



# USET

SOVEREIGNTY PROTECTION FUND

**Nashville TN Office**  
711 Stewarts Ferry Pike, Ste. 100  
Nashville TN 37214  
P: (615) 872-7900  
F: (615) 872-7417

**Washington DC Office**  
400 North Capitol St., Ste. 585  
Washington DC 20001  
P: (202) 624-3550  
F: (202) 393-5218

Transmitted via email to:  
[Nick.Wyatt@finance.senate.gov](mailto:Nick.Wyatt@finance.senate.gov)

November 14, 2016

The Honorable Orrin Hatch  
Chairman  
Committee on Finance  
United States Senate  
219 Dirksen Senate Office Building  
Washington, DC 20510

Dear Chairman Hatch,

We write on behalf of United South and Eastern Tribes Sovereignty Protection Fund (USET SPF) to urge you to immediately appoint the Treasury Tribal Advisory Committee (TTAC) member that the Tribal General Welfare Exclusion Act (Pub. L. No. 113-168) requires to be appointed by you as Chairman of the Committee on Finance. Passage of the Tribal General Welfare Exclusion Act (TGWEA) at the end of the 113th Congress was an important reaffirmation of the governmental status of Tribal Nations in the Tax Code. This vital legislation to foster Tribal self-government and clarify the tax treatment of general welfare benefits provided by Tribal Nations was signed into law more than two years ago. In addition to providing certainty in the tax treatment of benefits delivered by Tribal Nations for the benefit of the general welfare, the Act established the seven member TTAC.

Treasury announced its three appointments and House Ways & Means Committee Ranking Member, Sander Levin announced his appointment to the TTAC in December 2015. Since that time, Indian Country, including USET SPF, has requested that the leadership of the Senate Finance Committee and the Chairman of the House Ways and Means Committee make their respective appointments. For instance, in its December 2015 and February 2016 letters, USET SPF described the integral and essential role the TTAC plays in the implementation of the TGWEA, and provided qualified nominees for your consideration.

USET SPF appreciates the recently-announced TTAC appointments made by your colleagues Senator Ron Wyden and Representative Kevin Brady. Although we continue to encourage Treasury to convene the TTAC, regardless of remaining appointments, the Department maintains that all appointees must be seated before any TTAC meetings can take place. With the implementation of key elements of the TGWEA on hold in the absence of guidance from the TTAC and with a majority of appointees nearly completing a full year of their two-year terms, it is becoming increasingly more urgent that the TTAC move ahead with its critical charge.

The ability to fully implement the TGWEA as Congress intended depends upon advice and guidance that must be supplied by the TTAC (in addition to Tribal Nations). Implementation of the TGWEA is vital to the future of Tribal sovereignty and the federal-Tribal relationship. And yet, many of the benefits of

the law remain inaccessible without the TTAC, including training and education for Internal Revenue Service field agents. In addition, in the absence of guidance from Treasury and the TTAC, agencies outside of the Department of Treasury are interpreting the TGWEA in a manner that undermines the TGWEA's intent to defer to each Tribal Nation's determination of general welfare need in their respective communities. For example, the Social Security Administration has found that the provision of certain Tribal general welfare benefits to Tribal citizens should result in a reduction in Social Security benefits and/or affect those citizens' eligibility for Social Security benefits. Moreover, a number of Indian tax matters unrelated to the TGWEA would benefit immensely from the analysis and insight that Congress intended the TTAC to offer to the Treasury Secretary. This includes the pressing need for Tribal relief from the incorrectly-applied Employer Mandate under the Affordable Care Act (ACA).

In the interest of beginning the important work of TGWEA implementation and providing for a renewed relationship between Treasury and Tribal Nations, we again urge you to act expeditiously to name your appointee to the TTAC. USET SPF appreciates your thoughtful consideration of this request and remains poised to assist in the selection process, if necessary. Should you have questions or require further information, please do not hesitate to contact Ms. Liz Malerba, USET SPF Director of Policy and Legislative Affairs, at (202) 624-3550 or by e-mail at [lmalerba@usetinc.org](mailto:lmalerba@usetinc.org).

Sincerely,



Chief Kirk Francis  
President



Chief Lynn Malerba  
Secretary  
and TTAC Appointee



Kitcki Carroll  
Executive Director

CC: USET SPF Executive Officers  
Wanda Janes, USET Deputy Director  
Michael Willis, USET SPF Tax Counsel