

U.S. DEPARTMENT OF THE TREASURY
TREASURY TRIBAL ADVISORY COMMITTEE
PUBLIC MEETING MINUTES

March 31, 2020
9:00 a.m. to 11:00 a.m.

The Treasury Tribal Advisory Committee (TTAC) conducted a public meeting on March 31, 2020. Due to COVID-19 safety measures, the meeting was held via teleconference.

In accordance with the provisions of Public Law 92-463, the meeting was open to the public from 9:00 a.m. to 11 a.m.

The following TTAC members were present:

TTAC

Chairman W. Ron Allen
Rebecca Benally
Sharon Edenfield
Lacey Horn, Chair
Patricia “Trish” King
Chief Lynn Malerba

Eugene Magnuson, Vice-Chair was absent.

The following Treasury representatives were present:

Office of Tax Policy

Krishna Vallabhaneni, Tax Legislative Counsel and TTAC Designated Federal Officer (DFO)
Kimberly Koch, Attorney-Advisor, Office of Tax Legislative Counsel

Internal Revenue Service

Margaret Von Lienen, Director, Exempt Organizations and Government Entities
Angela Gartland, Acting Director, IRS/Government Entities
Telly Meier, Manager, Indian Tribal Governments Office
Victoria Judson, Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes (EEE)), IRS/Office of Chief Counsel
Janine Cook, Deputy Associate Chief Counsel (Exempt Organizations and Employment Taxes), IRS/Office of Chief Counsel (EEE)
Lisa Mojiri-Azad, Assistant to the Branch Chief IRS/Office of Associate Chief Counsel (Income Tax and Accounting)
Angella Warren, Branch Chief, IRS/Office of Associate Chief Counsel (Income Tax and Accounting)
Dave Rifkin, Senior Attorney, IRS/Office of Chief Counsel (EEE)
Andrew Megosh, Senior Tax Law Specialist, IRS/Office of Chief Counsel

CALL TO ORDER

DFO Vallabhaneni called the meeting to order at approximately 9:10 a.m. and turned it over to Chairperson Lacey Horn.

TTAC Member Chairman Ron Allen provided a tribal opening.

ROLL CALL

All TTAC members were present with the exception of Vice-Chair Eugene Magnuson.

DFO Vallabhaneni made a motion to approve the December 3, 2019 TTAC Public Meeting Minutes. Chairwoman Lacey Horn seconded. Motion passed unanimously.

The three subcommittees provided an update on their progress. Chairman Allen discussed the General Welfare Exclusion (GWE) work plan for 2020. The work will be conducted in three phases: (1) Solicit information from stakeholders on definitions included in the General Welfare Act of 2014 and guidelines for training Internal Revenue Service (IRS) field agents on tribal issues; (2) Review and analyze information collected (3) Subcommittee prepares and present recommendations to the TTAC. Recommendations are anticipated by November 2020.

Chairman Allen nominated Ken Parsons, Attorney, Holland & Knight; Robyn Delfino, Tribal Treasurer, Pechanga Band of Luiseno Indians, as members of the General Welfare Exclusion (GWE) Subcommittee and Lawrence Stafford, member at large, Federated Indians of Graton Rancheria, as ad hoc GWE Subcommittee Member. Sharon Edenfield seconded and motion passed unanimously.

Co-chairs of the Dual Taxation Subcommittee, Lynn Malerba and Rebecca Benally, stated that the Subcommittee has been gathering information from Indian Country tribal leaders and stakeholders on the impacts of dual taxation. They will be using this information to develop solutions, which will be recommended to the TTAC.

Trish King led the update on the Tribal Pensions Subcommittee. The Subcommittee is in the process of preparing a work plan which will be presented to the TTAC at a future date. Co-Chair King nominated Carl J. Artman, Oneida Law Office, Oneida Nation, to be her technical advisor. No second was necessary, and motion was unanimously approved.

