



# HO-CHUNK NATION LEGISLATURE

*Governing Body of the Ho-Chunk Nation*

## HO-CHUNK NATION LEGISLATURE VOLUNTARY STATE TAX WITHHOLDING FROM PER CAPITA PAYMENTS

### RESOLUTION 03-19-13D

- WHEREAS,** on November 1, 1994, the United States Secretary of the Interior approved a new Constitution for the Ho-Chunk Nation, formerly known as the Wisconsin Winnebago Tribe; and
- WHEREAS,** the Ho-Chunk Nation ("Nation") is a federally recognized Indian Tribe, pursuant to the Indian Reorganization Act of 1934; and
- WHEREAS,** Article V, Section 2(a) of the Ho-Chunk Nation Constitution ("Constitution") grants the Ho-Chunk Nation Legislature ("Legislature") the power to make laws, including codes, ordinances, resolutions, and statutes; and
- WHEREAS,** Article V, Section 2(s) of the Constitution grants the Legislature the power to "promote public health, education, charity, and such other services as may contribute to the social advancement of the members of the Ho-Chunk Nation;" and
- WHEREAS,** Article V, Section 2(x) of the Constitution grants the Legislature the power "to enact any other laws, ordinances, resolutions, and statutes necessary to exercise its legislative powers delegated by the General Council pursuant to Article III including but not limited to the foregoing list of powers"; and
- WHEREAS,** the Per Capita Distribution Ordinance, 2HCC§12 at paragraph 10 states that "The per Capita payments are subject to Federal taxation. Members receiving payments shall be informed that they are responsible for payment of applicable taxes. The Nation shall deduct and withhold tax from per capita payments to the extent and in the amounts required by 26 U.S.C. § 3402(r) or any successor statute. In addition, the Nation may, in its discretion, withhold such greater amount of tax from per capita payments to a Member as such Member may voluntarily request"; and
- WHEREAS,** the Ho-Chunk Nation currently withholds the federal taxes in accordance with the above cited Per Capita Distribution Ordinance; and
- WHEREAS,** on occasion Ho-Chunk Nation tribal members have asked to have state tax withheld from their per capita distributions but currently the Nation does not offer that service; and
- WHEREAS,** the Per Capita Distribution Ordinance, cited above, allows the Nation to withhold greater amounts of tax from per capita payments per member request on a voluntary basis; and
- WHEREAS,** permitting the withholding of state tax is within the discretion of the Legislature; and

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**WHEREAS,** The Treasury Department in conjunction with the Office of Tribal Enrollment could accommodate requests for state tax withholding, from any state in the United States should a tribal member voluntarily request such withholding beginning with the August 2013 per capita distribution.

**NOW THEREFORE, BE IT RESOLVED** that the Ho-Chunk Nation Legislature in its discretion will allow for the voluntary withholding of state taxes from the August 2013 per capita distribution onward provided that the withholding amount request of any state taxes is conditioned on and is subservient to any child support withholdings, debts owed the Nation or any other court ordered withholding from the per capita distribution and that once the court ordered withholdings and federal taxes are taken out of the distribution any remainder left is subject to voluntary state tax withholding.

#### CERTIFICATION

I, the undersigned, as Tribal Secretary of Ho-Chunk Nation, hereby certifies that the Legislature of the Ho-Chunk Nation, composed of 13 members of whom 11 constituting a quorum were present at a meeting duly called and convened and held that on the 19th day of March, 2013, that the foregoing resolution was adopted at said meeting by an affirmative vote of 11 members, 0 opposed, and 0 abstaining, pursuant to the Article V, Section 2(a) and (x) of the Constitution of the Ho-Chunk Nation approved by the Secretary of the Interior on November 1, 1994, and that the foregoing resolution has not been rescinded or amended in any way. I further certify that this is a verified copy of said resolution.

*Hope B. Smith*  
Hope B. Smith, Tribal Secretary

*March 19, 2013*  
Date