



DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

June 30, 2025

via Email

Dear Alaska Native Corporation Leader:

On behalf of the U.S. Department of the Treasury (Treasury) and the Internal Revenue Service (IRS), I invite you to a consultation on the Tribal General Welfare Exclusion Act of 2014.

[You may register here for the consultation.](#)

This consultation will be held virtually on July 29, 2025, 1:30 p.m. – 4:30 p.m. ET.

***A. Background***

The Tribal General Welfare Exclusion Act of 2014, Pub. L. 113-168, 128 Stat. 1883 (2014) (Act or TGWEA) added section 139E to the Internal Revenue Code (Code) (26 U.S.C. 139E). Section 139E of the Code provides that gross income does not include the value of any Indian general welfare benefit provided to or on behalf of a member of an Indian Tribe (or any spouse or dependent of such member) pursuant to an Indian Tribal government program if all the following requirements are satisfied:

- The program is administered under specified guidelines and does not discriminate in favor of members of the governing body of the Tribe; and
- The benefits provided under the program are:
  - o available to any Tribal member who meets the guidelines;
  - o for the promotion of general welfare;
  - o not lavish and extravagant; and
  - o not compensation for services.

Section 139E of the Code provides further that any items of cultural significance, reimbursement of costs, or cash honorarium for participation in cultural or ceremonial activities for the transmission of Tribal culture are not compensation for services.

Section 139E(c)(1) of the Code defines “Indian Tribal government” to include “any agencies or instrumentalities of an Indian Tribal government *and any Alaska Native regional or village corporation, as defined in, or established pursuant to, the Alaska Native Claims Settlement Act* (43 U.S.C. 1601 et seq.) (ANCSA).”<sup>1</sup> Section 139E(c)(1) contains a broad definition of Indian Tribal government that includes an undefined sub-reference to an Indian Tribal government that is distinct from an Alaska Native Corporation (ANC) which is expressly defined in reference to ANCSA. Thus, ANCs

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<sup>1</sup> Emphasis added.

clearly are included in the broad category of Indian Tribal government to which the Act and section 139E apply.

Separately, section 4(c)(2) of the Act states that “Indian Tribe” shall have the meaning given such term by section 45A(c)(6) of the Code. Section 45A(c)(6) of the Code That section provides that the term “Indian Tribe” means:

any Indian Tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village, or regional or village corporation, as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

To date, Treasury and the IRS have not issued guidance specific to ANCs regarding the Act. On October 27, 2022, Treasury and the IRS initiated consultation with federally recognized Indian Tribes to inform the development of initial guidance on the Act.

A notice of proposed rulemaking (NPRM) under section 139E of the Code was published on September 17, 2024. The preamble to the NPRM states that § 1.139E–2 is reserved for future rules related to the application of section 139E of the Code to benefits provided by ANCs and that the Department intends to hold a consultation before issuing those rules. The purpose of this consultation is to provide ANCs an opportunity to inform the development of guidance that would impact them. The text of the NPRM defines the sub-reference to Indian Tribal government in the broader section 139E(c)(1) category of Indian Tribal government. That definition, however, does not otherwise change the recognition that ANCs are included in the broad section 139E(c)(1) category of Indian Tribal government based on the plain language of the Act. Lastly, the preamble to the NPRM notes that the Treasury Tribal Advisory Committee has not provided recommendations related to ANCs and the Act.

## ***B. Consultation Content***

Consistent with the Consolidated Appropriations Act, 2004,<sup>2</sup> Treasury and the IRS are initiating consultation with ANCs to inform the development of guidance to implement the TGWEA with regard to ANCs. Towards that goal, Treasury and the IRS request the assistance of ANC leadership in addressing the below questions.

1. Please describe the programs established by your ANC which provide benefits that are intended to be excluded under section 139E of the Code, including:
  - (a) Whether these programs are administered solely by your ANC or whether they are administered in part or in whole by other entities (for example, subsidiaries, other ANCs, Tribes, consortia, or other organizations).

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<sup>2</sup> See Consolidated Appropriations Act, 2004, Pub. L. 108-199, Div. H § 161, 118 Stat. 3, 452 (2004), as amended by Consolidated Appropriations Act, 2005, Pub. L. 108-447, Div. H., Title V § 518, 118 Stat. 2809, 3267, relating to consultation with Alaska Native Corporations.

