



This document is a redline markup of U.S. Code 7871 for comparison with Section 3 of S.2022 Tribal Tax and Investment Reform Act of 2025.

Sec. 7871. Indian tribal governments treated as states for certain purposes.

(a) General rule. An Indian tribal government shall be treated as a State

(1) for purposes of determining whether and in what amount any contribution or transfer to or for the use of such government (or a political subdivision thereof) is deductible under—

(A) section 170 (relating to income tax deduction for charitable, etc., contributions and gifts),

(B) sections 2055 and 2106(a)(2) (relating to estate tax deduction for transfers of public, charitable, and religious uses), or

(C) section 2522 (relating to gift tax deduction for charitable and similar gifts);

(2) ~~subject to subsection (b)~~, for purposes of any exemption from, credit or refund of, or payment with respect to, an excise tax imposed by—

(A) chapter 31 (relating to tax on special fuels),

(B) chapter 32 (relating to manufacturers excise taxes),

(C) subchapter B of chapter 33 (relating to communications excise tax), or

(D) subchapter D of chapter 36 (relating to tax on use of certain highway vehicles);

(3) for purposes of section 164 (relating to deduction for taxes);

(4) subject to subsection (~~eb~~), for purposes of section 103 (relating to state and local bonds);

(5) for purposes of section 511(a)(2)(B) (relating to the taxation of colleges and universities which are agencies or instrumentalities of governments or their political subdivisions);

(6) for purposes of—

(A) section 105(e) (relating to accident and health plans),

(B) section 403(b)(1)(A)(ii) (relating to the taxation of contributions of certain employers for employee annuities), and

(C) section 454(b)(2) (relating to discount obligations); and

(D) [Redesignated]

(7) for purposes of—

(A) chapter 41 (relating to tax on excess expenditures to influence legislation), and

(B) subchapter A of chapter 42 (relating to private foundations).

~~(b) Additional requirements for excise tax exemptions. Paragraph (2) of subsection (a) shall apply with respect to any transaction only if, in addition to any other requirement of this title applicable to similar transactions involving a State or political subdivision thereof, the transaction involves the exercise of an essential governmental function of the Indian tribal government.~~

~~(c)~~ SPECIAL RULES FOR TAX-EXEMPT BONDS.—

(1) Volume Cap. —

(A) IN GENERAL.—In applying section 146 to bonds issued by Indian Tribal Governments,

(i) there shall be a national bond volume cap for each calendar year equal to \$400,000,000, and

(ii) the volume cap for any Indian Tribal Government shall be the portion of such national bond volume cap which is allocated by the Secretary (under such regulations as the Secretary may prescribe) to such Indian Tribal Government.

(B) INFLATION ADJUSTMENT.—IN the case of the calendar year after 2026, the \$400,000,000 amount in subparagraph (A)(i) shall be increased by an amount equal to—

(i) such dollar amount multiplied by

(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting ‘calendar year 2025’ for ‘calendar year 2016’ in subparagraph (A)(ii) thereof.

If any increase determined under the preceding sentence is not a multiple of \$100,000, such increase shall be rounded to the nearest multiple of \$100,000.

(2) APPLICATION OF GEOGRAPHIC RESTRICTION.—In the case of national bond volume cap allocated under paragraph (1), section 146(k)(1) shall not apply to the extent that such cap is used with respect to financing for a facility located on qualified Indian lands.

(3) RESTRICTION ON FINANCING OF CERTAIN GAMING FACILITIES.—No portion of proceeds from an obligation issued by an Indian Tribal Government (or subdivision thereof) under section 103 may be used with respect to the financing of any portion of a building in which class II or class III gaming (as defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703)) is conducted or housed or any property actually used in the conduct of such gaming.

(4) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection

(A) INDIAN TRIBAL GOVERNMENT.—The term ‘Indian Tribal Government’ means the recognized governing body of any Indian or Alaska Native tribe, band, nation, pueblo, village, community, component band, or component reservation, individually identified (including parenthetically) pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131).

(B) INTERTRIBAL CONSORTIA, ETC.—Under regulations prescribed by the Secretary, an Indian Tribal Government (or a partnership of Indian Tribal Governments) may authorize an intertribal consortium, an organization, or a Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act), to plan for, coordinate or otherwise administer services, finances, functions, or activities on its behalf under this subsection, except that the authorized entity shall have the rights and responsibilities of the authorizing Indian Tribal Government (or Indian Tribal Governments) only to the extent provided in the authorizing resolution.

(C) QUALIFIED INDIAN LANDS.—The term ‘qualified Indian lands’ means—

(i) Indian lands within the meaning of section 29(j)(8) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3722b(j)(8)),

(ii) land held in fee simple by an Indian Tribal Government,

(iii) any land located within a region established pursuant to section 7(a) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(a)),

(iv) Hawaiian Home Lands (as defined in section 801 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4221), and

(v) under regulations prescribed by the Secretary, lands where the facility is to be placed in service in connection with—

(I) the active conduct of a trade or business by an Indian Tribe on, contiguous to, within reasonable proximity of, or with a substantial connection to lands described in clause (i), (ii), (iii), or (iv), or

(II) infrastructure (including roads, power lines, water systems, railroad spurs, and communication facilities) serving lands described in clause (i), (ii), (iii), or (iv).”.

