



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #ANC-14-002-A

TITLE: Tribal General Welfare Programs - Exclusion from Housing Income Calculations

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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, the Internal Revenue Service (“IRS”), in Revenue Procedure 2014-35 “Application of the General Welfare Exclusion to Indian Tribal Government Programs That Provide Benefits to Tribal Members”, established that payments to tribal members by Indian tribal governments qualify for the general welfare exclusion if the payments are (1) made pursuant to a governmental program of the tribe; (2) for the promotion of general welfare; and (3) not compensation for services; and

WHEREAS, in accordance with the IRS Revenue Procedure 2014-35 general welfare programs meeting the criteria provided therein Indian tribes have developed and implemented programs within Indian Country to assist Tribal Elders and other Tribal members meeting program eligibility criteria; and

WHEREAS, several Indian tribes have established Tribal housing through the United States Department of Agriculture Rural Development Program (“USDA RD”) Multi-Family Housing Program; and

WHEREAS, the USDA RD Multi-Family Housing Asset Management Handbook (HB 2-3560) at Chapter 6 and Attachment 6-A, and 7 C.F.R. § 3560.153 classifies payments made under tribal programs designed to adhere to IRS Revenue Procedure 2014-35 as: (1) included in annual income pursuant to 24 C.F.R. § 5.609(b)(6), which in turn affects eligibility to reside in certain premises and raises the rent for Tribal Elders and other Tribal members or (2) excluded from income pursuant to 24 C.F.R. § 6.609(c)(9) as long as the receipt of funds is a one-time event; and

WHEREAS, NCAI asserts that tribal general welfare assistance programs created in accordance with IRS Revenue Procedure 2014-35 and designed for the benefit of tribal elders and other tribal members should not be included in USDA RD annual income calculations pursuant to 24 C.F.R. § 5.609(b)(6) nor restricted to a one-time event in order to be excluded from annual income pursuant to 24 C.F.R. § 5.609(c)(9); and

WHEREAS, NCAI maintains that tribal general welfare assistance programs designed for the benefit of tribal elders and other tribal members and classifying said program funds as inclusions to the annual income calculations or as exclusions from annual income calculations, so long the benefit is a one time-event, destroys the purpose of a Indian tribal general welfare assistance programs to provide continuing benefits to tribal elders and other tribal members; and

WHEREAS, NCAI maintains that the USDA RD's treatment of Indian tribal general welfare programs is inconsistent with other federal departmental treatment of such funds, such as the IRS Revenue Procedure 2014-35 treatment of the funds as excluded from income calculations; and

WHEREAS, NCAI asserts that Indian tribal programs established throughout Indian Country in conformity with IRS Revenue Procedure 2014-35, should be specifically excluded from income by federal statute or added to the Federal Register's annually published list to which such assistance programs are excluded from income pursuant to 24 C.F.R. § 5.610(c)(17); and

WHEREAS, Executive Order 13175 of September 23, 2004, requires consultation with Indian tribal governments and establishes policy in consulting and collaborating with Indian tribes through government-to-government relationships in order to establish regular and meaningful consultation and collaboration with tribal officials in the development of federal policies that have tribal implications, to strengthen the United States government-to-government relationships with Indian tribes; thus, the USDA RD should consult with tribes on amending existing policies and regulations for consistency with IRS Revenue Procedure 2014-35.

NOW THEREFORE BE IT RESOLVED, that the NCAI asserts that Indian tribal programs that are subject to the General Welfare Exclusion described in IRS Revenue Procedure 2014-35 shall be specifically excluded from income by Federal statute or added to the annually published list in the Federal Register to which assistance programs are excluded from income pursuant to 24 C.F.R. § 5.610(c)(17) in furtherance protecting Indian tribal sovereignty, governmental status, self-determination, health and welfare, and that meaningful consultation and collaboration ensue; and

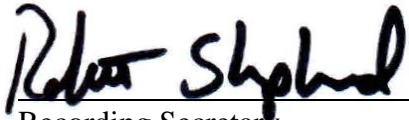
BE IT FURTHER RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2014 Mid-Year Session of the National Congress of American Indians, held at the Dena'ina Civic & Convention Center, June 8-11, 2014 in Anchorage, Alaska, with a quorum present.


President

ATTEST:


Recording Secretary