

Oneida Tribe of Indians of Wisconsin

BUSINESS COMMITTEE



Oneidas bringing several hundred bags of corn to Washington's starving army at Valley Forge, after the colonists had consistently refused to aid them.



UGWA DEMOLUM YATEHE
Because of the help of this Oneida Chief in cementing a friendship between the six nations and the colony of Pennsylvania, a new nation, the United States was made possible.

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BC Resolution #12-10-08-E

*Resolution to Document Benefit Package for Business Committee Members
Authorized by General Tribal Council*

- WHEREAS,** the Oneida Tribe of Indians of Wisconsin is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States, and
- WHEREAS,** the Oneida General Tribal Council is the duly recognized governing body of the Oneida Tribe of Indians of Wisconsin, and
- WHEREAS,** the General Tribal Council has been delegated the authority of Article IV, Section 1 of the Oneida Tribal Constitution by the Oneida General Tribal Council, and
- WHEREAS,** the members of the Oneida Business Committee are required to work full-time to carry out the duties of their offices, and
- WHEREAS,** the Internal Revenue Service has ruled (Revenue Ruling 59-354) that compensation paid for elected tribal council service is not eligible for Social Security wage treatment and the Business Committee members therefore are denied participation in the Social Security system during their Business Committee terms, and
- WHEREAS,** the Internal Revenue Service, Indian Tribal Government Division, has nonetheless requested the tribe to report council pay on a Form W-2 and indicated that elected officials may be included in 401(k) and other tribal benefit programs, and
- WHEREAS,** in order to provide elected officials with retirement income lost as a result of the above Social Security ruling, the General Tribal Council directed that a Business Committee Benefit Package be developed. The Benefits Package, hereafter referred to as the "Oneida Tribe of Indians of Wisconsin Elected Business Committee Retirement Program" (the "Elected Official Program") includes participation in the Oneida Tribe of Indians of Wisconsin Retirement Savings and 401(k) Plan (the "401(k) Plan") and two options to invest Social Security

replacement contributions: the Principal Life annuity product and the American Funds mutual fund savings product, and

WHEREAS, because contributions under the 401(k) Plan are generally subject to Social Security taxes, participation in that particular program has added compliance burdens to the 401(k) by including Social Security exempt elected official pay, and

WHEREAS, documentation of the Elected Official Program has proved cumbersome because there are no commercially available annuity or mutual fund products designed to address Revenue Ruling 59-354, and

WHEREAS, the Tribe now desires to: (1) replace the 401(k) Plan portion of the Elected Official Program with equivalent deferred compensation benefits beginning next year, and (2) consolidate the Principal Life and American Funds options offered under the Elected Official Program into a restated plan and trust following the same format being used with regard to other Oneida non-qualified programs being maintained in accordance with Internal Revenue Code Section 409A, and

WHEREAS, the Tribe desires to restate the Elected Official Program within the December 31, 2008 deadlines for Code Section 409A plans, while preserving any exemptions to Code Section 409A to which it may be entitled.

NOW THEREFORE BE IT RESOLVED, that the following changes and amendments to the Elected Official Program are hereby adopted and approved as of December 31, 2008:

1. A new Oneida Tribe of Indians of Wisconsin Elected Officials Program plan document shall be adopted effective as of January 1, 2009.
2. Business Committee members are hereby excluded from the 401(k) Plan effective January 1, 2009.
3. The contributions to the Elected Officials Program shall include the following:
 - A. Voluntary Business Committee member pre-tax deferral contributions designed to replace current 401(k) Plan contribution rights,
 - B. Tribal retirement contributions designed to replace current 401(k) employer contributions,
 - C. Tribal Social Security replacement contributions designed to replace the employer portion of the Social Security taxes that are not paid by the Tribe to the Social Security Administration in relation to Business Committee member service as a result of Revenue Ruling 59-354,
 - D. Mandatory Social Security replacement contributions designed to replace the employee portion of the Social Security taxes that the Business Committee

members do not pay to the Social Security Administration in relation to their Business Committee member compensation, and

- E. Additional Social Security replacement contributions following the completion of a Business Committee term, consistent with the run out portions of the Principal Life annuity program and the American Funds savings program, as elected by the Business Committee member.
4. The Principal Life annuity option and the American Fund mutual fund savings option shall continue as investment options under the Elected Official Program. Each Business Committee member must make an annuity or savings election at the beginning of each Business Committee term. The features and benefits under the annuity and savings options shall remain consistent with current administration of those options, as explained in the Business Committee member summary materials.
 5. Contribution and payment elections under the Elected Official Program shall be administered in accordance with the requirements of Code Section 409A, while preserving any exemptions to Code Section 409A which may be available to the Elected Official Program.
 6. This resolution shall have the legal force and effect of (A) amending the 401(k) Plan, (B) authorizing the adoption and execution of the Elected Officials Program plan document, and (C) amending and restating the Principal Life annuity program documentation and the American Funds savings program documentation in their entirety.
 7. The Tribal Chairman, or in his absence, the Vice Chairwoman, is hereby authorized and directed to execute any and all documentation required in connection with and consistent with the implementation of this resolution.

CERTIFICATION

I, the undersigned, as Secretary of the Oneida Business Committee, hereby certify that the Oneida Business Committee is composed of 9 members of whom 5 members constitute a quorum. 6 members were present at a meeting duly called, noticed and held on the 10th day of December 2008; that the foregoing resolution was duly adopted at such meeting by a vote of 5 members for; 0 members against; and 0 members not voting, and that said resolution has not been rescinded or amended in any way.



Patricia Hoeft, Tribal Secretary
Oneida Business Committee

*According to the By-Laws, Article I, Section 1, the Chair votes "only in the case of a tie."