~~Additional requirements for tax-exempt bonds.~~

~~(1) In general. Subsection (a) of section 103 shall apply to any obligation (not described in paragraph (2)) issued by an Indian tribal government (or subdivision thereof) only if such obligation is part of an issue substantially all of the proceeds of which are to be used in the exercise of any essential governmental function.~~

~~(2) No exemption for private activity bonds. Except as provided in paragraph (3), subsection (a) of section 103 shall not apply to any private activity bond (as defined in section 141(a)) issued by an Indian tribal government (or subdivision thereof).~~

~~(3) Exception for certain private activity bonds.~~

~~(A) In general. In the case of an obligation to which this paragraph applies—~~

~~(i) paragraph (2) shall not apply,~~

~~(ii) such obligation shall be treated for purposes of this title as a qualified small issue bond, and~~

~~(iii) section 146 shall not apply.~~

~~(B) Obligations to which paragraph applies. This paragraph shall apply to any obligation issued as part of an issue if—~~

~~(i) 95 percent or more of the net proceeds of the issue are to be used for the acquisition, construction, reconstruction, or improvement of property which is of a character subject to the allowance for depreciation and which is part of a manufacturing facility (as defined in section 144(a)(12)(C)),~~

~~(ii) such issue is issued by an Indian tribal government or a subdivision thereof,~~

~~(iii) 95 percent or more of the net proceeds of the issue are to be used to finance property which—~~

~~(I) is to be located on land which, throughout the 5-year period ending on the date of issuance of such issue, is part of the qualified Indian lands of the issuer, and~~

~~(II) is to be owned and operated by such issuer,~~

~~(iv) such obligation would not be a private activity bond without regard to subparagraph (C),~~

~~(v) it is reasonably expected (at the time of issuance of the issue) that the employment requirement of subparagraph (D)(i) will be met with respect to the facility to be financed by the net proceeds of the issue, and~~

~~(vi) no principal user of such facility will be a person (or group of persons) described in section 144(a)(6)(B).~~

~~For purposes of clause (iii), section 150(a)(5) shall apply.~~

~~(C) Private activity bond rules to apply. An obligation to which this paragraph applies (other than an obligation described in paragraph (1)) shall be treated for purposes of this title as a private activity bond.~~

~~(D) Employment requirements.~~

~~(i) In general. The employment requirements of this subparagraph are met with respect to a facility financed by the net proceeds of an issue if, as of the close of each calendar year in the testing period, the aggregate face amount of all outstanding tax-exempt private activity bonds issued to provide financing for the establishment which includes such facility is not more than 20 times greater than the~~

~~aggregate wages (as defined by section 3121(a)) paid during the preceding calendar year to individuals (who are enrolled members of the Indian tribe of the issuer or the spouse of any such member) for services rendered at such establishment.~~

~~(ii) Failure to meet requirements.~~

~~(I) In general. If, as of the close of any calendar year in the testing period, the requirements of this subparagraph are not met with respect to an establishment, section 103 shall cease to apply to interest received or accrued (on all private activity bonds issued to provide financing for the establishment) after the close of such calendar year.~~

~~(II) Exception. Subclause (I) shall not apply if the requirements of this subparagraph would be met if the aggregate face amount of all tax-exempt private activity bonds issued to provide financing for the establishment and outstanding at the close of the 90th day after the close of the calendar year were substituted in clause (i) for such bonds outstanding at the close of such calendar year.~~

~~(iii) Testing period. For purposes of this subparagraph, the term "testing period" means, with respect to an issue, each calendar year which begins more than 2 years after the date of issuance of the issue (or, in the case of a refunding obligation, the date of issuance of the original issue).~~

~~(E) Definitions. For purposes of this paragraph—~~

~~(i) Qualified Indian lands. The term "qualified Indian lands" means land which is held in trust by the United States for the benefit of an Indian tribe.~~

~~(ii) Indian tribe. The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.~~

~~(iii) Net proceeds. The term "net proceeds" has the meaning given such term by section 150(a)(3).~~

~~(d)~~ c Treatment of subdivisions of Indian tribal governments as political subdivisions. For the purposes specified in subsection (a), a subdivision of an Indian tribal government shall be treated as a political subdivision of a State if (and only if) the Secretary determines (after consultation with the Secretary of the Interior) that such subdivision has been delegated the right to exercise one or more of the substantial governmental functions of the Indian tribal government.

~~(e) Essential governmental function. For purposes of this section, the term "essential governmental function" shall not include any function which is not customarily performed by State and local governments with general taxing powers.~~

~~(f)~~ d Tribal economic development bonds

(1) Allocation of limitation

(A) In general. The Secretary shall allocate the national tribal economic development bond limitation among the Indian tribal governments in such manner as the Secretary, in consultation with the Secretary of the Interior, determines appropriate.

