



NATIONAL CONGRESS OF AMERICAN INDIANS

**The National Congress of American Indians
Resolution #ABQ-19-017**

**TITLE: Urging the Treasury Tribal Advisory Committee to Exercise Oversight
over IRS Auditing and Tax Collecting Activity in Indian Country**

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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 and the United Nations Declaration on the Rights of Indigenous Peoples, 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 U.S. Congress enacted the Tribal General Welfare Exclusion Act of 2014, Pub. L. 113-168, 128 Stat. 1883 (TGWE), which established that benefit payments or services provided by Indian tribal governments to their citizens under a tribal government program would not be subject to federal income taxation so long as the tribal government administers such program under specified guidelines and other restrictions; and

WHEREAS, the TGWE established a Treasury Tribal Advisory Committee (TTAC) for purposes of advising the Secretary of the Treasury “on matters relating to the taxation of Indians;” and

WHEREAS, one of the important reasons for enacting the TGWE was to end the practice of Internal Revenue Service (IRS) audits and examinations of Indians and Indian tribal governments for purposes of assessing income taxes and penalties associated with the distribution of tribal benefits; and

WHEREAS, the IRS auditing in Indian Country was fully investigated by the Treasury Department Office of the Inspector General who issued a report in January 2013 that concluded that the Treasury Office of Indian Tribal Governments had conducted 1000 audits of Indians and Indian tribal governments over a 10 year period to detect “fraud and abuse” but had “not developed specific performance objectives or measures” to be able to determine success (see <https://www.treasury.gov/tigta/auditreports/2013reports/201310018fr.pdf>); and

WHEREAS, Congress responded to the IRS auditing, investigation and taxation of tribal government benefits by suspending all audits and examinations of Indians and Indian tribal governments relating to general welfare benefits until such time as the TTAC conducts the training of IRS agents as required under the law (TGWE § 4(a)); and

WHEREAS, while the IRS has reported that audits and examinations of tribal government benefit programs has been suspended in accordance with the law, there continue to be reports of such audits occurring as well as continuing audits relating to tribal government payroll tax and information returns; and

WHEREAS, NCAI has a standing resolution #MSP-15-023, Requesting Treasury Comply with the Tribal General Welfare Exclusion Act, PL 113-168, by Consulting with Indian Tribes on Implementation of the Act and Suspending Audits and Examination of Tribal General Welfare Program; and

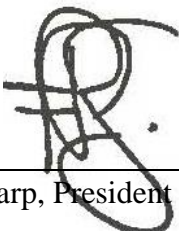
WHEREAS, now that TTAC has officially been seated, an important priority for the TTAC is to exercise oversight of the Treasury Department and the IRS regarding its auditing, examining, and federal tax collecting activities in Indian Country to protect Indians and Indian tribal governments from unfair, unjust, and unauthorized federal government tax collection activities.

NOW THEREFORE BE IT RESOLVED, that the National Congress of American Indians (NCAI) urges the Treasury Tribal Advisory Committee to (i) adopt a policy statement setting forth its intent and plan to exercise oversight over the Internal Revenue Service and its auditing, examining, and tax collecting activities in Indian Country; (ii) establish a subcommittee to collect audit and oversight data, and (iii) report on a regular basis to federally-recognized tribal governments the results of its findings regarding IRS activities in Indian Country; and

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

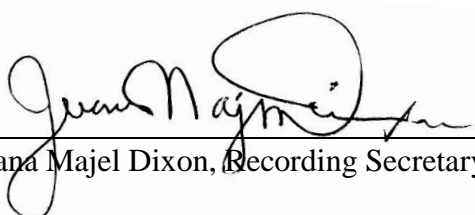
CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2019 Annual Session of the National Congress of American Indians, held at the Albuquerque Convention Center, October 20-25, 2019, with a quorum present.



Fawn Sharp, President

ATTEST:



Juana Majel Dixon, Recording Secretary