



## Fact Sheet: Tribal General Welfare Exclusion Act—Final Regulations

December 15, 2025

**Overview:** In 2014, Congress enacted the Tribal General Welfare Exclusion Act (Act), which excludes the value of any Tribal general welfare benefit from a recipient’s gross income for Federal income tax purposes. The Act enables Tribes to provide a variety of assistance to their citizens to support their well-being. The Act contains two categories of requirements for Tribal programs:

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

**Treasury Tribal Advisory Committee (TTAC):** The Act established the [TTAC](#) to advise the Secretary of the U.S. Department of the Treasury on Tribal tax matters, advise on the Act’s implementation, and consult with the Internal Revenue Service (IRS) on the training of IRS field agents and Tribal financial officers. The Act suspends Tribal general welfare audits and examinations until this training is complete.

**Final Regulations:** On December 15, 2025, the Department of Treasury and the Internal Revenue Service (collectively Department) issued [final regulations](#) implementing the Act. Based on substantial Tribal and TTAC consultation, the final regulations reflect a historic incorporation of support for Tribal sovereignty and self-determination in tax regulations. To review this feedback and how it was utilized, see the [Tribal Consultation and Federal Feedback Summary](#). To support Tribal leaders in understanding these rules, below are key flexibilities in the regulations.<sup>1</sup>

### A. Key Policy Highlights:

1. **Tribal Deference:** The final regulations incorporate deference to Tribal government decision-making expressly into regulatory provisions. The Act’s deference provision, that ambiguities should be resolved in favor of a Tribe, is also incorporated into a stand-alone regulatory clause.
2. **Expanded Definition of Eligible Individuals:** The final regulations incorporate respect for Tribal law and broadly define “Tribal program participant”—the category of individuals eligible to receive Tribal general welfare benefits that are not subject to tax. This term includes a Tribal Member, their dependent, and their spouse under Tribal or state law. It also covers a Tribal member’s ancestor, descendant, former spouse, widow or widower, legally recognized domestic partner or former domestic partner, or an individual for whom a Tribal member is a caregiver authorized under Tribal or State law.

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1. The descriptions provided in this document summarize key provisions of the final regulations but are non-exhaustive and do not describe all requirements that may apply. Please see the final regulations.

3. **Use of Any Revenue:** The final regulations provide that General Welfare Exclusion benefits under a Tribe's program may be funded by any source of revenue or funds, including net gaming revenues.
4. **Deference to Tribal Classification of Revenue:** The final regulations defer to Tribes in their classification of net gaming revenues as general welfare versus per capita payments. This includes recognition that a Tribe may choose to modify a Revenue Allocation Plan to provide general welfare benefits instead of per-capita payments.
5. **Allowance of Uniform Payments and No Need Requirement:** The final regulations recognize that Tribes may use any revenue—including net gaming revenues—to provide eligible benefits, including uniform payments. The final regulations also do not impose a need requirement.
6. **General Welfare includes Grantor Trusts:** The final regulations confirm that a Tribe may provide a general welfare benefit through a grantor's trust. A Tribe may also choose to modify an existing IGRA trust to provide general welfare benefits.
7. **Economic Development as General Welfare:** The final regulations confirm that a Tribe's program may provide benefits directly to a Tribal program participant to support, develop, operate, expand, or start trades or businesses.
8. **Alaska Native Corporation Reliance:** The final regulations provide that Alaska Native regional and village corporations may choose to apply this rule until proposed regulations that specifically address general welfare benefits by Alaska Native regional and village corporations are published.

## B. Key Regulatory Flexibilities:

### 1. Program Establishment and Non-Discrimination:

#### a. Program Establishment:

- Recognition of Tribal Law: A program may be established by Tribal custom, government practice, or formal action of the Tribe under applicable Tribal law.
- Delegation: If permitted under Tribal law, a Tribe may delegate authority to establish a GWE program to a designated individual or the Tribe's entity.
- Writing Not Required: If a Tribe's law does not require formal actions to be in writing, a program does not need to be in writing to be established.

- #### b. Non-Discrimination:
- In recognition that some Tribes have a governing body that consists of the entire adult membership of the Tribe, the final regulations clarify that their operation of a general welfare program is compliant with the statutory non-discrimination requirement.

### 2. Benefit Requirements:

- #### a. Promoting General Welfare:
- Provides deference to Tribes to determine, at the time their program is established, whether a benefit is for the promotion of general welfare.

#### b. Lavish or Extravagant:

- Recognition of Tribal Sovereignty: The final regulations recognize that each Tribe is unique and applies a facts and circumstances test to evaluate whether a benefit is lavish or extravagant. This test includes a Tribe's culture and cultural practices, history, geographic area, traditions, resources, and economic conditions or factors.

- Deference on Attestations: The final regulations provide that the IRS will defer to a Tribe's attestations of facts and circumstances, regardless of whether the program is in writing, at the time the benefit is provided to the Tribal program participant.
  - Compliance Presumption: A benefit will be presumed to not be lavish or extravagant if it is described in, and provided in accordance with, the written specified guidelines of a Tribe's program.
- c. **Benefits and Compensation for Services**: The final regulations recognize that a Tribe has sole discretion to determine whether an item is of cultural significance and whether an activity is a cultural or ceremonial activity, and that the IRS will defer to these determinations. This includes recognition that community service, job, training, and prizes for participation in cultural activities may all constitute general welfare.
- Members of Other Tribes: The final regulations also provide that, relating to cultural or ceremonial activities, the definition of "Tribal program participant" includes citizens of other Tribes and the individuals in the Tribal program participant category affiliated with them.

### C. Administrative Highlights:

1. **Examples are Illustrative & Non-Exhaustive**: The final regulations provide that examples are illustrative and non-exhaustive. It also broadens existing examples and adds a new one on economic development to support Tribes.
2. **Substantiation Clarification**: The final regulations do not limit the types of documentation a Tribe can provide its recipients to substantiate a general welfare payment. The final regulations also confirm that individuals are not required to maintain personal receipts for benefits received.
3. **One Year Transition Period and Prior Reliance**: The final regulations generally are effective January 1, 2027, which provides Tribes a one-year transition period. Tribes are also permitted to apply the final regulations to prior taxable years.
4. **Prospective Enforcement**: The final regulations provide that the Department agrees with the TTAC and Tribal leaders that it would be counterproductive for IRS audit and examinations of issues under section 139E and these final regulations to apply to taxable years for which there was no guidance interpreting section 139E.
5. **Maintenance of the Audit and Examination Suspension**: The final regulations confirm that the Act's audit suspension will not be lifted until after final regulations are issued and the Act's required training is completed in consultation with Tribal governments and the TTAC.
6. **Inclusion of Tribal Program Participant's in Audit Suspension**: The final regulations confirm that the audit and examination suspension will apply to all Tribal Program Participants.