March 11, 2016

John Koskinen  
IRS Commissioner  
Department of the Treasury  
1111 Constitution Avenue, NW,  
Washington, DC 20224-0002

Re: IRS Changes to its Advisory Committee on Tax Exempt and Government Entities

Dear Commissioner Koskinen:

On behalf of the Native American Finance Officers Association (NAFOA), the National Congress of American Indians (NCAI), the United South and Eastern Tribes Sovereignty Protection Fund (USET SPF), the Self-Governance Communication & Education Tribal Consortium (SGCETC), United Indian Nations of Oklahoma, Kansas and Texas (UINOKT), and the Inter Tribal Association of Arizona (ITAA), we respectfully request that the Internal Revenue Service (IRS) reconsider the structural changes to its Advisory Committee on Tax Exempt and Governmental Entities (ACT) subcommittee for Indian Tribal Governments (ITG). We strongly recommend that the ITG committee remain intact in order to enable the IRS to make informed decisions that affect tribal governments.

NAFOA, NCAI, USET SPF, SGCETC, UINOKT, and ITAA are tribal government organizations advocating for sovereignty, economic development, and the rebuilding of Native Nations across the country. We are united in our disappointment with the IRS’ decision, without consultation, to reduce the number of committee representatives on the Tax Exempt and Governmental Entities (TE/GE) division of the ACT and to shift its focus from gaining input from specific
constituencies to general IRS administration issues. The fundamental purpose\(^1\) of the ACT is placed at risk with the agency’s decision to change its composition and mission so drastically. This action would effectively dismantle the only IRS committee that interacts with Indian Country. Failing to consult with Tribal Officials on this matter prior to making a decision is inconsistent with the Department’s recently adopted Tribal Consultation policy 80 Fed. Reg. 57434-57436 (Sept. 23, 2015). That policy states that “Treasury will consult with TribalOfficials prior to implementing Policies that have Tribal Implications.” \(\text{Id. at 57435 (2015).}\) Our organizations strongly believe that the question of whether the IRS changes the representation structure of the ACT is a matter subject to tribal consultation under the Department’s consultation policy. We further believe that this IRS decision is adverse to Indian Country interests.

The ITG committee provides important services to both Indian Country and to the IRS through research, identification of key issues unique to tribal governments, outreach and education assistance to tribal governments in understanding federal tax matters, and coordination with IRS divisions and oversight entities - including the Department of Treasury, Department of Labor, Pension Benefit Guaranty Corporation, and congressional committees. Since its inception, the ITG committee has produced voluminous reports and extensive research for the TE/GE, including those related to the General Welfare Exclusion Act, government debt, and how the IRS interacts with tribal governments. The removal of tribal governments from the committee takes away the only voice for informing the IRS on research-based priority issues for tribal governments. Data-informed decision-making is an important factor in federal policy-making and a key priority for the IRS.

The purpose of the newly-established Tribal Treasury Advisory Committee (TTAC) is to advise the Secretary on matters relating to the taxation of Indians. It was not created to supersede or replace the ITG. Rather, it is meant to ensure that Treasury is receiving the advice and counsel of tribes at its highest level. The TTAC would benefit greatly from the research and interaction provided by the ITG. While all TTAC members have extensive experience in tribal government tax matters, making informed decisions is about striking a balance in which expertise and understanding of information play a role in the decision making itself.

We respectfully urge the IRS to reconsider their decision and keep the sole ACT committee representing tribal governments intact. The decision to dissolve the ACT committee was made

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\(^1\) According to its own charter, the ACT, “is an organized public forum for discussion of relevant employee plans; exempt organizations; tax-exempt bonds; and federal, state, local and \textit{Indian tribal government issues}” (emphasis added).
without the benefit of tribal input through consultation and without the benefit of consideration by the TTAC.

We look forward to addressing the topics we have raised at your earliest convenience. Please feel free to reach out should you need further information or have any questions.

Sincerely,

Bill Lomax  
President, NAFOA

Brian Cladoosby  
President, NCAI

Brian Patterson  
President, USET

Ron Allen  
Chairman, SGCETC

George Tiger  
Vice-Chairman, UNIOKT

Shan Lewis  
Vice-Chairman, ITAA

CC:  Jack Lew  
Secretary  
U.S. Department of the Treasury  
1500 Pennsylvania Ave NW,  
Washington, DC 20220

CC via Email: Christie Jacobs  
Director of Office of Tribal Governments  
Internal Revenue Service