



TREASURY TRIBAL ADVISORY COMMITTEE

DECEMBER 9, 2020



Subcommittee On Dual Taxation Report



**Submitted this 9th day of December
by the Subcommittee Chairpersons
and its Members:**

Chief Lynn Malerba (Mohegan)

Co-Chair and TTAC member

Rebecca Benally (Navajo)

Co-Chair and TTAC member

Henry Cagey (Lummi)

Lummi Nation Council Member

Robert Odawi Porter, Esq. (Seneca)

Former Seneca Nation President

Michael Connolly

M.A. Economist, Campo Kumeyaay Nation

Jean M. Swift (Mashantucket Tribal Citizen)

CPA

F. Michael Willis

Partner; Hobbs, Dean, Strauss, and Walker

Technical Support provided by:

Fatima Abbas (Haliwa Saponi)

National Congress of American Indians

Liz Malerba (Mohegan Tribal Citizen)

USET Sovereignty Protection Fund

Emery Realbird, (member, White Mountain Apache)

Native American Financial Officers' Association

Derrick Watchman (Navajo)

TREASURY TRIBAL ADVISORY COMMITTEE SUBCOMMITTEE ON DUAL TAXATION REPORT

DECEMBER 9, 2020

Desired Policy Objective

That Tribal nations as sovereign governments shall be the only taxing authority for all business and economic activity occurring on and within their reservations.

Discussion

Until dual taxation, where state and local governments tax on-reservation business activity is addressed, Tribal governments will struggle to enhance/diversify their reservation economies, be unable to stabilize the Tribal tax and regulatory environment, and be unable to meet the needs of their citizens that must be served. Tribal governments must have equal standing with all governments within the United States regarding taxing and regulatory authority.

In 1982, the U.S. Supreme Court concluded that

“The power to tax is an essential attribute of Indian sovereignty because it is a necessary instrument of self-government and territorial management. This power enables a tribal government to raise revenues for its essential services...[It derives] from the tribe’s general authority, as sovereign, to control economic activities within its jurisdiction, and to defray the cost of providing governmental services by requiring contributions from persons or enterprises engaged in in such activities within that jurisdiction.”

Merrion v. Jicarilla Apache Tribe, 455 U.S. 130 (1982).

This statement underscores two important concepts. First, taxation is an important instrument of being a sovereign; and second, taxation finances government. An infringement upon the right to tax infringes upon both core attributes of sovereign governance.

American Indian nations and tribes pre-date the formation of the United States and possess inherent and treaty-recognized sovereignty. As a fundamental aspect of that sovereignty, Tribal nations possess immunity from being taxed by the United States federal and state governments. Moreover, Tribal lands subject to the jurisdiction of Tribal governments are not subject to direct taxation by outside governments.

This fundamental legal and political reality is reflected in the United States Constitution in three primary ways. First, the Constitution identifies Native peoples as “Indians not taxed”, a reference

recognizing the separate and independent political status of Tribal nations and the fact that Native people were originally recognized as politically separate (Art. I, Sec. 2, Cl. 3). Secondly, the Constitution recognizes treaties as the “supreme law of the land” which serve as the primary legal mechanism for the recognition of Tribal sovereignty and inherent tax immunity (Art. II, Sec. 2, Cl. 2). And lastly, various Acts of Congress recognizing and regulating the United States’ relationship with Tribal nations, including those without a treaty relationship, affirm inherent Tribal sovereignty and the independent political status of Native peoples (Art. I, Sec. 8, Cl. 3).

None of the 370 treaties between Tribal nations and the United States authorize the taxation of Native peoples, Tribal lands, or business activities occurring on those lands. Nor has Congress ever expressly authorized such taxation (except in limited circumstances). Indeed, when Congress has acted regarding Indian taxation matters, it has done so to protect Tribal tax immunities, such as the case in 1983 when Indian treaty fishing income was declared federal tax-exempt.

