



NCA 23-112

CLASSIFICATION: #36. TAXATION AND REVENUE

A LAW OF THE MUSCOGEE (CREEK) NATION AMENDING MCNCA TITLE 36, § 1-104 ENTITLED "Powers and duties of the Tax Commissioner"

Be it Enacted by the National Council of the Muscogee (Creek) Nation:

SECTION ONE. FINDINGS. The National Council finds that:

A. Pursuant to Article VI of the U.S. Constitution, all Treaties under authority of the United States shall be the supreme law of the land. Such Treaties entered into with the Muscogee (Creek) Nation are also affirmed and upheld as the supreme authority establishing the political and territorial jurisdiction of the Nation as ratified in Section 2 of Article I of the Nation's Constitution. Through these Treaties and powers outlined in the Nation's Constitution, the Nation shall legislate to the fullest extent possible in accordance with the authority recognized in those governing documents, including, without limitation, the power to lay and collect taxes within the boundary of the Muscogee (Creek) Nation's jurisdiction from whatever source derived. Art. VI, Sec. 7(h), MCN Const.

B. On July 9, 2020, the U.S. Supreme Court issued its ruling in the landmark case of *McGirt v. Oklahoma*, 140 S.Ct. 2452 (2020), and held that the boundaries of the reservation lands promised to the Muscogee (Creek) Nation (the "Nation") through various treaties were never disestablished and are Indian country lands for the Nation under 18 U.S.C. § 1151.

C. The Nation's tax laws are codified in Title 36 (Taxation and Revenue) of the Nation's Code of Laws and define the Nation's "Territorial Jurisdiction" as: (1) property owned by any Muscogee citizen subject to federal restrictions against alienation or held in trust by the United States for the benefit of any Muscogee citizen or (2) property held in trust by the United States for the benefit of the Muscogee (Creek) Nation or (3) any property owned by Muscogee (Creek) Nation or (4) property which otherwise constitutes Indian Country as that term is used in 18 U.S.C. § 1151.

D. The exercise of taxation authority by the Nation over its Reservation lands is an expression and application of the Nation's inherent powers of Tribal self-government to be able to enact its own laws and be governed by them.

E. With the expansion of the Nation's taxation authority over all Reservation lands, there are situations that arise when an applicant for a license that is required under Title 36 needs a license for a special event or circumstance on a temporary basis.

F. The National Council finds it necessary to amend Title 36 of the Code of Laws to authorize the Nation's Tax Commissioner to issue on a temporary basis any license that is required under Title 36 when the applicant for such a license would otherwise be approved for a regular license under Title 36.

G. The National Council finds this amendment to Title 36 will increase the Nation's taxation revenue base and is consistent with the authority of the Nation to exercise its taxation authority over activities and events within the exterior boundaries of the Nation's Reservation.

SECTION TWO. AMENDMENT. This amendment shall be codified in Title 36, Chapter 1 of the Code of Laws of the Muscogee (Creek) Nation; provided that for purposes of codification said amendment and its inclusion in pocket parts of the Code of Laws for the Muscogee (Creek) Nation, the Attorney General is authorized (1) to approve any changes related to the manner in which sections, articles, chapters and sub-chapters are designated consistent with the format in the Code of Laws published in 2010 by West Publishing Company; (2) to include footnoted references to the legislative history in said pocket parts of the Code of Laws and; (3) to note in said pocket parts any editorial correction of minor clerical or grammatical errors in the following amendment, without further National Council approval:

SECTION THREE. AMENDMENT. MCNCA Title 36, § 1-104. shall be amended to read as follows:

§ 1-104. Powers and duties of the Tax Commissioner

A. Administration. The Muscogee (Creek) Nation Tax Commissioner is hereby invested with the power and charged with the duty to administer and enforce the Muscogee (Creek) Nation Tax Code, including without limitation, the following powers:

1. The leasing, furnishing, and equipping of any building or land required for the operation of this Title;
2. The buying or leasing of all plants and equipment it may consider necessary and useful in carrying into effect the objects and purposes of this title;
3. The employment of managers and also every officer, investigator, clerk, or other employee required for the operation or carrying out of this title and to dismiss the same, fix their salaries or remuneration, assign them their title, define their respective duties and powers, and to engage the service of experts and persons engaged in the practice of a profession, if deemed expedient;
4. The assessment, calculation and collection of all taxes, fees and penalties assessed in accordance with this title or other applicable law of the Nation;
5. The issuance of receipts for collected taxes;

6. The denial or approval of applicants for regular or temporary licenses required by this title and the issuances of such licenses;
7. All necessary powers and control over entities subject to the provisions of this title, or of those entities over which specific control is granted to the Commission by law of the Muscogee (Creek) Nation; and
8. The exercise of all other authority delegated or conferred upon the Tax Commissioner by this section and this title and by any other applicable law of the Nation, or as may be reasonably necessary in the administration or enforcement of any tax law of the Nation.

