



## United South and Eastern Tribes, Inc.

---

**Nashville, TN Office:**

711 Stewarts Ferry Pike, Suite 100  
Nashville, TN 37214  
Phone: (615) 872-7900  
Fax: (615) 872-7417

**Washington, DC Office:**

400 North Capitol Street, Suite 585  
Washington, D.C., 20001  
Phone: (202) 624-3550  
Fax: (202) 393-5218

### USET Resolution No. 2012:018

#### **ELIMINATE THE DISTINCTION BETWEEN GOVERNMENT AND COMMERCIAL ACTIVITIES IN TAX TREATMENT OF TRIBAL GOVERNMENT EMPLOYEE PENSION PLANS**

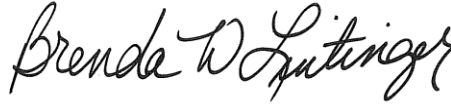
- WHEREAS,** United South and Eastern Tribes, Incorporated (USET) is an intertribal organization comprised of twenty-six (26) federally recognized Tribes; and
- WHEREAS,** the actions taken by the USET Board of Directors officially represent the intentions of each member Tribe, as the Board of Directors comprises delegates from the member Tribes' leadership; and
- WHEREAS,** Indian Tribal governments retain their inherent right to make their own laws and be governed by them, including the power to regulate employment relations within their Tribal territories; and
- WHEREAS,** Indian Tribal governments sponsor employee retirement plans that federal law has recognized, under certain conditions, to be eligible for the favorable tax treatment provided to the pension plans of federal, state and local governments; and
- WHEREAS,** Indian Tribes have objected consistently and strenuously to the discriminatory conditions imposed by federal legislation and Internal Revenue Service (IRS) interpretation that restricts the benefits afforded to Tribal government retirement plans only to those Tribal employees performing "essential governmental functions" and that establishes distinct treatment for the Tribal retirement plans for employees engaged in the Tribe's so-called "commercial" functions, such as Tribally-owned service stations, convenience stores, hotels, gaming facilities and marinas; and
- WHEREAS,** state and local government-sponsored theaters, stadiums, municipal golf courses, resorts and real estate development activities are treated by the IRS as governmental functions because the activities are carried out by the government entity and the funds generated by these activities benefit the public; and
- WHEREAS,** the IRS has issued a notice of proposed rulemaking for the purpose of determining whether a Tribal government's employee retirement plan is eligible for treatment as a "government plan" that continues to interpret the distinction between governmental and commercial activities in a more restrictive manner for Indian Tribal governments than for state and local governments; therefore, be it
- RESOLVED** the USET Board of Directors urges the Internal Revenue Service to eliminate the disparate treatment of Indian Tribal government retirement plans by developing agency interpretation and/or regulations that distinguish whether an activity is governmental or commercial based on the same considerations that are applied to state and local governments, such as whether the activity is carried out by a government entity and generates revenues for public benefit.

**CERTIFICATION**

This resolution was duly passed at the USET Annual Meeting, at which a quorum was present, in Choctaw, MS, on Thursday, November 11, 2011.



Brian Patterson, President  
United South and Eastern Tribes, Inc.



Brenda Lintinger, Secretary  
United South and Eastern Tribes, Inc.

*“Because there is strength in Unity”*