2012 Mid-Year Convention
Lincoln City, Oregon

RESOLUTION #12 - 38

"STRONGLY URGES THE IRS AND THE DEPARTMENT OF TREASURY TO IMMEDIATELY CEASE IMPLEMENTATION OF THE NEW IRS POLICY REGARDING TAXABILITY OF TRUST PER CAPITA PAYMENTS"

PREAMBLE

We the members of 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, 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, for more than sixty years some member tribes of ATNI have made very modest per capita distributions to their enrolled members of revenue, held in trust by the Office of Special Trustee ("trust per capita payments"), which is realized from the utilization of tribal trust resources, primarily from trust lands; and

WHEREAS, such trust per capita payments have always been regarded by the member tribes of ATNI, the Department of Interior and by the United States Congress as excluded from taxation by federal or state governments; and

WHEREAS, the Internal Revenue Service (IRS) of the U.S. Department of Treasury has recently asserted to several member tribes of ATNI that the IRS now regards such tribes' modest trust per capita payments as taxable income to the recipient tribal members; and

WHEREAS, ATNI considers the IRS recent assertions of taxability to constitute a shift in policy and/or practice which has tribal implications and, as such, requires meaningful consultation with the affected ATNI member tribes, on a government to government basis, as mandated by Executive Order No. 11375 and affirmed by ATNI Resolution No. 11-23; and

WHEREAS, requests by ATNI member tribes subject to the new IRS policy regarding the taxability of trust per capita payments to consult with the IRS and the Department of Treasury under Executive Order No. 11375, Section 5, have been denied; and

WHEREAS, ATNI strongly believes that the new IRS policy regarding the taxability of trust per capita payments is contrary to long-standing federal policy, federal common law and the "Per Capita Act" of 1983 (Public Law 98-64); now

THEREFORE BE IT RESOLVED, that ATNI does hereby respectfully but strongly urges the IRS and the Department of Treasury to immediately cease implementation of the new IRS policy regarding taxability of trust per capita payments as such action is in violation of federal policy, federal common law and Public Law 98-64.

CERTIFICATION

The foregoing resolution was adopted at the 2012 Mid-Year Convention of the Affiliated Tribes of Northwest Indians, held at Chinook Winds Casino Resort, Lincoln City, Oregon, on May 21 – 24, 2012, with a quorum present.

Fawn Sharp, President

Norma Jean Louie, Secretary