And yet, today Indian citizens must pay federal income tax on income earned on their Tribal lands while American state and local governments also assess taxation on non-tribally owned business activity occurring on Tribal lands. The reason for this divergence in the Constitutional and Treaty relationships is two-fold. First, the United States through its Internal Revenue Service following the establishment of the Federal income tax in 1913 and the Indian Citizenship Act of 1924 has sought to apply Federal tax law to Indian nations and individual Indians. And second, Federal court decisions, including U.S. Supreme Court cases, have often sided with the IRS and the states in matters relating to the taxation of Indians creating a body of precedent that has departed from the terms set forth in the Constitution and Indian treaties.

In recent years, this problem has become a critical threat to the growth of Tribal economies as the Supreme Court precedent has permitted state and local governments to tax certain economic activity occurring on Tribal lands involving non-Indians. As recently as 1980, the Supreme Court recognized the pre-emptive effect of Federal law against state taxation (*Central Machinery v. Ariz. Tax Comm’n*). However, since that time the Court has ignored Federal laws regulating Indian traders and inherent tax immunity of Tribal lands to authorize state and local government taxation on Tribal lands (e.g. *Cotton Petroleum v. New Mexico* (1989); *N.Y. Dep’t of Tax & Finance v. Milhelm Attea Bros.* (1994)). Unfortunately, this is in direct conflict with the Indian Commerce clause in the Constitution (Art. I, Sec. 8, Cl. 3), which provides that solely the Congress may regulate commerce with the Indian nations.

The consequence of this recent change in Federal law is crippling to the growth of Tribal economies. Since Tribal governments retain inherent authority to impose taxation, the specter of “dual taxation” by both Tribal and state governments undermines current and future Tribal economic growth. Only in certain industries, where margins are significant, can the dual taxation burden be overcome, but that is not the point. With the outside state and local government taxes setting the tax rate floor, Tribal governments are deprived of the ability to use tax policy to attract businesses to their lands in the manner available to all other governments seeking to grow their economies to support their citizens.

The issue of dual taxation in Indian Country is even more relevant after the U.S. Supreme Court's decision in July 2020 in the *McGirt v. Oklahoma* case affirming the continued existence of the reservation boundaries for the Muscogee (Creek) Nation in eastern Oklahoma. By affirming the boundaries of the Creek Reservation, the Court also confirmed that the Reservation constitutes "Indian country" under 18 U.S.C. § 1151, which has positive implications, not only for the Muscogee (Creek) Nation, but for everyone within the Nation's boundaries who wish to work collaboratively toward a brighter future for all who work and reside in the Reservation, consisting of eleven counties with an area of approximately 3.6 million acres of land, including much of Tulsa and occupied by hundreds of thousands of people.

The Supreme Court's affirmance of the Creek Reservation creates an opportunity for the Nation to work with private and public partners to develop new economic development opportunities for the Nation, businesses within the boundaries, and with neighboring government partners. But, like any other Indian tribe seeking to develop the proper business infrastructure to support the needs of all critical Tribal governmental programs and services, the Nation must look towards revenue raising options that may exist within its reservation, including taxation options.

Ever since the *McGirt* ruling, the Nation has been making critical decisions, legal and policy-wise, on how the affirmance of its governmental jurisdiction and responsibilities will change how it does business in its Indian Country. Muscogee (Creek) Nation Principal Chief David Hill has established the Mvskoke Reservation Protection Commission consisting of various subject matter experts in a wide range of issues, including law enforcement, business and commerce, taxation and regulatory matters, and Indian Child Welfare, to chart the opportunities arising from the decision. A good part of the discussions with the Commission deals with the multiple questions of taxation authority to be exercised by the Nation within the Reservation boundaries and how that will be achieved when the Oklahoma Tax Commission seeks to impose State taxes within the Reservation as well.

