



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #ATL-14-013

TITLE: Enact a Technical Amendment to Remove the “Kiddie Tax” Penalty from Transfers of Tribal Funds to Tribal Children and College Students

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WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, in 1986 the Congress enacted a provision, often referred to as the “kiddie tax”, which sought to prevent wealthy parents from dodging high-bracket tax rates by transferring taxable family income to their children to be taxed in lower tax brackets; and

WHEREAS, the “kiddie tax” penalty provision used overly-broad language that applied high-bracket tax rates to transfers of all “unearned income” to children, leading the IRS to apply its high-bracket tax rates to distributions of tribal funds to tribal members under the age of 25 years; and

WHEREAS, unlike wealthy parents, when tribal governments make distributions of tribal funds to tribal members under the age of 25 years, they do so to serve federal-tribal public policy goals; and

WHEREAS, unlike wealthy parents, tribal governments do not pay income tax and thus are not avoiding income tax when they transfer tribal funds to tribal members to serve federal-tribal public policy goals; and

WHEREAS, the “kiddie tax” penalty applies not only to children but also to (1) adults age 18, and (2) adults age 19 to 24 who are full-time students; and

WHEREAS, the “kiddie tax” penalty perversely tempts Indian students to drop out of school so they can avoid paying higher taxes on the financial support they receive from their Indian Tribe; and

WHEREAS, it is a distortion of tax policy to double or triple the income tax rate applied, to financial support a young adult tribal member receives from an Indian Tribe, just because he or she is enrolled in college; and

WHEREAS, in the interest of tax fairness and equity, Congress should enact a technical amendment to expressly exclude the transfer of tribal funds by a tribal government to tribal members from the “kiddie tax” penalty provision, and thereby allow such tribal transfers to be taxed at the tribal member’s own income tax rates rather than at his or her parents’ higher income tax rates.

NOW THEREFORE BE IT RESOLVED, that the NCAI, its leadership, and its executive staff shall call on the U.S. Congress and the Administration to support immediate enactment of a technical amendment which expressly excludes the transfer of tribal funds by a tribal government to tribal members from the “kiddie tax” penalty provisions of the U.S. Internal Revenue Code; and

BE IT FURTHER RESOLVED, that the technical amendment include provisions substantially similar to the following:


Adding a new subparagraph (8) to Title 26, Section 1(g) of the United States Code as follows:

“(8) None of the provisions in section 1(g) apply to any distribution made by an Indian tribal government, or by a grantor trust established by an Indian tribal government with respect to which such government is the owner (within the meaning of sections 671 to 679), to an enrolled member of the tribe;” and

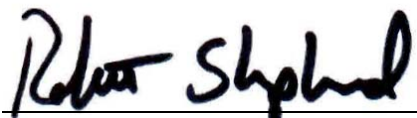
BE IT FINALLY RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2014 Annual Session of the National Congress of American Indians, held at the Hyatt Regency Atlanta, October 26-31, 2014 in Atlanta, Georgia, with a quorum present.


President

ATTEST:


Recording Secretary