

PLR 9542014, 1995 WL 614899 (IRS PLR)

Internal Revenue Service (I.R.S.)

Private Letter Ruling

Issue: October 20, 1995

July 20, 1995

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 / TR-31-403-95

X =  
State =  
Council =

This is in reply to a letter dated February 14, 1995, and subsequent correspondence, requesting a ruling that X is an "Indian tribal government" as defined in [sections 7701\(a\)\(40\)](#) and [7871\(a\) of the Internal Revenue Code](#).

The Indian Tribal Government 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 Code pertaining to Indian tribal governments ("TGs"). For two years beginning in 1983, TGs were to be treated 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 (if applicable) 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.

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).

X is recognized by the Department of the Interior as an Indian tribe with a government-to-government relationship with the United States. X 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. Council has been delegated some of the powers of X. These powers include the power to tax, the power to negotiate with and to approve or disapprove contracts or agreements with federal, state or local governments, private persons, or corporate bodies, the power to regulate transactions concerning tribal land, and the power to establish procedures for the conduct of all tribal governmental and business operations.

Accordingly, we conclude that X is an "Indian tribal government" within the meaning of [section 7701\(a\)\(40\)](#) and [section 7871](#) 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 X or Council 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,

Assistant Chief Counsel  
Financial Institutions & Products

By

William E. Coppersmith  
Chief, Branch 2

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

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