

INTERNAL REVENUE SERVICE
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August 8, 2000

Dear [REDACTED]

This letter responds to your April 28, 2000 letter that requests an exemption, pursuant to section 15.04(1) of Rev. Proc. 2000-1 I.R.B. 4, 51, from the \$5,000 user fee with respect to a private letter ruling request on behalf of [REDACTED]. You requested a ruling that [REDACTED] is a political subdivision of an Indian tribal government within the meaning of section 7871(d) of the Internal Revenue Code.

We have determined that the section 15.04(1) exemption does not apply. Accordingly a user fee is required. As we discussed, however, [REDACTED] may qualify for a reduced user fee of \$500. See Appendix A(4) of Rev. Proc. 2001.

Our analysis of your request follows. Section 15.02 of Rev. Proc. 2000-1 imposes in general a user fee on requests for private letter rulings.

Section 15.04(1) of Rev. Proc. 2000-1 provides that the user fee requirements do not apply to "departments, agencies, or instrumentalities" of the United States that certify that they are seeking a letter ruling on behalf of a program or activity funded by federal appropriations.

The [REDACTED] is listed in Rev. Proc. 83-87, 1983-2 C.B. 606 as a tribal entity having an Indian tribal government as defined in section 7701(a)(40) of the Code. The tribal government has delegated some of its governmental functions to [REDACTED]. [REDACTED] has entered into an annual funding agreement and contracts with the United States Department of Interior Bureau of Indian Affairs with regard to the expenditure of funds appropriated by the United States.

Under 25 U.S.C. 450j(k), for purposes of 40 U.S.C. 481(a), a tribal organization carrying out certain contracts is deemed an executive agency. Under 25 U.S.C. 450b(1), a tribal organization includes a legally established organization of Indians that is controlled, sanctioned, or chartered by the recognized governing body of an Indian tribe. For purposes of 40 U.S.C. 481(a), 40

U.S.C. 472(a) provides that the term "executive agency" means any executive department or independent establishment in the executive branch of the federal government.

We have concluded that the term "departments, agencies, or instrumentalities of the United States" as used in section 15.04(1) of Rev. Proc. 2000-1 does not, and was not intended to, include an entity described in 25 U.S.C 450j(k). Title 25 U.S.C. section 450j(k) provides that

FOR PURPOSES OF SECTION 201(a) OF THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949 (40 U.S.C. 481(a)) (RELATING TO FEDERAL SOURCES OF SUPPLY, INCLUDING LODGING PROVIDERS, AIRLINES AND OTHER TRANSPORTATION PROVIDERS), a tribal organization carrying out a contract, grant, or cooperative agreement under this subchapter shall be deemed an executive agency when carrying out such contract, grant, or agreement and the employees of the tribal organization shall be eligible to have access to such sources of supply on the same basis as employees of an executive agency have such access (emphasis supplied).

By its terms, an entity is an "executive agency" solely for the limited purposes of 40 U.S.C. 481(a). Consequently, an entity is not an executive agency for any other purposes of federal law.

Accordingly, we determined that the user fee exemption in section 15.04(1) does not apply.

We also considered, although it was not dispositive, whether the ruling concerns a "program or activity," another requirement of section 15.04(1). We note that there is a distinction between the status of an entity under section 7871(d) of the Code, in contrast to the tax status of a "program or activity." The ruling request involves an entity, whereas the user fee exemption involves a program or activity. The section 7871(d) status of an entity can be determined without regard to the entity's relationship to any program or activity.

If you have any questions regarding this matter, please contact Adrian Michur, (202) 622-3089 (not a toll-free call).

Sincerely yours,

Acting Associate Chief Counsel
(Financial Institutions & Products)

By: William E. Coppersmith
Chief, Branch 2

cc:

[REDACTED]