



2021 Midyear Convention Virtual

RESOLUTION #21 - 26

“URGING THE TREASURY TRIBAL ADVISORY COMMITTEE TO EXERCISE OVERSIGHT OVER IRS AUDITING AND TAX COLLECTING ACTIVITY IN INDIAN COUNTRY”

PREAMBLE

We, the members of the Affiliated Tribes of Northwest 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 rights secured under Indian Treaties, Executive Orders, and benefits to which we are entitled under the laws and constitution of the United States and several states, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise to promote the welfare of the Indian people, do hereby establish and submit the following resolution:

WHEREAS, the Affiliated Tribes of Northwest Indians (“ATNI”) are representatives of and advocates for national, regional, and specific tribal concerns; and

WHEREAS, ATNI is a regional organization comprised of American Indians/Alaska Natives and tribes in the states of Washington, Idaho, Oregon, Montana, Nevada, Northern California, and Alaska; and

WHEREAS, the health, safety, welfare, education, economic and employment opportunity, and preservation of cultural and natural resources are primary goals and objectives of ATNI; 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 programs under specified guidelines and other restrictions; and

WHEREAS, the TGWE established a Tribal Advisory Committee 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 activity 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 Treasury Tribal Advisory Committee (TTAC) conducts the training of IRS agents as required under the law (TGWE § 4(a)); and

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

WHEREAS, 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 ATNI 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 an Audit Oversight Subcommittee to provide a standing mechanism to ensure that this important responsibility is consistently executed; and (iii) report on a regular basis to federally-recognized tribal governments and to the Congress the results of its findings regarding IRS activities in Indian Country; and

BE IT FURTHER RESOLVED, if the TTAC determines that the Treasury Department or Federal law restricts its ability to gather information regarding IRS audit and examination activities in Indian Country that it shall notify the Congress and federally recognized tribes that an amendment to Federal law is required; and

FURTHER RESOLVED, that the TTAC and its subcommittees shall remain permanently in effect consistent with the government-to-government relationship established by treaties, laws, and the trust relationship as set forth in Executive Order 13175; and

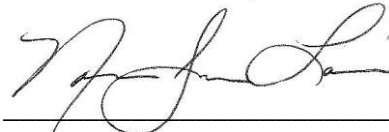
BE IT FINALLY RESOLVED, that this resolution be forwarded to the Secretary of the Treasury (tribal.consult@treasury.gov), the Treasury Tribal Advisory Committee (TTAC@treasury.gov), regional and national intertribal organizations, including but not limited to the National Congress of American Indians (NCAI), United South & Eastern Tribes (USET), California Tribal Chairman's Association, Native American Finance Officers (NAFOA), the Great Plains Tribal Chairman's Association, the Midwest Alliance of Sovereign Tribes (MAST), and the Alaska Federation of Natives (AFN).

CERTIFICATION

The foregoing resolution was adopted at the 2021 Virtual Mid-Year Convention of the Affiliated Tribes of Northwest Indians, Portland, Oregon, on May 24 – May 27, 2021, with a quorum present.



Leonard Forsman, President



Norma Jean Louie, Secretary