Historically, the State of Oklahoma has continued to impose its taxation authority in Indian Country over the objections of Oklahoma Tribal Nations, including Muscogee (Creek) Nation, and sometimes these cases end up before the U.S. Supreme Court resulting in pro-Tribal rulings. However, the Nation believes it is in the best interests of the Nation to take a proactive approach to work with neighboring Tribes, State, County, Municipal, and Federal partners, as well as the business community in the area of taxation. In *McGirt*, Justice Gorsuch wrote, "Oklahoma and its Tribes have proven they can work successfully together as partners . . . the State has negotiated hundreds of intergovernmental agreements with tribes, including many with the Creek."

Impact of Dual Taxation on Tribal Economies

Dual taxation fundamentally is state taxation on Indian lands. This situation creates additional costs on tribal land based business and economic activity. Not only does business and economic activity have to pay tribal taxes, it is also burdened with state/local taxes which in most cases makes the business/economic activity non-feasible for development.

Dual taxation also has an impact on the ability of a tribal nation to secure funding for needed projects. A classic approach to economic development is for a jurisdiction to identify a location of economic potential and then develop the infrastructure paid with borrowed money, typically tax-exempt debt. Taxes, including property and sales, defray the cost of governmental services, and debt service, and help finance discretionary programs that enhance the quality of life for the community. As the development grows, the economies of scale further enhance the discretionary side of the revenue stream. The taxation revenue stream eventually retires the financing, giving another boost to the revenue generation.

This approach, and its variations, have been used by many jurisdictions to bootstrap economic development in their localities. Unfortunately, for tribal communities, this process is hamstrung by dual taxation issues as identified in previous sections. Unfortunately, for a tribal community, economic development of this type often ends up diverting resources from critical public services due to the lack of borrowing capacity. When borrowing occurs, the costs are often higher than other communities due to the risk of uncertainty regarding tax policy. The tribal community is short-changed on the revenue side by the diversion of taxes from the tribes, while the responsibilities of government toward businesses operating in the tribal jurisdiction remain.

In a leading economic analysis of the impact of dual taxation on Tribal economies, the authors state a fundamental premise that:

“Every government relies on tax revenues to fund essential services and public goods, including building and maintaining infrastructure (such as roads, broadband, water and waste water systems); permitting and licensing businesses and professions; enforcing contracts and resolving disputes; ensuring public safety, educating children and workers; enforcing building codes and other safety measures; insuring against unemployment and worker injury; and more.

(Croman, Kelly and Taylor, Jonathan B. 2016).

In the context of Tribal government operations and its uniqueness, the United South and Eastern Tribes note that tribal governments have responsibilities that are distinct from other sovereigns;

“They have the added responsibility to ensure that they have the revenue needed to maintain Tribal language, culture and ceremonies. The preservation and restoration of Tribal culture remains a significant policy objective that seeks to reverse damage caused by the former federal policy of Indian assimilation which forbade the practice of Native ceremonies and Native language.” (USET, 2017)

If tribes are to be successful in creating self-sustaining economies, diversification of their economic base is essential. Tribes operate businesses on their lands to provide services to their citizens as any other local, state and federal government provide. Indeed, “attracting private sector capital investment in an economy can bring many layers of benefits. These range from the direct benefits of jobs and

profit to the benefits of turnover in the local economy through suppliers and other commerce.” (Miskwish 2015). Tax policy is key to achieving the goal of economic self-sufficiency. Non-tribal governments and policy makers regularly fail to adequately understand or incorporate tribal fiscal prerogatives in striking fair tax apportionments. At times a non-tribal government may view Indian country as a potential source of revenue rather than as a polity with inherent public finance requirements (Kaufmann, 2009).

Dual taxation has the unfortunate consequences of (1) inhibiting private sector capital investment due to taxes levied by nontribal governments which would not happen in another jurisdiction, (2) siphoning tax revenue from the reservation to the state and (3) precluding the tribe’s ability to offer tax policy to incent businesses to locate and operate on tribal lands. Taxes imposed by the state on tribal lands do not return to the reservation as governmental services which further disadvantages tribal government in providing services, regulation and programs for its citizens and the businesses located within its jurisdiction.

