

Tribal General Welfare Exclusion Act of 2014

[Public Law 113–168]

[As Amended Through P.L. 115-141, Enacted March 23, 2018]

【Currency: This publication is a compilation of the text of Public Law 113-168. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

AN ACT To amend the Internal Revenue Code of 1986 to clarify the treatment of general welfare benefits provided by Indian tribes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. [26 U.S.C. 1 note] SHORT TITLE.

This Act may be cited as the “Tribal General Welfare Exclusion Act of 2014”.

SEC. 2. INDIAN GENERAL WELFARE BENEFITS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting before section 140 the following new section:

“SEC. 139E. [26 U.S.C. 139E] INDIAN GENERAL WELFARE BENEFITS

“(a) IN GENERAL.—Gross income does not include the value of any Indian general welfare benefit.

“(b) INDIAN GENERAL WELFARE BENEFIT.—For purposes of this section, the term ‘Indian general welfare benefit’ includes any payment made or services provided to or on behalf of a member of an Indian tribe (or any spouse or dependent of such a member) pursuant to an Indian tribal government program, but only if—

“(1) the program is administered under specified guidelines and does not discriminate in favor of members of the governing body of the tribe, and

“(2) the benefits provided under such program—

“(A) are available to any tribal member who meets such guidelines,

“(B) are for the promotion of general welfare,

“(C) are not lavish or extravagant, and

“(D) are not compensation for services.

“(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) INDIAN TRIBAL GOVERNMENT.—For purposes of this section, the term ‘Indian tribal government’ includes any agencies or instrumentalities of an Indian tribal government and any Alaska Native regional or village corporation, as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.).

“(2) DEPENDENT.—The term ‘dependent’ has the meaning given such term by section 152, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B).

“(3) LAVISH OR EXTRAVAGANT.—The Secretary shall, in consultation with the Tribal Advisory Committee (as established under section 3(a) of the Tribal General Welfare Exclusion Act of 2013), establish guidelines for what constitutes lavish or extravagant benefits with respect to Indian tribal government programs.

“(4) ESTABLISHMENT OF TRIBAL GOVERNMENT PROGRAM.—A program shall not fail to be treated as an Indian tribal government program solely by reason of the program being established by tribal custom or government practice.

“(5) CEREMONIAL ACTIVITIES.—Any items of cultural significance, reimbursement of costs, or cash honorarium for participation in cultural or ceremonial activities for the transmission of tribal culture shall not be treated as compensation for services.”.

(b) CONFORMING AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 of such Code is amended by inserting before the item relating to section 140 the following new item:

“Sec. 139E. Indian general welfare benefits.”.

(c) [26 U.S.C. 139E note] STATUTORY CONSTRUCTION.—Ambiguities in section 139E of such Code, as added by this Act, shall be resolved in favor of Indian tribal governments and deference shall be given to Indian tribal governments for the programs administered and authorized by the tribe to benefit the general welfare of the tribal community.

(d) [26 U.S.C. 139E note] EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years for which the period of limitation on refund or credit under section 6511 of the Internal Revenue Code of 1986 has not expired.

(2) ONE-YEAR WAIVER OF STATUTE OF LIMITATIONS.—If the period of limitation on a credit or refund resulting from the amendments made by subsection (a) expires before the end of the 1-year period beginning on the date of the enactment of this Act, refund or credit of such overpayment (to the extent attributable to such amendments) may, nevertheless, be made or allowed if claim therefor is filed before the close of such 1-year period.

SEC. 3. [26 U.S.C. 139E note] TRIBAL ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Secretary of the Treasury shall establish a Tribal Advisory Committee (hereinafter in this section referred to as the “Committee”).

(b) DUTIES.—

(1) IMPLEMENTATION.—The Committee shall advise the Secretary on matters relating to the taxation of Indians.

(2) EDUCATION AND TRAINING.—The Secretary shall, in consultation with the Committee, establish and require—

(A) training and education for internal revenue field agents who administer and enforce internal revenue laws with respect to Indian tribes on Federal Indian law and the Federal Government's unique legal treaty and trust relationship with Indian tribal governments, and

(B) training of such internal revenue field agents, and provision of training and technical assistance to tribal financial officers, about implementation of this Act and the amendments made thereby.

(c) MEMBERSHIP.—

(1) IN GENERAL.—The Committee shall be composed of 7 members appointed as follows:

(A) Three members appointed by the Secretary of the Treasury.

(B) One member appointed by the Chairman, and one member appointed by the Ranking Member, of the Committee on Ways and Means of the House of Representatives.

(C) One member appointed by the Chairman, and one member appointed by the Ranking Member, of the Committee on Finance of the Senate.

(2) TERM.—

(A) IN GENERAL.—Except as provided in subparagraph (B), each member's term shall be 4 years.

(B) INITIAL STAGGERING.—The first appointments made by the Secretary under paragraph (1)(A) shall be for a term of 2 years.

SEC. 4. [26 U.S.C. 139E note] OTHER RELIEF FOR INDIAN TRIBES.

(a) TEMPORARY SUSPENSION OF EXAMINATIONS.—The Secretary of the Treasury shall suspend all audits and examinations of Indian tribal governments and members of Indian tribes (or any spouse or dependent of such a member), to the extent such an audit or examination relates to the exclusion of a payment or benefit from an Indian tribal government under the general welfare exclusion, until the education and training prescribed by section 3(b)(2) of this Act is completed. The running of any period of limitations under section 6501 of the Internal Revenue Code of 1986 with respect to Indian tribal governments and members of Indian tribes shall be suspended during the period during which audits and examinations are suspended under the preceding sentence.

(b) WAIVER OF PENALTIES AND INTEREST.—The Secretary of the Treasury may waive any interest and penalties imposed under such Code on any Indian tribal government or member of an Indian tribe (or any spouse or dependent of such a member) to the extent such interest and penalties relate to excluding a payment or benefit from gross income under the general welfare exclusion.

(c) DEFINITIONS.—For purposes of this section—

Sec. 4 **Tribal General Welfare Exclusion Act of 2014** **4**

(1) INDIAN TRIBAL GOVERNMENT.—The term “Indian tribal government” shall have the meaning given such term by section 139E of such Code, as added by this Act.

(2) INDIAN TRIBE.—The term “Indian tribe” shall have the meaning given such term by section 45A(c)(6) of such Code.