

106TH CONGRESS
1ST SESSION

H. R. 1943

To amend the Internal Revenue Code of 1986 to treat for unemployment compensation purposes Indian tribal governments the same as State or local units of government or as nonprofit organizations.

IN THE HOUSE OF REPRESENTATIVES

MAY 26, 1999

Mr. SHADEGG introduced the following bill; which was referred to the
Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to treat for unemployment compensation purposes Indian tribal governments the same as State or local units of government or as nonprofit organizations.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Indian Tribal Govern-
5 ment Unemployment Compensation Act Tax Relief
6 Amendments of 1999”.

1 **SEC. 2. CONSTITUTIONAL AUTHORITY.**

2 The Constitutional authority upon which this Act
3 rests is the power of Congress to lay and collect taxes and
4 to regulate commerce with foreign nations and among the
5 several States and with the Indian tribes, as set forth in
6 section 8 of Article I of the United States Constitution.

7 **SEC. 3. TREATMENT OF INDIAN TRIBAL GOVERNMENTS**
8 **UNDER FEDERAL UNEMPLOYMENT TAX ACT.**

9 (a) IN GENERAL.—Section 3306(c)(7) of the Internal
10 Revenue Code of 1986 (defining employment) is
11 amended—

12 (1) by inserting “or in the employ of an Indian
13 tribe,” after “service performed in the employ of a
14 State, or any political subdivision thereof,”; and

15 (2) by inserting “or Indian tribes” after “whol-
16 ly owned by one or more States or political subdivi-
17 sions”.

18 (b) PAYMENTS IN LIEU OF CONTRIBUTIONS.—Sec-
19 tion 3309 of the Internal Revenue Code of 1986 (relating
20 to State law coverage of services performed for nonprofit
21 organizations or governmental entities) is amended—

22 (1) in subsection (a)(2) by inserting “, includ-
23 ing an Indian tribe,” after “the State law shall pro-
24 vide that a governmental entity”;

1 (2) in subsection (b)(3)(B) by inserting “, or of
2 an Indian tribe” after “of a State or political sub-
3 division thereof”;

4 (3) in subsection (b)(3)(E) by inserting “or the
5 tribe’s” after “the State”; and

6 (4) in subsection (b)(5) by inserting “or of an
7 Indian tribe” after “an agency of a State or political
8 subdivision thereof”.

9 (c) STATE LAW COVERAGE.—Section 3309 of the In-
10 ternal Revenue Code of 1986 (relating to State law cov-
11 erage of services performed for nonprofit organizations or
12 governmental entities) is amended by adding at the end
13 the following new subsection:

14 “(d) ELECTION BY INDIAN TRIBE.—The State law
15 shall provide that an Indian tribe may elect to make con-
16 tributions for employment as if the employment is within
17 the meaning of section 3306 or to make payments in lieu
18 of contributions under this section, and shall provide that
19 an Indian tribe may make separate elections for itself and
20 each subdivision, subsidiary, or business enterprise char-
21 tered and wholly owned by such Indian tribe. State law
22 may require an electing tribe to post a payment bond or
23 take other reasonable measures to assure the making of
24 payments in lieu of contributions under this section. An
25 election under this subsection may not be made except by

1 an Indian tribe within the meaning of section 4(e) of the
2 Indian Self-Determination and Education Assistance Act
3 (25 U.S.C. 450b(e)).”.

4 (d) DEFINITIONS.—Section 3306 of the Internal Rev-
5 enue Code of 1986 (relating to definitions) is amended by
6 adding at the end the following new subsection:

7 “(u) INDIAN TRIBE.—For purposes of this chapter,
8 the term ‘Indian tribe’ has the meaning given to such term
9 by section 4(e) of the Indian Self-Determination and Edu-
10 cation Assistance Act (25 U.S.C. 450b(e)), and includes
11 any subdivision, subsidiary, or business enterprise char-
12 tered and wholly owned by such an Indian tribe.”

13 (e) TRANSITION RULE.—For purposes of the Federal
14 Unemployment Tax Act, service performed in the employ
15 of an Indian tribe (as defined in section 3306(u) of the
16 Internal Revenue Code of 1986 (as added by this Act))
17 shall not be treated as employment (within the meaning
18 of section 3306 of such Code) if—

19 (1) it is service which is performed before the
20 date of enactment of this Act and with respect to
21 which the tax imposed under the Federal Unemploy-
22 ment Tax Act has not been paid; and

1 (2) such Indian tribe reimburses a State unem-
2 ployment fund for unemployment benefits paid for
3 service attributable to such tribe for such period.

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