



United South and Eastern Tribes, Inc.

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USET Resolution No. 2015:035

OPPOSITION TO TREASURY/INTERNAL REVENUE SERVICE NOTICE OF PROPOSED RULEMAKING TO CHANGE REPORTING REQUIREMENTS FOR TRIBAL GOVERNMENT GAMING OPERATIONS

- 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,** the United States owes treaty and trust obligations to Indian Tribes to provide for the public safety, health, education and general welfare of Tribal communities; and
- WHEREAS,** Tribal government gaming revenues, which come in part from slot machines, bingo, and keno, play a critical role in funding up to 80% of a Tribal government's essential programs and services, including child and elder care, education, health care, public safety, reservation infrastructure, and more—many of which fall within the federal government's treaty and trust obligations; and
- WHEREAS,** unlike commercial gaming in which net revenues go to corporate shareholders, every dollar of net Indian gaming revenue is 100% taxed by the Tribal governments as required under the Indian Gaming Regulatory Act, 25 U.S.C. 2710; and
- WHEREAS,** on March 4, 2015, the Department of the Treasury/Internal Revenue Service (IRS) issued a Notice of Proposed Rulemaking to change the reporting requirements for "Winnings From Bingo, Keno, and Slot Machines", 80 Fed. Reg. 11600-07 (IRS NPRM); and
- WHEREAS,** the IRS NPRM retains the current reporting threshold of \$1,200 for winnings from slot machines and bingo that was established in 1977, but seeks comments on whether to reduce that amount to \$600 at a future time; and
- WHEREAS,** the IRS NPRM proposes to: add new regulations to account for "electronically tracked slot machine play", including the tracking of Tribal government players' rewards programs, to more closely reflect gross income reported by individual gamblers; adds to existing requirements for information contained in required tax reports, in addition to the W-G2 forms; would establish an alternative method for reporting aggregate bingo, keno, or slot machine winnings; among other items; and
- WHEREAS,** the IRS NPRM would significantly change the reporting methods and requirements for winnings from bingo, keno, and slot machines, and impose financial and administrative burdens on Tribal government gaming operations that could result in the closure of smaller operations, costing Indian Country jobs and cuts to Tribal government programs and services; and

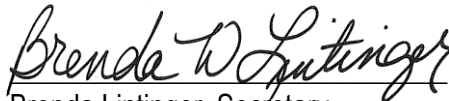
- WHEREAS,** by requiring Tribal governments to use players’ rewards programs to track the new regulatory requirements, the IRS NPRM will create a financial disincentive to participating in such program, which in turn will adversely impact Tribal governmental gaming revenues—and essential Tribal government programs and services; and
- WHEREAS,** the IRS NPRM applies to commercial and government-operated gaming, and does not make needed distinctions to offset potential impacts on Tribal government-operated gaming; and
- WHEREAS,** the IRS NPRM violates Executive Order 13175, and the Department’s own published consultation policy, both of which require the Department to engage in meaningful consultation in the early development of regulations with Tribal implications; and
- WHEREAS,** the IRS NPRM violates the Regulatory Flexibility Act (RFA), because the Department has not conducted a cost-benefit or RFA analysis of the proposed rules for electronically tracked slot machine play, which hold potential to impose significant adverse economic impacts on a substantial number of smaller Tribal government gaming operations; and
- WHEREAS,** the American Gaming Association also supports an increase in the reporting threshold; and
- WHEREAS,** in December 2010, the United States recognized the rights of its First Peoples through its support of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), whose provisions and principles support and promote the purposes of this resolution; therefore, be it
- RESOLVED** the USET Board of Directors urges Treasury/Internal Revenue Service to defer action on the Notice of Proposed Rulemaking until it has fulfilled its consultation and rulemaking obligations to Tribal governments and has thoroughly examined and studied the economic and administrative impacts of its proposal on Tribal gaming operations; and be it further
- RESOLVED** the USET Board of Directors urges Treasury/Internal Revenue Service to increase the reporting threshold to \$4,800 for winnings from bingo, keno, and slot machines at Indian gaming operations to account for inflation since 1977 and to acknowledge the need to decrease the federal regulatory burdens on Tribal government operations that fund programs and services that fall within the federal treaty and trust obligations.

CERTIFICATION

This resolution was duly passed at the USET Semi-Annual Meeting, at which a quorum was present, in Mashantucket, CT, May 20, 2015.



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



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

“Because there is strength in Unity”

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