



United South and Eastern Tribes, Inc.

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USET Resolution No. 2016:005

EXCLUSION OF HONORARIA FOR CIVIC PARTICIPATION IN TRIBAL NATION GOVERNMENT ACTIVITIES FROM GROSS INCOME

- WHEREAS,** United South and Eastern Tribes Incorporated (USET) is an intertribal organization comprised of twenty-six (26) federally recognized Tribal Nations; and
- WHEREAS,** the actions taken by the USET Board of Directors officially represent the intentions of each member Tribal Nation, as the Board of Directors comprises delegates from the member Tribal Nation's leadership; and
- WHEREAS,** Tribal Nations were independent sovereign nations prior to the formation of the United States and from the first days of the Republic, the United States entered into treaties and agreements with Tribal Nations, acknowledging their status as sovereigns; and
- WHEREAS,** the United States Constitution affirms the status of Tribal Nations as sovereigns through the Treaty, Supremacy, and Commerce Clauses, and recognizes Native citizens as "Indians not taxed;" and
- WHEREAS,** Congress passed Public Law 113-168, the Tribal General Welfare Exclusion Act and the President signed the legislation into law on September 26, 2014; and
- WHEREAS,** the law confirms that any general welfare benefits Tribal Nations provide to their citizens are not included within an individual's gross income; and
- WHEREAS,** the law confirms that cash honoraria payments made for "participation in cultural or ceremonial activities for the transmission of Tribal culture shall not be treated as compensation for services" and thus, excluded from gross income; and
- WHEREAS,** civic participation by citizens of Tribal Nations is essential for Tribal Nations to operate and execute their general welfare responsibilities given their unique structures and communities; and
- WHEREAS,** it is custom and tradition for numerous Tribal Nations to provide honoraria to their citizens who engage in civic participation opportunities related to the governmental general welfare operations that are essential for ensuring the transmission and protection of Native culture, history, and long-term viability and health of its citizens and overall community; and
- WHEREAS,** leading up to the Tribal General Welfare Exclusion Act's enactment, the legislative history made clear that Congress intended for the Tribal General Welfare Exclusion Act to respond to concerns that the Internal Revenue Service (IRS) may not fully understand the role that general welfare programs play in maintaining Native culture and tradition, and that these issues should be addressed through government-to-government consultation. Congress intended for the Treasury

Tribal Advisory Committee to address these concerns and work with Tribal Nations on a government-to-government basis; and

WHEREAS, Tribal Nations have their own unique histories, customs, traditions, and relationships with the United States, and accordingly, no one speaks for a Tribal Nation except for its own leaders through the strength of its people; and

WHEREAS, the IRS has indicated that it believes that stipends and fees provided to Native people by their governments for civic participation activities are compensation for services and, therefore, taxable; and

WHEREAS, the Treasury Department and IRS have not consulted with Tribal Nations on the implementation of the Tribal General Welfare Exclusion Act and have sought to interpret the law before establishing the Treasury Tribal Advisory Committee and conducting proper consultation, in a manner offensive to many Tribal Nations and contrary to Congress' intent; 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 that USET calls on the Treasury Department and Internal Revenue Service to interpret the Tribal General Welfare Exclusion Act to confirm that civic participation honoraria provided by Tribal Nations to their citizens is not included within an individual's gross income; and, be it further

RESOLVED that USET calls upon Congress to enact legislation, to the extent it is necessary, to confirm that honoraria provided to Native people by Tribal Nations for their civic participation in government activities, is not included within the individual's gross income; and, be it further

RESOLVED that USET calls upon the Treasury Department and the Internal Revenue Service to consult with Tribal Nations in the development of guidance relating to the agencies' interpretation of the Tribal General Welfare Exclusion Act and wait to issue any such guidance until after the Treasury Tribal Advisory Committee is established and properly consulted; and, be it further

RESOLVED that USET calls upon the White House to request that the Treasury Department and the IRS hold an official consultation session with Native Nations and Tribal Leaders in conjunction with the 2015 White House Tribal Nations Conference.

CERTIFICATION

This resolution was duly passed at the USET Annual Meeting, at which a quorum was present, in Choctaw, MS, on October 28, 2015.



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



Lynn Malerba, Secretary
United South and Eastern Tribes, Inc.

"Because there is strength in Unity"