The clearest example of this is the Campo Kumeyaay Wind Project in California. This project was created through a significant investment of \$75,000,000 on the Kumeyaay reservation. Annually, over \$400,000 in property tax is collected by the State and by the local San Diego County from the wind power project and \$4,000,000 in sales tax was collected by the State of California on the installation. Unfortunately, none of the tax revenue was shared with the Campo Tribal Government (Miskwish 2015). It is important to note that within San Diego County over \$13 billion of fee lands is exempt from property tax. These lands include colleges, cemeteries, and churches, which do not produce taxable revenue but still require county services. These tax exemptions are markedly different from the tax exemption associated with Tribal lands in trust, as Tribal trust land status corresponds with a reduction in the availability and use of County services (Miskwish, 2015).

A more promising model has been offered by the Reno Sparks Indian Colony in Nevada, which has been able to diversify its economy based on Tribal tax policies through agreements with the State of Nevada that address dual taxation. The Reno Sparks Indian Colony has developed commercial sites which are leased to various business enterprises, with taxes paid by the operators remaining wholly within the Tribal territory for use by the Tribal government. This tax base has benefited both the tribal citizens and non-Indian citizens residing there through the provision of infrastructure, environment cleanup and health services. (Reno-Sparks Indian Colony, 2015). While the Reno-Sparks Indian Colony agreement with the state of Nevada is promising in that it demonstrates the benefits of a separate and unencumbered tax base, it may not go far enough in fully supporting sovereignty. The agreement limits the tribe by requiring the tribe to collect at least the same amount as the surrounding county removing autonomy and any competitive advantage the tribe may have in recruiting entities on to tribal lands. A practice that state and county governments commonly utilize.

An Important Policy Consideration: Tax Parity

In addition to the foregoing economic considerations, it is important to also consider the question of parity and relationships between neighboring sovereign governments. No reasonable person would every consider that the State of Arizona be allowed to levy taxes on a New Mexico business providing goods and services to an Arizona citizen in New Mexico. So why then should the State of Arizona be able to impose a tax on a tribal business providing goods and services to their customers simply because the business is operated by a sovereign government located on a reservation within the State borders?

Mashantucket Pequot Chairman Rodney Butler in his testimony to the U. S House of Representative's Ways and Means Subcommittee on Select Revenue Measures shared this request for parity stating: "Quite simply, we are asking for parity in the federal tax code and to be treated as other sovereigns in this country as reflected in the U.S. constitution, and numerous federal laws, treaties and federal court decisions. Without question, tax parity for Tribal governments will allow for greater self-determination, economic growth and self-sufficiency for Indian Country." (Butler 2020). He further noted that the diverted tax revenues from on-reservation businesses are used by state and local government to serve non-Indian populations, rather than citizens of his Tribal nation. (Butler, 2020)

Tribes as Economic Partners with States

States also are burdened when dual taxation occurs on Tribal lands. Indian economic development enhances state economies (Maruca, 2019). "...Indian economic development helps state growth. Tribal lands are often small and embedded in larger states, so state economies benefit when Indians participate more in the state economy and are better educated, healthier and more secure." (Croman and Taylor, 2016)

Multiple studies demonstrate the positive impact of tribal economic development to the economies outside reservation boundaries. All tribes operate within states and contribute greatly to the state economy when there is positive economic development on tribal reservations. The impacts go far beyond those created through tribal-state gaming compacts, although the experience with gaming fully demonstrates this point.

