

113TH CONGRESS
1ST SESSION

S. 1507

To amend the Internal Revenue Code of 1986 to clarify the treatment of general welfare benefits provided by Indian tribes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 17, 2013

Mr. MORAN (for himself and Ms. HEITKAMP) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to clarify the treatment of general welfare benefits provided by Indian tribes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Tribal General Welfare
5 Exclusion Act of 2013”.

6 **SEC. 2. INDIAN GENERAL WELFARE BENEFITS.**

7 (a) IN GENERAL.—Part III of subchapter B of chap-
8 ter 1 of the Internal Revenue Code of 1986 is amended
9 by inserting before section 140 the following new section:

1 **“SEC. 139E. INDIAN GENERAL WELFARE BENEFITS.**

2 “(a) IN GENERAL.—Gross income does not include
3 the value of any Indian general welfare benefit.

4 “(b) INDIAN GENERAL WELFARE BENEFIT.—For
5 purposes of this section, the term ‘Indian general welfare
6 benefit’ includes any payment made or services provided
7 to or on behalf of a member of an Indian tribe (or any
8 spouse or dependent of such a member) pursuant to an
9 Indian tribal government program, but only if—

10 “(1) the program is administered under speci-
11 fied guidelines and does not discriminate in favor of
12 members of the governing body of the tribe, and

13 “(2) the benefits provided under such pro-
14 gram—

15 “(A) are available to any tribal member
16 who meets such guidelines,

17 “(B) are for the promotion of general wel-
18 fare,

19 “(C) are not lavish or extravagant, and

20 “(D) are not compensation for services.

21 “(c) DEFINITIONS AND SPECIAL RULES.—For pur-
22 poses of this section—

23 “(1) INDIAN TRIBAL GOVERNMENT.—For pur-
24 poses of this section, the term ‘Indian tribal govern-
25 ment’ includes any agencies or instrumentalities of
26 an Indian tribal government and any Alaska Native

1 regional or village corporation, as defined in, or es-
2 tablished pursuant to, the Alaska Native Claims Set-
3 tlement Act (43 U.S.C. 1601 et seq.).

4 “(2) DEPENDENT.—The term ‘dependent’ has
5 the meaning given such term by section 152, deter-
6 mined without regard to subsections (b)(1), (b)(2),
7 and (d)(1)(B).

8 “(3) LAVISH OR EXTRAVAGANT.—The Sec-
9 retary shall, in consultation with the Tribal Advisory
10 Committee (as established under section 3(a) of the
11 Tribal General Welfare Exclusion Act of 2013), es-
12 tablish guidelines for what constitutes lavish or ex-
13 travagant benefits with respect to Indian tribal gov-
14 ernment programs.

15 “(4) ESTABLISHMENT OF TRIBAL GOVERNMENT
16 PROGRAM.—A program shall not fail to be treated as
17 an Indian tribal government program solely by rea-
18 son of the program being established by tribal cus-
19 tom or government practice.

20 “(5) CEREMONIAL ACTIVITIES.—Any items of
21 cultural significance, reimbursement of costs, or
22 cash honorarium for participation in cultural or cer-
23 emonial activities for the transmission of tribal cul-
24 ture shall not be treated as compensation for serv-
25 ices.”.

1 (b) CONFORMING AMENDMENT.—The table of sec-
 2 tions for part III of subchapter B of chapter 1 of such
 3 Code is amended by inserting before the item relating to
 4 section 140 the following new item:

“Sec. 139E. Indian general welfare benefits.”.

5 (c) STATUTORY CONSTRUCTION.—Ambiguities in
 6 section 139E of such Code, as added by this Act, shall
 7 be resolved in favor of Indian tribal governments and def-
 8 erence shall be given to Indian tribal governments for the
 9 programs administered and authorized by the tribe to ben-
 10 efit the general welfare of the tribal community.

11 (d) EFFECTIVE DATE.—

12 (1) IN GENERAL.—The amendments made by
 13 this section shall apply to taxable years for which
 14 the period of limitation on refund or credit under
 15 section 6511 of the Internal Revenue Code of 1986
 16 has not expired.

