



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians
Resolution #SPO-16-057

TITLE: Internal Revenue Service Consultation with Tribes Relating to Ceremonial Activities

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EXECUTIVE DIRECTOR Jacqueline Pata Tlingit

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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, for years Indian Country has addressed the Internal Revenue Service's attempts to increase auditing of tribes for compliance with the requirements of Internal Revenue Code Section 61 (Income Tax on Gross Income) and the reporting of "income" paid by Indian Country to their tribal members that should have been reported to the IRS as a part of gross income, according to the IRS; and,

WHEREAS, many tribes have provided and will continue to provide "General Welfare" type services and benefits to their tribal membership and families, and prior IRS audits sought to tax those benefits and proactively the tribes organized nationally and secured the enactment of the Tribal General Welfare Exclusion Act of 2014 that excluded such activities from being defined as gross income; and,

WHEREAS, excluded from taxation are "general welfare" activities and "ceremonial activities" provided the contributions or distributions made by the tribes to the tribal members are not "lavish" or "extravagant" and any "ambiguities" in the law shall be resolved in the tribes' favor, and unresolved questions on tribal taxation shall be submitted to the Tax Advisory Committee established by the Act of 2014; and

WHEREAS, each tribal nation has a government to government relationship with the United States based on the Constitution treaties-made, acts of Congress and Executive Orders, and therefore the President had issued Executive Order 13175 requiring consultation with Indian Tribes by the various federal departments and agencies and the IRS is not excluded from this requirement; and

WHEREAS, Indian Country believes that the IRS is not qualified to define what is included or intended by the language of “ceremonial activities” and that any attempt by the IRS to tax cultural or ceremonial activities is an act of ethnocide and neocolonialism. And, as required by the Act of 2014, the IRS is to cease challenges and audits of ceremonial/cultural activities of tribal persons or tribes that has been clarified by this Act of 2014 as excluded activity; and

WHEREAS, the NCAI Subcommittee on Human, Religious, and Cultural Concerns, has received and reviewed the draft recommendations for structuring the dialogues and debates on what is qualified “Ceremonial Activities” as briefly delineated within the (attached) draft Traditional Protocols paper received at the NCAI 2016 Conference Spokane; and

WHEREAS, it was provided in the Act that any conflicts of unresolved questions dealing with the tax status of Indian Country shall be submitted to the Tax Advisory Committee formed by the Act of 2014, and failure to resolve the questions at this level, after Consultations, shall result in the subject matter being reported to Congress for recommended resolution;

NOW THEREFORE BE IT RESOLVED, the NCAI accepts the draft Traditional Protocols as an initial document for consideration in the structuring of Tribal/IRS Consultations on interpretation and intent of the “Ceremonial Activities” aspects of the Act of 2014; and

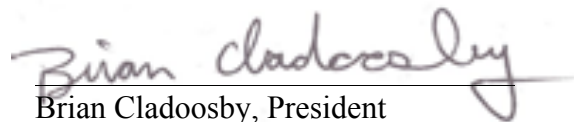
NOW BE IT FURTHER RESOLVED that the NCAI, at the request of its’ member tribes, calls upon the IRS to work cooperatively with the tribes through consultation and to not independently attempt to define “ceremonial activity.” In addition, the NCAI and tribes call upon the IRS to cease conducting challenges or audits of tribal or individual Indian “ceremonial activities” exempted by the Act of 2014; and

NOW BE IT FURTHER RESOLVED that the NCAI calls upon the Tax Advisory Committee members that were chosen as representatives of Indian Country to monitor these consultations and fully review all records of tribal oral testimonials or documentary evidence submitted before, during, or after consultation, and to determine when the IRS is cooperating to assure prior and informed consent of the tribes is secured nationally in regards to interpretation of the intent of the words “ceremonial activity”; 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 2016 Midyear Session of the National Congress of American Indians, held at the Spokane Convention Center, June 27 to June 30, 2016, with a quorum present.


Brian Cladoosby, President

ATTEST:


Aaron Payment, Recording Secretary