

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 (e), 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) IN GENERAL.—

~~(A) there shall be a national bond volume cap for each calendar year after 2026 equal to \$400,000,000, and~~

~~(B) 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.~~

~~(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.—

~~(A) INDIAN TRIBAL GOVERNMENT.—For purposes of this subsection, subsection (e), and so much of subsection (a) as relates to paragraph (4) of such subsection, the term ‘Indian Tribal Government’ means the recognized~~

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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), including any agency, instrumentality, or subdivision of such governing body, and, under regulations prescribed by the Secretary, any entity established under Federal, State, or Tribal law which is wholly owned or controlled by any of the foregoing.

(B) QUALIFIED INDIAN LANDS.—For the purposes of this subsection, 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) each region in effect under subsection (a) or (b) of section 7 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).”

Such term shall now include any land which is not within the United States.

“(C) INTERTRIBAL CONSORTIA, ETC.—Under regulations prescribed by the Secretary, an Indian Tribal Government (including any subdivision thereof), or any combination of such Indian Tribal Governments operating pursuant to a written agreement, may authorize any person to plan for, coordinate or

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~~otherwise administer services, finances, functions, or activities on its behalf under this subsection, except that the authorized person 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.~~

~~“(D) INFLATION ADJUSTMENT.—In the case of any calendar year after 2027, the \$400,000,000 amount in paragraph (1)(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 2026’ 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.”.~~

~~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—~~

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~~(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.~~

~~(H) 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) 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) 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.—For purposes of this section, the term ‘tribal economic development bond’ shall not include any bond issued after December 31, 2029.”

(e) ALASKA NATIVE INTERTRIBAL CONSORTIUM TAX-EXEMPT BONDS.—

(1) BONDS TREATED AS EXEMPT FROM TAX.—In the case of an Alaska Native Intertribal Consortium tax-exempt bond—

(A) such bond shall be treated for purposes of this title in the same manner as if such bond were issued by an Indian Tribal Government, and

(B) in applying section 146 to any issuer of such bond—

(i) there shall be a national bond volume cap for each calendar year after 2026 equal to \$45,000,000, and

(ii) the volume cap of such issuer 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 issuer.

(2) ALASKA NATIVE INTERTRIBAL CONSORTIUM TAX-EXEMPT BOND.—For purposes of this section—

(A) IN GENERAL.—The term ‘Alaska Native Intertribal Consortium tax-exempt bond’ means any bond issued by an Alaska Native Intertribal Consortium if—

(i) such bond is a qualified bond (as defined in section 141(e), determined without regard to paragraph (2) thereof),

(ii) none of the net proceeds of such bond are used for the purpose of providing any facility, project, or program for which the proceeds of any bond to which subsection (b) applies are also used, and

(iii) such bond is designated as an Alaska Native Intertribal Consortium tax-exempt bond by such Alaska Native Intertribal Consortium.

(B) EXCEPTIONS.—The term ‘Alaska Native Intertribal Consortium tax-exempt bond’ shall not include any bond issued as part of an issue if—

(i) any portion of the proceeds of such issue are used to finance 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 are 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 principle 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 issued by any Alaska Native Intertribal Consortium which may be designated by such Consortium under subparagraph (A)(ii) shall not exceed the amount of national Alaska Native Intertribal Consortium tax-exempt bond limitation allocated to such Consortium under paragraph (1).

_____ (3) ALASKA NATIVE INTERTRIBAL CONSORTIUM.—For purposes of this subsection—

_____ (A) IN GENERAL.—The term ‘Alaska Native Intertribal Consortium’ means—

_____ (i) any combination of Alaska Native Tribal Governments operating pursuant to a written agreement, and

_____ (ii) any Alaska Native regional non-profit organization.

_____ (B) ALASKA NATIVE TRIBAL GOVERNMENT.—The term ‘Alaska Native Tribal Government’ means any Indian Tribal Government with respect to one or more regions in effect under subsection (a) or (b) of section 7 of the Alaska Native Claims Settlement Act (43 U.S.C. 1606).

_____ (C) ALASKA NATIVE REGIONAL NON-PROFIT ORGANIZATION.—The term “Alaska Native regional non-profit organizations means—

_____ (i) the Aleutian Pribilof Islands Association, Inc.,

_____ (ii) the Arctic Slope Native Association,

_____ (iii) the Association of Village Council Presidents,

_____ (iv) the Bristol Bay Native Association,

_____ (v) the Chugachmiut, Inc.,

_____ (vi) the Cook Inlet Tribal Council,

_____ (vii) the Copper Rivier Native Association,

_____ (viii) the Kawerak, Inc.,

_____ (ix) the Kodiak Area Native Association,

_____ (x) the Maniilaq,
_____ (xi) the Tanana Chiefs Conference,
_____ (xii) the Alaska Native Tribal Health Consortium,
_____ (xiii) the Bristol Bay Area Health Corporation,
_____ (xiv) the Norton Sound Health Corporation,
_____ (xv) the Southeast Alaska Regional Health Consortium,
_____ (xvi) the Yukon Kuskokwim Health Corporation, and
_____ (xvii) under regulations prescribed by the Secretary, such other organizations as may be identified by the Secretary, upon request by an Indian Tribal Government and after consultation with the Bureau of Indian Affairs, as Alaska Native regional non-profit organizations for purposes of this subsection.

_____ (4) APPLICATION OF CERTAIN RULES REGARDING INTERTRIBAL CONSORTIA.—The rules of subsection (b)(4)(C) shall apply with respect to Alaska Native Intertribal Consortia under this subsection in the same manner such rules apply to Indian Tribal Governments under subsection (b).

_____ (5) SPECIAL RULES FOR ALASKA NATIVE CORPORATION.—

_____ (A) IN GENERAL.—If any Alaska Native Corporation participates with respect to any bond, such bond shall not be treated as an Alaska Native Intertribal Consortium tax-exempt bond unless such Corporation provides a written certification to the Secretary that the facilities or services provided with the proceeds of such bond will promote the economic, social, or cultural well-being of such Corporation's shareholder pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

_____ (B) PARTICIPATION.—For purposes of subparagraph (A), an Alaska Native Corporation shall be treated as participating with respect to any bond if such Corporation—

_____ (i) is part of any Alaska Native regional non-profit organization which is part of the Alaska Native Intertribal Consortium that issues such bond,

_____ (ii) is authorized pursuant to paragraph (4) to provide any service described in subsection (b)(4)(C) with respect to such bond, or

_____ (iii) receives any of the proceeds of such bond.

(C) ALASKA NATIVE CORPORATION.—For purposes of this paragraph, 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 (43 U.S.C. 1602).

 (6) INFLATION ADJUSTMENT.—In case of any calendar year after 2027, the \$45,000,000 amount in paragraph (1)(B)(i) shall be increased by an amount equal to—

 (A) such dollar amount, multiplied by

 (B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting ‘calendar year 2026’ 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.”.

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