



2014 Mid-Year Convention Grand Mound, WA

RESOLUTION #14 - 34

“SUPPORT FOR TRIBAL GENERAL WELFARE EXCLUSION ACT”

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 the ATNI; and

WHEREAS, Indian nations and tribes were independent sovereign nations prior to the formation of the United States; and

WHEREAS, through the Commerce, Treaty, and Supremacy Clauses, the Constitution of the United States acknowledges Indian nations and tribes as original sovereigns, with authority over our members and territory; and

WHEREAS, through the Apportionment Clause and the 14th Amendment Citizenship and Apportionment Clauses, the Constitution acknowledges our tribal citizens as “Indians not taxed” subject to tribal jurisdiction, not Federal jurisdiction; and

WHEREAS, the United States entered into more than 370 Indian treaties, wherein Indian nations and tribes reserved our right to self-government, the United States pledged to respect our lands as “permanent homes” for our people, and as tribal governments, we have the right and duty to provide tribal government programs and services to make our lands livable as permanent homes for our tribal citizens; and

WHEREAS, in the Indian Citizenship Act of 1924, our Chiefs sought to reserve our rights as dual U.S.-tribal citizens, and Congress provided that nothing in the grant of U.S. citizenship would impair in any manner the right of an Indian to tribal property; and

WHEREAS, since 2002, the Internal Revenue Service (IRS) has been harassing Indian nations and tribes by seeking to impose Federal income tax on essential tribal government programs and services; and

WHEREAS, the IRS field agents have imposed negative and conflicting value judgments on tribal government programs and services provided to our tribal citizens because they do not afford tribal governments the same understanding and deference provided to Federal, state and local governments; and

WHEREAS, the IRS has offered to issue a bulletin to its field agents providing that certain tribal government programs and services are not taxable; and

WHEREAS, the IRS guidance does not provide the permanency necessary for the successful operation of tribal governments, the respect due to tribal government, an acknowledgement of our right to maintain our tribal communities on our Indian reservations and lands, nor an acknowledgment of our treaty rights to maintain our Indian reservations and lands as permanent homelands for our people; and

WHEREAS, Indian nations and tribes, ATNI, the Council of Large Tribes, National Congress of American Indians, National Indian Gaming Association, the Great Plains Tribal Chairman’s Association, the Montana-Wyoming Tribal Leaders Council, the United South and Eastern Tribes, and the United Tribes of North Dakota, among others, have called upon Congress to enact legislation to respect the right of tribal governments to provide programs and services to our tribal citizens; and

WHEREAS, answering the call of tribal leaders, on August 2, 2013, Representative Devin Nunes (R-CA) introduced H.R. 3043, the *"Tribal General Welfare Exclusion Act of 2013"*, the bill has the support of a strong bipartisan group of 51 House co-sponsors; and

WHEREAS, Senators Moran (R-KS) and Heitkamp (D-ND) introduced S.1507 in September 2013, a Senate companion bill to H.R. 3043, and the bill now has 17 Senate co-sponsors; and

WHEREAS, H.R. 3043 and S.1507 would amend the Internal Revenue Code by codifying and broadening the "General Welfare Exclusion" as that doctrine applies to tribal governments; in doing so, it excludes most tribal government programs and services from federal income taxation; and

WHEREAS, the bill would also reform the IRS and its work in Indian Country by requiring the *Treasury Secretary to establish a Tribal Advisory Committee* that will be charged with developing a mandatory education and training program for IRS field agents to learn about federal Indian law and the unique federal treaty and trust obligations; and

WHEREAS, under the H.R. 3043 and S. 1507, IRS examinations will be suspended until the IRS is adequately trained, and the bills also include a number of provisions that provide deference to local tribal government decision-making authority and generally fosters the policy supporting Indian Self-Determination and respect for tribal culture; now

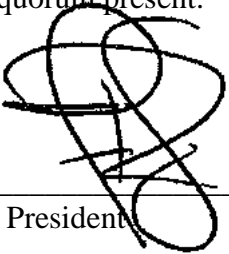
THEREFORE BE IT RESOLVED, that it is the policy of the ATNI to support and promote the enactment of H.R. 3043 and S. 1507, the Tribal General Welfare Exclusion Act as introduced, with provisions including a moratorium on audits pending education of IRS field agents on Indian treaties and Indian sovereignty, a tribal advisory committee to guide the IRS on questions of tribal self-government, an allowance for programs based on oral traditions, and authority to waive penalties otherwise to be assessed against Indian tribes; and

BE IT FURTHER RESOLVED, that the ATNI calls upon Congress to support H.R. 3043 and S. 1507 to ensure the enactment of the Tribal General Welfare Exclusion Act before the end of this session, whether as an amendment to the Tax Extenders bill, as a stand-alone bill, or as an amendment to another bill; and

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

CERTIFICATION

The foregoing resolution was adopted at the 2014 Mid-Year Convention of the Affiliated Tribes of Northwest Indians, held at Great Wolf Lodge, Grand Mound, Washington, on May 5 – 8, 2014 with a quorum present.



Fawn Sharp, President



Norma Jean Louie, Secretary