- (b) How benefit amounts provided pursuant to these programs are determined and paid for.
  - (c) How benefits provided by these programs are accounted for by your ANC for federal income tax purposes, including for example, whether your ANC treats these payments as a reduction to its current earnings and profits.
  - (d) Whether your ANC treats any of these payments as giving rise to deductions that reduce the taxable income of the ANC or an affiliate, and if so which kind of payments are so treated.
- 2. Do your ANC's general welfare programs provide benefits solely to your shareholders, their spouses, and/or their dependents?
  - (a) If not, who are the other beneficiaries of your ANC's general welfare programs?
  - (b) Does your ANC establish and administer a general welfare program that provides benefits in equal amount to all shareholders (or all shareholders of a particular class)?
    - (1) If so, how is this program distinct from a corporate dividend payment?
- 3. How should "member of an Indian Tribe" as used in section 139E(b) and "Tribal member" in section 139E(b)(2)(A) be defined for a program established and administered by an ANC under section 139E?
  - (a) If ANC shareholders are included in the definition of a "member of an Indian Tribe" or "Tribal member" how should a shareholder be defined?
  - (b) Are there examples in other federal guidance where an ANC shareholder has been defined as a Tribal member?
  - (c) The NPRM defines a category of "Tribal Program Participants" who are eligible to receive a Tribal general welfare benefit. Please explain whether a similar rule is needed for programs established and maintained by an ANC.
  - (d) How should "spouse" as used in section 139E(b) be defined for a program established and administered by an ANC under section 139E?
- 4. Please identify the criteria the regulations should adopt to determine whether benefits provided under a program established and maintained by an ANC are "for the promotion of general welfare."
  - (a) Please provide examples of benefits or programs that satisfy these criteria.
  - (b) Please describe the relationship between these criteria and the criteria currently used by the ANC for determining whether a program complies with 43 U.S.C. 1606(r) (confirming the right of Alaska Native corporations to provide benefits to shareholders or shareholders' immediate family members).
  - (c) Please describe the extent to which, if any, these criteria apply to distributions required by 43 U.S.C. 1606(j).
  - (d) What relationship, if any, do ANC general welfare programs have to settlement trusts as defined in 43 U.S.C. 1602(t)?

5. Would safe harbors be helpful for purposes of determining whether an ANC has established and administered a program in accordance with section 139E of the Code?
  - (a) If so, what types of safe harbors would be most useful?
6. What criteria should Treasury and the IRS consider in adopting regulations applicable to ANCs to determine what constitutes “lavish or extravagant” with respect to Indian general welfare benefits provided by an ANC under section 139E of the Code?
  - (a) Please provide examples of benefits that are lavish or extravagant and examples of benefits that are not lavish or extravagant.
7. What criteria should Treasury and the IRS consider in adopting regulations applicable to ANCs to determine what constitutes “items of cultural significance, reimbursement of costs, or cash honoraria in connection with cultural or ceremonial activities” described in section 139E(c)(5) of the Code? In addition, please also:
  - (a) Identify the needs of the ANC or its members that your cultural or ceremonial activities address.
  - (b) Provide examples of cultural or ceremonial activities that your ANC provides or sponsors.
  - (c) Provide examples of items with cultural significance that are provided in connection with participation in cultural or ceremonial activities for the transmission of Tribal culture.
8. Please provide suggested examples or rules for applying the requirement in section 139(b)(1) of the Code that the program “not discriminate in favor of members of the governing body of the Tribe” to an ANC.
9. Section 139E(c)(4) of the Code provides that a program will not fail to be treated as an Indian Tribal government program solely by reason of the program being established by Tribal custom or government practice. What criteria should be adopted for section 139E(c)(4) regarding establishment of Tribal custom or government practice related to ANC programs?
10. Please provide suggested examples or rules for applying the term “agencies or instrumentalities of an Indian Tribal government,” found in section 139E(c)(1) of the Code, to an ANC.
11. Please provide examples of payments to vendors or service providers that should be excluded from income under section 139E(c)(5) of the Code and payments that should not be excluded from income under that section?
12. If similar or different rules are sought compared to those in the NPRM, please provide information explaining the need for those rules and how they should be similar or different.

13. If Treasury provides that ANC's may rely on the Final Rule applicable to Indian Tribal Governments until the issuance of ANC guidance, what questions or concerns do you have?

14. To the extent not discussed above, please discuss any outstanding issues, concerns, or other topics related to section 139E of the Code that may require guidance.

**[Register here for the consultation.](#)**

We respectfully request that each ANC register one person to participate in the consultation. All others are welcome to register as listen-only participants

**Please note that consultations are off the record and not for press purposes.**

We will send out an Agenda and a list of registered speakers before or on July 25, 2025. The deadline to submit written comments is Friday, August 29, 2025, at 11:59 p.m. Alaska Time. Written comments should be sent to [tribal.consult@treasury.gov](mailto:tribal.consult@treasury.gov).

We hope that you will be able to join us for this important discussion and value your participation.

Sincerely,

Fatima Abbas  
Director, Office of Tribal and Native Affairs  
Point of Contact for Tribal Consultation  
U.S. Department of the Treasury