(B)National limitation. There is a national tribal economic development bond limitation of \$2,000,000,000.

(2)Bonds treated as exempt from tax In the case of a tribal economic development bond—

(A)notwithstanding subsection (c), such bond shall be treated for purposes of this title in the same manner as if such bond were issued by a State,

(B)the Indian tribal government issuing such bond and any instrumentality of such Indian tribal government shall be treated as a State for purposes of section 141, and

(C)section 146 shall not apply.

(3)Tribal economic development bond

(A)In general. For purposes of this section, the term “tribal economic development bond” means any bond issued by an Indian tribal government—

(i)the interest on which would be exempt from tax under section 103 if issued by a State or local government, and

(ii)which is designated by the Indian tribal government as a tribal economic development bond for purposes of this subsection.

(B)Exceptions Such term shall not include any bond issued as part of an issue if any portion of the proceeds of such issue are used to finance—

(i)any portion of a building in which class II or class III gaming (as defined in section 4 of the Indian Gaming Regulatory Act) is conducted or housed or any other property actually used in the conduct of such gaming, or

(ii)any facility located outside the Indian reservation (as defined in section 168(j)(6)).

(C)Limitation on amount of bonds designated. The maximum aggregate face amount of bonds which may be designated by any Indian tribal government under subparagraph

(A) shall not exceed the amount of national tribal economic development

(D) TERMINATION.—No bond which is issued after December 31, 2028, may be designated as a tribal economic bond under subparagraph (A).

(e) ALASKA NATIVE CORPORATION ECONOMIC DEVELOPMENT BONDS.—

(1) NATIONAL LIMITATION.—

(A) IN GENERAL – There is a national Alaska Native Corporation economic development bond limitation for each calendar year. Such limitation shall be equal to the amount \$45,000,000

(B) INFLATION ADJUSTMENT.—IN the case of the calendar year after 2026, the \$45,000,000 amount in subparagraph (A) shall be increased by an amount equal to—

(i) such dollar amount, multiplied by

(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting ‘calendar year 2025’ for calendar year 2016’ in subparagraph (A)(ii) thereof.

If any increase determined under the preceding sentence is not a multiple of \$100,000, such increase shall be rounded to the nearest multiple of \$100,000.

(C) ALLOCATION.—

(i) IN GENERAL.—The Secretary shall allocate the national Alaska Native Corporation economic development bond limitation among the Alaska Native Corporations selected by the Secretary, in consultation with the Secretary of the Interior.

(ii) ELIGIBILITY.—The Secretary shall not make any allocation under cause (i) to an Alaska Native Corporation unless such Alaska Native corporation provides the Secretary with a written certification that any project undertaken using the proceeds of an Alaska Native Corporation economic development bond will promote the economic, social, or cultural well-being of the corporation’s shareholders.

(2) BONDS TREATED AS EXEMPT FROM TAX.—In the case of an Alaska Native Corporation economic development bond—

(A) such bond shall be treated for purposes of this title in the same manner as if such bond were issued by a State,

(B) the Alaska Native Corporation issuing such bond shall be treated as a State for purposes of section 141, and

(C) section 146 shall not apply.

(3) ALASKA NATIVE CORPORATION ECONOMIC DEVELOPMENT BOND.—

(A) IN GENERAL – For purposes of this section, the term ‘Alaska Native Corporation economic development bond’ means any bond issued by an Alaska Native Corporation—

(i) the interest on which would be exempt from tax under section 103 if issued by a State or local government,

(ii) substantially all of the net proceeds of which are used—

(I) with respect to facilities on land located within a region established pursuant to section 7(a) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(a)), or

(II) to provide facilities within Alaska or services to residents of Alaska,

(iii) none of the net proceeds of which are used for any project or activity if the proceeds of a bond to which subsection (b) applies has also been used for such project or activity, and

(iv) which is designated by the Alaska Native Corporation as an Alaska Native Corporation economic development bond for purposes of this subsection.

(B) EXCEPTIONS. – Such term shall not include any bond issued as part of an issue if any portion of the proceeds of such issue are used to finance—

(i) any portion of a building in which class II or class III gaming (as defined in section 4 of the Indian Gaming Regulatory Act) is conducted or housed or any other property actually used in the conduct of such gaming, or

(ii) any portion of the proceeds of such issue is to be used to provide (including the provision of land for) any private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, racetrack or other facility used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises.

(C) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds which may be designated by any Alaska Native Corporation under subparagraph (A) shall not exceed the amount of national Alaska Native Corporation economic development bond limitation allocated to such corporation under paragraph (1).

(4) ALASKA NATIVE CORPORATION.—For purposes of this subsection, the term ‘Alaska Native Corporation’ means any Regional Corporation, any Village Corporation, any Urban Corporation, and any Group Corporation (as such terms are defined in section 3 of the Alaska Native Claims Settlement Act).”.