Nationally, Indian Gaming is a \$32 billion industry (Meister, 2018) and is an economic driver not only for the Tribal government that owns the facility but for the surrounding state(s) given the number of non-Indian employees, state employment taxes, revenue sharing agreements, goods and services purchases from businesses within the state with those businesses paying taxes to the state, and the economic activity of employees spending their discretionary funds within the state economy. Indian casinos employ many non-tribal members from the local community. For example, in 2008, an economic analysis of the Chumash Casino in Santa Barbara County demonstrated that for every \$10 in output from the casino, there was another \$4 in output for the local economy (California Economic Forecast, 2008)

Two studies completed recently share the positive economic impacts of Tribal gaming, but it is important to note that many tribes operate diverse businesses which will have the same positive impact within their tribal, local and state communities. The Mashantucket Pequot Tribal Nation reports that in 2017, it employed 9,702 employees through its many enterprises. 77% of the Tribes payroll is paid in Connecticut with more than 80% of the Connecticut payroll paid in the state's poorest zip codes.

The following economic impact from the report was noted (exclusive of the tenant stores and restaurants):

- \$8.8 million in state income taxes
- \$31 million in federal income taxes
- \$40 million in Social Security and Medicare Taxes
- Estimated direct, indirect and induced impacts of the economic activity on the Mashantucket Pequot Reservation totaled \$1.1 billion for the Connecticut Economy
- Purchased goods and services from 879 Connecticut vendors. It is important to note that these Connecticut vendors will also then purchase goods and service within Connecticut (indirect impact), pay payroll taxes and in turn their employees buy household goods and services (induced impact)
- \$120 million to the state of Connecticut in revenue sharing agreements
- Economic activity on the Mashantucket Pequot reservation supported 12,500 jobs in Connecticut (direct, indirect or induced)

Importantly, these benefits to Connecticut never required any tax abatement, relocation incentive, tax exemption of other Connecticut tax expenditure. Given that more than 75% of Foxwoods gaming dollars in 2017 came from out-of-state patrons, the Tribe's economic impact is overwhelmingly a net contribution (Taylor, 2019).

A similar study of Tribal businesses in Oklahoma (with 17 participating Tribes) demonstrated similar positive impacts (Dean PhD, 2017):

- Employment 96,177 (direct and multiplier)
- Payroll \$4,649,911,522 (direct and multiplier)
- Value added \$8,156,310,352 (direct and multiplier)
- Output \$12,932,330,170 (direct and multiplier)
- \$1.5 billion in exclusivity fees to the State of Oklahoma since 2006 with \$133,940,428 paid in 2017
- \$96,050,971 household income, property and other taxes and fees
- Worker Social Insurance Employer and Employee \$15,284, 162
- Corporate income, dividends and production taxes (including sales tax) \$720,013,134
- Additionally, further dollars are brought into the state through various federal funding sources such as the Indian Reservation Roads program which has contributed significantly to roads and infrastructure projects that all Oklahomans use.

Once again it is important to note that these benefits did not require any tax expenditure, abatement, etc. from the state or local governments.

Clearly, successful Tribal government-owned businesses create a positive economic environment, both locally and statewide. But taxes paid to the state and local governments do not come back to the reservations in the form of services, infrastructure and programs, thereby weakening Tribal economies and Tribal societies.



PHOTOS COURTESY OF CODY HARJO,
NATIVE AMERICAN FINANCIAL OFFICERS' ASSOCIATION

Relevant Legislation, Regulation and Administrative Opportunities to Address Tax Parity

(See addendum)

Recommendations for Action by the U.S. Treasury Department and Department of Interior

In accordance with treaties entered into between the United States and Indian tribes, various Acts of Congress, and the fiduciary trust responsibility, the Treasury and Interior Departments have an obligation to assist in addressing the problem of dual taxation on Tribal lands. The following recommendations should be considered for action:

1. Create a position in the Department of Treasury of “Deputy Assistant Secretary for Indian Country and Alaska Native Development in the Office of Economic Policy” for the purpose of managing Treasury-related policy that honors the trust relationship the federal government has to tribes as set forth in the U.S. Constitution, ensuring that pending and new legislation and guidance have beneficial impacts for tribes, for the purpose of conducting ongoing, effective tribal consultations and other such matters as may be necessary.

