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Person To Contact:
, ID No.

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Refer Reply To:
CC:TEGE:EOEG:EO2
PLR-109371-15

Date:
September 11, 2015

Organization =

State =

Project =

Dear :

This letter responds to a letter from your authorized representatives dated February 3, 2015 submitted on behalf of the Organization, requesting a ruling that the Organization is an instrumentality of its member Indian tribal governments within the meaning of Rev. Rul. 57-128, 1957-1 C.B. 31, and is eligible to receive tax deductible charitable contributions under Internal Revenue Code (IRC) section 170(c)(1).

FACTS

The Organization's members are recognized as Indian tribal governments within the meaning of IRC section 7701(a)(40). Membership in the Organization is limited to federally recognized Indian tribes located in a particular region of the State. Each member Indian tribe appoints a member of the tribe's governing body to serve on the Organization's board of directors. The Organization's actions are controlled exclusively by its member tribes through their appointed representatives. The Organization's board of directors' meeting locations rotate between members' lands to permit each member tribe to more easily participate in the Organization's board of directors meetings.

The Organization was formed by resolutions from each of its member tribes for the purpose of implementing the Project. The Project is focused on improving economic development opportunities, preserving cultural and subsistence resources, and increasing educational opportunities for tribal youth. In addition to the resolution, each member tribe allocated funds from its treasury to support the Organization's operations.

LAW

Revenue Ruling 57-128 sets forth the following factors to be taken into account in determining whether an entity is an instrumentality of one or more governmental units: (1) whether the organization is used for a governmental purpose and performs a governmental function; (2) whether performance of its function is on behalf of one or more states or political subdivisions; (3) whether there are any private interests involved, or whether the states or political subdivisions have the power and interests of an owner; (4) whether control and supervision of the organization is vested in a public authority or authorities; (5) whether express or implied statutory or other authority is necessary for the creation and/or use of the organization, and whether this authority exists; and (6) the degree of financial autonomy of the entity and the source of its operating expenses.

IRC section 7701(a)(40) provides that the term "Indian tribal government" means the governing body of any tribe, band, community, or group of Indians or (if applicable) Alaska Natives.

IRC section 7871(a)(1)(A) provides that an Indian tribal government shall be treated as a state for purposes of determining whether and in what amount any contribution or transfer to or for the use of an Indian tribal government (or a political subdivision thereof) is deductible under IRC section 170.

IRC section 170(a)(1) allows, subject to certain limitations, a deduction for charitable contributions as defined in IRC section 170(c), payment of which is made within the taxable year. IRC section 170(c)(1) includes in the definition of "charitable contribution" a contribution or gift made for exclusively public purposes to or for the use of a state, a possession of the United States, a political subdivision of either a state or possession of the United States, the United States, or the District of Columbia. Entities eligible to receive tax deductible contributions include not only governmental units described in IRC section 170(c)(1), but also wholly owned instrumentalities of states and political subdivisions.

ANALYSIS

The member Indian tribes are all recognized as Indian tribal governments that are treated similarly to states for specified purposes under the IRC section 7871.

The Organization's purpose is to implement the Project, which is focused on improving economic development opportunities, preserving cultural and subsistence resources, and increasing educational opportunities for tribal youth. These activities are of a kind that is typically undertaken by tribal governments.

There are no private interests involved in the Organization and the Indian tribal governments have the power and interests of an owner. Control and supervision are vested in the member tribes. Membership and ownership are limited to federally recognized Indian tribal governments located in a particular region of the State.

The Organization's actions, including all contracts and agreements, are controlled exclusively by its member tribes through their appointed representatives. Further, the Organization receives funding from funds allocated from its member tribes.

Accordingly, the Organization is a wholly owned instrumentality of its member Indian tribal governments and is eligible to receive charitable contributions under IRC section 170(c)(1).

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

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

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representatives.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns may satisfy this requirement.

Sincerely,

/S/

Casey Lothamer
Branch Chief
Exempt Organizations Branch 2
(TEGE Associate Chief Counsel)