Krishna Vallabhaneni, Designated Federal Official for the TTAC, Telly Meier, Program Manager for the IRS' Indian Tribal Governments and Janine Cook, IRS General Counsel, provided an update on the CARES Act and implications for Indian Country. Specifically, \$8 billion in CARES Act Title V funding is set aside for tribal governments to address COVID-19 related needs that were unbudgeted and occurred after March 1, 2020. Other programs that Indian tribes and businesses may participate in to alleviate the impacts of COVID-19 include Treasury Department's Coronavirus Stabilization Fund, U.S. Small Business Administration's Economic Injury Disaster Loan (EIDL) grants and Paycheck Protection Program and providing funds necessary to cover 50 percent of Unemployment Insurance Benefit costs for a tribal government employer if it participates in a state unemployment compensation fund. The IRS and Treasury are working to release guidance on several aspects of the CARES Act. In

particular, the IRS is considering how the new employment tax credits may apply to tribal governments.

Sharon Edenfield discussed a public comment letter received from the Redding Rancheria of California tribe encouraging the TTAC to add “941 and 945 IRS audit” issues to its GWE work plan, along with GWE guidance as it relates to IGRA minor’s trusts. Specifically, the tribe recommends that a tribe be allowed to designate a portion of the minor’s trust for GWE purposes.

Chairman Allen discussed a public comment letter received by the San Pasqual Band of Mission Indians recommending that, for the purposes of “941” and “945” IRS examinations, tribal boards and committees be exempt from being classified as employees for W2 reporting. Tribal boards and committees are often an integral part of tribal culture and tradition, and payments for their contributions should not be considered employment or contractual services. Other recommendations include IRS field training considerations for Section 530 audit relief and a more flexible approach for tribes reallocating gaming revenues under GWE.

Trish King summarized a public comment letter from White Mountain Apache Tribe for the Tribal Pension Subcommittee to recommend administrative guidance that can address an overly narrow construction of the terms “commercial” and “essential governmental functions” for tribes. In addition, they recommended suspension of prosecutions and an enforcement moratorium that will alleviate financial hardship for tribes until guidance can be revised.

The TTAC then received public comments from the meeting participants.

Charles Hill, representing San Carlos Housing Authority, discussed the successful completion of an 81-unit housing development using Capital Magnet Funds. CDFI Fund is now demanding return of those funds, despite being unable to access the reporting portal. Mr. Hill expressed a desire for the tribe to rebuild its relationship with the CDFI Fund and encourage the Fund to assist tribes in monitoring and compliance of projects.

John Plata, representing the Agua Caliente Band of Cahuilla Indians, discussed the impacts of COVID-19 on tribal governments, small businesses and individuals. Mr. Plata stressed the importance of tribal consultation in designing tribal relief programs and clarifying application of the CARES Act funds for tribal governments.

Sam Cohen, representing the Santa Ynez Band of Chumash Indians, discussed the GWE and implications for developing tribal disaster relief programs.

Henry Cagey, representing the Lummi Nation, suggested that the TTAC’s work include framing guidelines on the education of IRS field agents.

Kee Allen Begay Jr., representing the Navajo Nation, discussed the importance of working with the tribal budget councils and regions to ensure that funding goes smoothly and is received by Indian Country. Mr. Key Jr. suggested that the Tribal Interior Business Council could assist in getting funding to tribes.

Jackson Brossy, Executive Director of the Native CDFI Network, emphasized the importance of Native CDFIs being able to originate loans for the U.S. Small Business Administration. Currently, only five percent of the Native CDFI Network's members are authorized to originate 7(a) loans. Native CDFIs are familiar with tribal businesses and are in a better position to provide loan packaging and ensure participation in SBA lending programs for Indian Country.

Chairperson Horn reminded participants that the next Public Meeting of the TTAC is scheduled for September 16, 2020.

Chief Malerba provided a tribal closing and the meeting was adjourned at 10:42 a.m.