

PLR 9847018, 1998 WL 803375 (IRS PLR)

Internal Revenue Service (I.R.S.)

Private Letter Ruling

Issue: November 20, 1998

August 21, 1998

Section 103--Interest on State and Local Bonds (Formerly Interest on Certain Governmental Obligations)

103.00-00 Interest on State and Local Bonds (Formerly Interest on Certain Governmental Obligations)

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

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

7871.03-00 Tax Exempt Bonds

CC: DOM:FI&P:1 / PLR-101578-98

Legend:

Corporation =

Tribe =

This ruling responds to your letter dated January 6, 1998, and subsequent correspondence, requesting a ruling that Corporation will be treated as a State for purposes of [§ 103 of the Internal Revenue Code](#).

FACTS

Corporation is an Indian tribal corporation organized under section 17 of the Indian Reorganization Act of 1934, [25 U.S.C. section 477 \(1993\)](#).

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, 58212 \(1996\)](#).

Tribe is not included in the list of Indian tribal governments published in [Rev. Proc. 83-87, 1983-2 C.B. 606](#). This is a list of Indian tribal governments that are to be treated as states for certain federal tax purposes, pursuant to §§ 7701(a)(40) and 7871(a) of the Code. In 1996, however, Tribe received a ruling that Tribe is an Indian tribal government within the meaning of §§ 7701(a)(40) and 7871(a). PLR-39499-96, CC:DOM:FI&P:1, August 5, 1996.

Corporation was formed to own and operate Tribe's economic development activities, with the goal of producing revenue for Tribe and providing productive and sustainable jobs for members of Tribe and the local community. It is contemplated that Corporation will issue obligations to finance infrastructure development and other tribal government projects, as well as certain economic development activities. Tribe wants Corporation, rather than Tribe, to issue obligations for certain tribal projects, because Corporation will raise the revenues that will be pledged to satisfy the obligations.

Tribe plans to have Corporation issue both taxable and tax exempt obligations. Specifically, Corporation will issue obligations to finance the acquisition of additional land to be owned by Tribe and to be used for public purposes, to finance the construction of tribally-owned rental housing for tribal members, and to refinance the tribally-owned convention center constructed and financed by Tribe in 1996. In addition, Corporation will

issue taxable obligations in order to finance or refinance economic development projects that do not constitute "essential governmental functions" within the meaning of § 7871(e).

LAW

[Section 103\(a\)](#) provides that, except as provided in subsection (b), gross income does not include interest on any State or local bond. [Section 103\(c\)](#) defines "State or local bond" as an obligation of a State or political subdivision of a State.

Section 7871(a)(4) provides that an Indian tribal government is treated as a State for purposes of [§ 103](#), subject to the limitations of § 7871(c).

Section 7871(c) provides that [§ 103\(a\)](#) shall apply to any obligation (not described in § 7871(c)(3)) issued by an Indian tribal government (or subdivision thereof) only if such obligation is part of an issue substantially all of the proceeds of which are to be used in the exercise of any essential governmental function.

Section 7701(a)(40)(A) defines the term "Indian tribal government" as the governing body of any tribe, band, community, village, or group of Indians, or (if applicable) Alaska natives, which is determined by the Secretary, after consultation with the Secretary of the Interior, to exercise governmental functions.

[Rev. Rul. 94-16, 1994-1 C.B. 19](#), holds that an Indian tribal corporation organized under section 17 of the Indian Reorganization Act of 1934 shares the same tax status as the tribe.

ANALYSIS

Tribe is an Indian tribal government within the meaning of 7701(a)(40). Under § 7871(a), Tribe is treated as a State for purposes of [§ 103](#), with respect to those bond issues for which the conditions of § 7871(c) are satisfied. Pursuant to [Rev. Rul. 94-16](#), Corporation has the same tax status as Tribe because Corporation is organized under section 17 of the Indian Reorganization Act of 1934. Accordingly, Corporation, like Tribe, shall be treated as a State for purposes of [§ 103](#) with respect to bond issues for which the conditions of [§§ 103](#) and [7871\(c\)](#) are satisfied.

Except as specifically ruled upon above, no opinion is expressed on the federal tax consequences of any particular transaction. For example, no opinion is expressed on whether interest on any specific bond issued or to be issued by Tribe or Corporation is excludible from gross income pursuant to [§§ 103](#) and [7871](#).

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

Sincerely yours,

Assistant Chief Counsel
(Financial Institutions & Products)

By

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

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