



## **2012 Annual Convention Pendleton, Oregon**

### **Resolution #12 - 63**

#### **“CALL FOR THREE-YEAR MORATORIUM ON IRS GENERAL WELFARE EXCLUSION POLICY”**

#### **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**, ATNI convened at Lincoln City, Oregon on May 21-24, 2012, with a quorum present, approved and adopted resolutions #12-38 (“Strongly urges the IRS and the Department of the Treasury to immediately cease implementation of the New IRS Policy regarding the taxability of trust per capita payments”), #12-39 (“Second IRS Per Capita

Taxation”) recalling “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 “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 calling for “meaningful consultations;” and

**WHEREAS**, the Internal Revenue Service (IRS) of the U.S. Department of Treasury asserts in claims against 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 under the IRS interpretation of the General Welfare Doctrine it applies to States under the Federal Union; and

**WHEREAS**, ATNI considers the IRS recent assertions of per capita payment taxability under the General Welfare Doctrine to constitute an unlawful shift in policy and/or practice which poses serious implications threatening the inherent taxing authority of tribal governments and general powers of tribal governments; and

**WHEREAS**, ATNI urged member tribes considered by the Internal Revenue Services as subject to the new IRS policy regarding the taxability of trust per capita payments to consult with the IRS and the Department of Treasury, but those consultations failed to produce a new understanding between tribal governments and the US Internal Revenue Service; 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) and the “Indian Tribal Judgment Funds Use or Distribution Act” of 1973 (Public Law 93-134) and that action must be taken to meet the eminent threat to tribal sovereignty; now

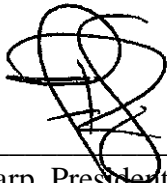
**THEREFORE BE IT RESOLVED**, that ATNI does once respectfully call upon President Barack Obama to invoke his authority to declare a Three-Year moratorium on the US Internal Revenue Service implementation of the new IRS General Welfare Exclusion policy applied to Indian nations and individual Indians regarding taxability of trust per capita payments and related transactions as such action noting that the IRS policy is in violation of treaties, executive orders, federal policy and law, federal common law, international human rights agreements, Public Law 98-64 and in particular Public Law 93-134, Sec. 7. [25 U.S.C. 1407] where per capita funds shall not be considered as income or as a resource influencing the delivery of social security or other services; and

**BE IT FURTHER RESOLVED**, that ATNI does call upon President Barack Obama to designate a representative independent of the Internal Revenue Service and with the full authority to represent the Office of the President to represent the United States in government-to-government talks with designated representatives Nation at a mutually determined time and place, and organized around a mutually determined agenda to discuss and agree to a solution to the present intergovernmental solution between the US Internal Revenue Services and Indian

Governments. The immediately declared Three-Year moratorium must be followed by a timely invitation to the three governments to commence talks with the US designated representative.

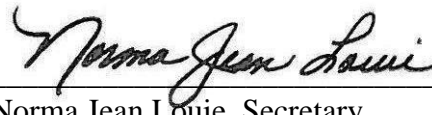
**CERTIFICATION**

The foregoing resolution was adopted at the 2012 Annual Convention of the Affiliated Tribes of Northwest Indians, held at Wildhorse Resort and Casino, Pendleton, Oregon on September 24 – 27, 2012 with a quorum present.



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Fawn Sharp, President



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Norma Jean Louie, Secretary