

WRITTEN TESTIMONY SUBMITTED TO THE
TREASURY TRIBAL TAX ADVISORY COMMITTEE- FOR THE SUBCOMMITTEE ON
TRIBAL GENERAL WELFARE EXCLUSIONS ACT OF 2014

of

Lawrence Solomon, Secretary

Lummi Indian Nation

State of Washington

TTAC Members:

My name is Lawrence Solomon. I am the Secretary of the Lummi Indian Business Council. We are the governing branch of tribal government, as empowered by the Lummi Constitution. I am the Supervising Officer that guides and directs the Lummi Sovereignty & Treaty Protection Office. The attachments, herewith, are the work products of my staff, over the years of involvement with the question of federal taxation inside the boundaries of the Lummi Indian Reservation, State of Washington.

Please find, attached, our testimony on concerns about the Treasury Tribal Advisory Committee, Subcommittee on the Tribal General Welfare Exclusions Act process and acceptance of testimonials from tribes and tribal Indians impacted by federal taxation that is otherwise exempted or excluded by law. We understand the TTAC is still in the process of organizing their operations and developing their processes for input and review of questions about or ambiguities in the GWE Act of 2014. But, we understand that the TTAC has a much larger role in identification of tax problems of Indian Country. This is why our attached document is fairly large. The fact is that there are a lot of legal and historical fictions that have damaged, and continue to damage tribal nations and people. We surmise the taxation of Indian Country is schizophrenic is anything.

We are generally concerned about 1099 reports that flag "gross income" that may or may not have been reported by tribal Indians (as citizens) on their 1040 forms. We are concerned about the Tribal General Welfare Exclusions Act issues. But, we, also, are concerned about other activities that become flagged by 1099s. We have IRC Section 7871 on the Tribal Governmental Tax Status Act and especially non-profit activities. We have Section IRC Section 7873 on Indian Fishing Rights Exemptions. We have IRC Section 139D on Medical Exemptions. We have IRC Section 139E (General Welfare and Ceremonial Activity Exclusions). Without clarification, any

and all of these can result in a 1099 form being sent in and the “income” flag for “tax evasion” due to not being reconciled on the 1040.

Consequently, we believe the “1099” problem needs to be addressed via consultations and negotiations between the IRS/Treasury and Indian Nations. This task is not impossible if we have a working environment that encourages dialogue and cooperation. For example, those 1099s that should not be filed with the IRS due to any of the mentioned sections (defined and scoped out) should be sent to the respective tribe (that the individual is enrolled in or a descendant of) for entering into a 1099 Tribal Registry that documents the transaction. This would require the tribes and the IRS to agree to an IRS Guidance Document that is explanatory of the process, authorizes the system, and informs all entities that would otherwise fill out and mail in the 1099 that it gets sent to the respective tribal registry. This would require access to a government website that explains the reasons, the law, and the process. It would be aligned with the Federally Recognize Tribes listing on file with the IRS.

Finally, you will find our position, herewith, on “Ceremonial Activity.” Neither the tribes or the IRS has this scoped out and thoroughly defined. In the meanwhile, tribal “ceremonialists” are being identified on 1099 forms and face IRS challenges due to their 1040 filings. We attached, herewith, a paper entitled “Lummi Nation Concerns About Prevention of Federal Taxation of Ceremonial Activity.” Then, we attached, our explanation via “Chart on IRS Taxation of Indian Country” (chart attached as a pdf file). Then, we have a “Message of Concern and Explanations” that is associated with explaining why we need to develop a “Booklet on Ceremonial Activity.” This latter is intended to help scope out what is tax exempt ceremonial activity. Then, we attached, a sample draft code (Lummi version pending completion) for tribes to take into consideration in the development of a tribal code of laws to implement the Tribal General Welfare Exclusions Act of 2014.

We recognize that the TTAC members are extremely busy, but committed to Indian Country. Therefore, we feel it appropriate to provide as much information about our position as possible.

Please accept this draft position for your future considerations and debates.