

PLR 9711025, 1997 WL 113181 (IRS PLR)

Internal Revenue Service (I.R.S.)

Private Letter Ruling

Issue: March 14, 1997  
December 13, 1996

Section 7701 -- Definitions  
7701.00-00 Definitions  
7701.20-00 Indian Tribal Government

Section 7871 -- Indian Tribal Governments Treated As States For Certain Purposes  
7871.00-00 Indian Tribal Governments Treated As States For Certain Purposes

CC: DOM:FI&P:2 / PLR-70208-95

Tribe =  
State =  
Sub =

This is in reply to a letter dated November 30, 1995, and subsequent correspondence, requesting a ruling that Sub is a political subdivision of an Indian tribal government as defined in [section 7871\(d\) of the Internal Revenue Code](#).

FACTS

Tribe is recognized by the Department of the Interior as an Indian tribe with a government-to-government relationship with the United States. Tribe is included on the list of tribal entities published in the Federal Register by the Department of the Interior pursuant to 25 C.F.R. Part 83. See [61 Fed.Reg. 58211, 58214 \(1996\)](#); 44 Fed.Reg. 7235, 7236 (1979). The governing body of Tribe is Board, which is recognized as an Indian tribal government ("TG") for purposes of [sections 7701\(a\)\(40\)](#) and [7871\(a\) and \(d\)](#) of the Code. Tribe and Board are listed in [Rev. Proc. 83-87, 1983-2 C.B. 606](#) (listing tribes and their respective governing bodies qualifying under [section 7701\(a\)\(40\)](#)). Pursuant to a resolution, Board established Sub and delegated to it the power to levy a sales tax.

LAW

The Indian Tribal Governmental Tax Status Act of 1982 (Title II of [Pub.L. No. 97-473, 96 Stat. 2605](#), 2607-11, as amended by [Pub.L. No. 98-21, 97 Stat. 65](#), 87) ("Indian Tax Status Act"), added provisions to the Internal Revenue Code pertaining to TG's. Beginning in 1983, TG's were to be treated for two years as states for some federal tax purposes. Section 1065 of the Tax Reform Act of 1984 ([Pub.L. No. 98-369, 98 Stat. 1048](#)) made such treatment permanent. Under [section 7701\(a\)\(40\)](#) of the Code, a TG is the governing body of any tribe, band, community, village, or group of Native Americans or Alaska Natives that is determined by the Secretary of the Treasury, after consultation with the Secretary of the Interior, to exercise governmental functions. Under [section 7871\(a\)](#) of the Code, a TG is treated as a state for the federal tax provisions enumerated therein. Under [section 7871\(d\)](#) of the Code, for purposes of [section 7871\(a\)](#), a political subdivision of a TG is treated as a political subdivision of a state if (and only if) the Secretary of the Treasury determines, after consultation with the Secretary of the Interior, that the subdivision has been delegated the right to exercise one or more of the

substantial governmental functions of the TG. Conference Report H.R.Rep. No. 97-984, 97th Cong., 2nd Sess. 15 (1982), provides that the Indian Tax Status Act will not apply to any TG unless it is recognized by the Treasury Department (after consultation with the Interior Department) as exercising sovereign powers. The report further provides that sovereign powers include the power to tax, the power of eminent domain, and police powers (such as control over zoning, police protection, and fire protection).

#### CONCLUSION

Accordingly, we conclude that Sub is a political subdivision of an Indian tribal government within the meaning of [section 7701\(a\)\(40\)](#) and [section 7871\(d\)](#) of the Code.

Based on this conclusion, Sub is eligible for the same treatment as a TG pursuant to [section 7871\(a\)](#) of the Code.

Except as specifically ruled upon above, no opinion is expressed regarding any other section of the Code. This ruling does not establish that Tribe or Sub qualifies for any particular tax benefit. For example, when a TG seeks exemption from excise taxes, it must be able to demonstrate that the underlying transaction involves the exercise of an essential governmental function.

This ruling is directed only to the taxpayer that requested it. Section 6110(j)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the power of attorney on file in this office, a copy of this ruling is being sent to your authorized representative.

Sincerely yours,

Acting Assistant Chief Counsel  
(Financial Institutions & Products)

By

William E. Coppersmith  
Chief, Branch 2

Enclosures  
Copy of this letter  
Copy for section 6110 purposes

This document may not be used or cited as precedent. [Section 6110\(j\)\(3\) of the Internal Revenue Code](#).

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