B. Enforcement. The Commissioner is hereby authorized to seek enforcement of violations of the Muscogee (Creek) Nation Tax Code through any legally available means, including without limitation the following:

1. Make, or cause to be made by its agents or employees, an examination or investigation of the place of business, equipment, facilities, tangible personal property, and the books, records, papers, vouchers, accounts, documents, and financial statements of any taxpayer, upon reasonable notice, during normal business hours, at any other time agreed to by the said taxpayer, or at any time pursuant to a search warrant signed by the District Court of the Muscogee (Creek) Nation;
2. Administer oaths, conduct hearings and issue subpoenas to compel the attendance of witnesses and the production of any books, records and papers of any taxpayer, persons, firm, association or corporation relating to the enforcement of the Muscogee (Creek) Nation tax laws;
3. Examine under oath, either orally or in writing any taxpayer or any principal agent, master, servant, officer, or employee of any taxpayer, or any other witness in respect to any matter relative to the Muscogee (Creek) Nation tax laws;
4. Appoint one or more investigators or prosecuting officers who, under its discretion, shall perform such duties as it may require and who shall be paid such salaries, fees, and expenses as the Commission may fix.
5. Deputize law enforcement officials including the Lighthorse, the Bureau of Indian Affairs Police, and any officers who have been cross-commissioned with the Muscogee (Creek) Nation for the purpose of enforcement of the tax laws of the Muscogee (Creek) Nation;
6. Report violations of any applicable Muscogee (Creek) Nation laws to Muscogee (Creek) Nation law enforcement;
7. Report violations of any applicable state laws to appropriate state enforcement authorities if related to implementation and enforcement of the Muscogee (Creek) Nation Tax Code;
8. Bring actions on behalf of the Nation in the Courts of the Muscogee (Creek) Nation for the collection of taxes, penalties and interest, and the enforcement of the tax laws of the Muscogee (Creek) Nation and defend against actions brought in said Courts against the Tax Commissioner or

relating to the implementation or enforcement of the tax laws of the Nation.

C. Delegation. The Commissioner is hereby authorized to delegate his/her authority under this section to such employees of the Muscogee (Creek) Nation Office of the Tax Commission as may be necessary to administer and enforce this title.

D. Temporary Licenses. The Commissioner is hereby authorized to issue temporary licenses for special events or circumstances where a regular license would otherwise be required under this title.

SECTION FOUR. EFFECTIVE DATE. This Act shall become effective immediately upon proper approval and execution in accordance with the requirements of the Muscogee (Creek) Nation Constitution.

ENACTED by the Muscogee (Creek) National Council on this **30th** day of **September, 2023.**

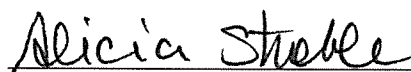
IN WITNESS WHEREOF, the Speaker of the Muscogee (Creek) National Council has hereto attached his signature.



William Lowe, Speaker
National Council
Muscogee (Creek) Nation

CERTIFICATION

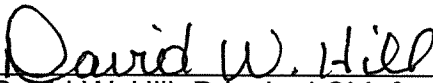
I, the undersigned, certify that the foregoing is a true extract from the minutes of the Muscogee (Creek) National Council comprised of Sixteen members with **Sixteen** members attending this meeting on the **30th** day of **September, 2023** and that the above is in conformity with the provisions therein adopted by a vote of **15** in favor, **0** against and that said Law has not been rescinded or amended in any way and the above is the signature of the Speaker of the National Council.



Alicia Stroble, Recording Secretary
Muscogee (Creek) National Council

APPROVAL

I, the Principal Chief of the Muscogee (Creek) Nation, hereby affix my signature on this 4th day of October, **2023** to the above Law, **NCA 23-112** authorizing it to become a Law under Article VI., Section VI., of the Constitution of the Muscogee (Creek) Nation.



David W. Hill, Principal Chief
Muscogee (Creek) Nation

