costs related to a Minor Trust Account shall be allocated to the account. Administrative costs shall be defined as those costs related to third party fees and expenses resulting from managing the accounts. Administrative cost shall not include any costs related to the expenses of the Trust Department or Trust Committee, the Enrollment Department or the Enrollment Committee. No member, who has funds in a minor trust account, shall be guaranteed the specific amount of the per capita payment.

9.6-5. *Relinquishment.* Upon a minor's relinquishment of tribal membership any funds in the per capita trust account fund, shall be deposited in a joint savings account in the name of the Oneida Trust/Enrollment Committee and the former tribal member to be held until the age of 18 years. Any fees necessary for the establishment and maintenance of such an account shall be allocated to the account in accordance to procedures established by the Trust Committee.

9.6-6. *Inheritance.* The value of an individual minor's per capita in the Minor Trust Account shall be inheritable on the date of death of the minor. The Trust Committee shall establish a standard operating procedure which shall identify the processes by which an application for payment shall be made. In all cases, the payment shall be made in the name of the minor to be paid to the estate of the minor.

9.6-7. *Failure to File on behalf of decedent.* In the event that no claim is received by the Trust Committee within 365 days of the date of death of a minor, all funds held in the Minor's Trust Account for the decedent minor shall revert to a pooled fund for investment by the Trust Committee and which benefits a specific purpose as identified in sec. 9.5-6.

9.6-8. *Failure to file for funds within seven years of 19<sup>th</sup> birthday.* A tribal member who fails to claim per capita funds from their trust account within seven years of their 19<sup>th</sup> birthday shall result in the total amount of unclaimed funds reverting to an account which exists to fund a specific purpose as identified in sec. 9.5-6.

**9.7-1. Payments. General.** This section shall set forth the responsibilities of the various departments and committees when a per capita payment is issued.

9.7-2. *Enrollment Department.* The Enrollment Department is responsible for the following activities when a per capita payment is approved:

- (a) The Enrollment Department shall develop and finalize a list of the eligible tribal members broken down into the following three categories: minors, adults and elderly.
- (b) The Enrollment Department shall provide the finalized list of the number of eligible tribal members to the Trust Department and the Accounting Division.
- (c) Notice and address verification forms are sent out and upon return are entered into the Enrollment data base.
- (d) After the notice and address return deadline date, the checks are processed for mailing. All checks are to go out on the same day.
- (e) The Enrollment Department shall work with the Trust Committee in the establishment of any necessary minors trust accounts.
- (f) The Enrollment Department is responsible for monitoring all accounts for the purposes of necessary reports, claims and payment verification.

9.7-3. *Trust Department.* The Trust Department is responsible for the following activities when a per capita payment is approved:

- (a) Upon receipt of the number of eligible members to receive a per capita payment, the Trust Department ensures the availability and liquidity of funds for a funds transfer of the trust funds under the authorization/jurisdiction of the Trust Committee.
- (b) The Trust Department provides funds transfer instructions to the relevant initiating institution: the custodial bank or the Oneida Accounting Division.

9.7-4. *Accounting Division.* The Accounting Division is responsible for the following activities when a per capita payment is approved:

- (a) Upon receipt of funds transfer instructions from the authorizing entity, initiate and complete the funds transfer. The physical movement of funds must happen no later than one day prior to the issue date of the checks.
- (b) Record issued, voided and stale dated checks on the General Ledger.
- (c) Complete bank account reconciliations.

9.7-5. *Tribal Treasurer.* The office of the Tribal Treasurer shall be responsible for the identification of funds and the timely transfer of the necessary amount of relevant funds to the Trust Committee and the Accounting Division. The relevant funds shall be segregated and obligated for the per capita payments and are those necessary to:

- (a) Make a payment to those tribal members responding to the notice and address verification deadline who are not minors.
- (b) Make a minor trust account payment based on the number of respondents to the notice and address verification deadline who are minors.
- (c) Cover unverified member payments for those members who are unresponsive to the notice and address verification deadline.

*End.*

Amendments - BC-11-06-02-A (Re: Elder Per Capita)

Emergency Amendments - BC-6-25-03-G (Child support priority for garnishment)(Expired)

Amendments - BC-6-16-04-C (Child support priority for garnishment)

Emergency Amendments - BC-9-12-07-A (Expired)