17 (2) ONE-YEAR WAIVER OF STATUTE OF LIMITA-
 18 TIONS.—If the period of limitation on a credit or re-
 19 fund resulting from the amendments made by sub-
 20 section (a) expires before the end of the 1-year pe-
 21 riod beginning on the date of the enactment of this
 22 Act, refund or credit of such overpayment (to the ex-
 23 tent attributable to such amendments) may, never-
 24 theless, be made or allowed if claim therefor is filed
 25 before the close of such 1-year period.

1 **SEC. 3. TRIBAL ADVISORY COMMITTEE.**

2 (a) ESTABLISHMENT.—The Secretary of the Treas-
3 ury shall establish a Tribal Advisory Committee (herein-
4 after in this subsection referred to as the “Committee”).

5 (b) DUTIES.—

6 (1) IMPLEMENTATION.—The Committee shall
7 advise the Secretary on matters relating to the tax-
8 ation of Indians.

9 (2) EDUCATION AND TRAINING.—The Secretary
10 shall, in consultation with the Committee, establish
11 and require—

12 (A) training and education for internal rev-
13 enue field agents who administer and enforce
14 internal revenue laws with respect to Indian
15 tribes on Federal Indian law and the Federal
16 Government’s unique legal treaty and trust re-
17 lationship with Indian tribal governments, and

18 (B) training of such internal revenue field
19 agents, and provision of training and technical
20 assistance to tribal financial officers, about im-
21 plementation of this Act and the amendments
22 made thereby.

23 (c) MEMBERSHIP.—

24 (1) IN GENERAL.—The Committee shall be
25 composed of 7 members appointed as follows:

1 (A) Three members appointed by the Sec-
2 retary of the Treasury.

3 (B) One member appointed by the Chair-
4 man, and one member appointed by the Rank-
5 ing Member, of the Committee on Ways and
6 Means of the House of Representatives.

7 (C) One member appointed by the Chair-
8 man, and one member appointed by the Rank-
9 ing Member, of the Committee on Finance of
10 the Senate.

11 (2) TERM.—

12 (A) IN GENERAL.—Except as provided in
13 subparagraph (B), each member's term shall be
14 4 years.

15 (B) INITIAL STAGGERING.—The first ap-
16 pointments made by the Secretary under para-
17 graph (1)(A) shall be for a term of 2 years.

18 **SEC. 4. OTHER RELIEF FOR INDIAN TRIBES.**

19 (a) TEMPORARY SUSPENSION OF EXAMINATIONS.—
20 The Secretary of the Treasury shall suspend all audits and
21 examinations of Indian tribal governments and members
22 of Indian tribes (or any spouse or dependent of such a
23 member), to the extent such an audit or examination re-
24 lates to the exclusion of a payment or benefit from an In-
25 dian tribal government under the general welfare exclu-

1 sion, until the education and training prescribed by section
2 3(b)(2) of this Act is completed. The running of any pe-
3 riod of limitations under section 6501 of the Internal Rev-
4 enue Code of 1986 with respect to Indian tribal govern-
5 ments and members of Indian tribes shall be suspended
6 during the period during which audits and examinations
7 are suspended under the preceding sentence.

8 (b) WAIVER OF PENALTIES AND INTEREST.—The
9 Secretary of the Treasury may waive any interest and pen-
10 alties imposed under such Code on any Indian tribal gov-
11 ernment or member of an Indian tribe (or any spouse or
12 dependent of such a member) to the extent such interest
13 and penalties relate to excluding a payment or benefit
14 from gross income under the general welfare exclusion.

15 (c) DEFINITIONS.—For purposes of this subsection—

16 (1) INDIAN TRIBAL GOVERNMENT.—The term
17 “Indian tribal government” shall have the meaning
18 given such term by section 139E of such Code, as
19 added by this Act.

20 (2) INDIAN TRIBE.—The term “Indian tribe”
21 shall have the meaning given such term by section
22 45A(c)(6) of such Code.

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