Rationale: In recent years Congress has assigned important responsibilities to the Treasury Department for addressing issues affecting Indian Country. A primary responsibility is to engage in Tribal Consultation on matters that affect American Indians and Alaska Natives. Under the Tribal General Welfare Exclusion Act of 2014, Congress created the Treasury Tribal Advisory Committee (TTAC) to “advise the Secretary on matters relating to the taxation of Indians.” And through the IRS, the Department has addressed the issuance of tax-exempt debt by Tribal governments and the collection of payroll and other taxes in Indian Country. Most recently the Congress has assigned responsibility to the Department for the distribution of the \$8 billion Coronavirus Relief Fund. While the Department has assigned a member of its professional staff as the “Tribal Liaison”, these assignments have not been permanent. This instability has led to inconsistency with respect to outreach to Tribal governments and failure to develop and achieve clear policy objectives. Despite the efforts of professional staff recently assigned to work with the TTAC and fulfill Congressional directives, more must be done to bolster the professional staff assigned to work on American Indian and Alaska Native tax and economic development initiatives. This proposal would institutionalize a position in the Treasury department to focus on (i) promoting Indian Country economic development, (ii) integrating Tribal economies in the fabric of U.S. economic policy and (iii) provide an opportunity for economic research and analysis affecting governments.

2. Broaden the Treasury Tribal Advisory Committee to include tribal leadership that is reflective of the diversity of Indian Country and to encompass the broader issues within the realm of the economic policy Tribes engage with Treasury on.

3. The Department of Treasury should ensure tribal participation by ensuring adequate time for public comments during TTAC meetings and by engaging tribal leadership on a consultative basis regarding the recommendations made by the TTAC to ensure tribal economic interests are broadly represented in all policy, regulation and guidance.
4. The Department of Treasury should, in consultation with tribes, commit resources to reviewing all tax regulations and economic policy impacting Tribal nations and develop guidance that recognizes the sovereign authority of tribes to be the sole taxing authority on their lands.
5. The Department of Treasury should, in consultation with tribes conduct an economic impact study for the purpose of quantifying all taxes generated by Indian country economic development to ascertain the impact of eliminating dual taxation barriers.
6. The Department of Interior should continue the Indian Trader Regulations (25.C.F.R §140) comprehensive update with proper government to government consultation in the compilation of the draft and final regulation. These updates should explicitly pre-empt state taxation for commerce on Indian lands; prohibit Indian country business activity from state regulation and taxation, and; preserve and not interfere in tribal taxation authority over Indian Commerce. (NCAI, 2015).
7. Tribal tax codes, agreements and Tribal tax compacts with states and local governments, free from interest-balancing tests or dual taxation schemes, should serve as the legal basis relationships between tribes and federal, state and local governments.
8. Intertribal commerce is and should not be subject to State or local government taxation.
9. Any federal legislation governing the ability of States to impose sales taxes on internet and other remote sales should clearly affirm that Tribal Nations have the right to collect these taxes on their tribal lands and that where a Tribal tax applies, the state sales tax does not.
10. Statutory amendments to the HEARTH Act as noted in 25 CFR 162.017 should include the following language:
 - (a) permanent improvements on the leased land, without regard to ownership of those improvements are not subject to any fee, tax, assessment levy or other charge imposed by any State or political subdivision of a State. Improvements shall be subject to taxation only as determined by the Indian tribe with jurisdiction.
 - (b) activities under a lease conducted on the leased premises are not subject to any fee, tax, assessment, levy or other charge (e.g. business use, privilege, public utility, excise, gross revenue taxes) imposed by any State or political subdivision of a State. Activities shall be subjected to taxation only as determined by the Indian tribe with jurisdiction.

(c) the leasehold or possessory interest is not subject to any fee, tax, assessment, levy or other charge imposed by any State or political subdivision of a State. Leasehold or possessory interests shall be subject to taxation only as determined by the Indian tribe with jurisdiction.

11. Treasury Department will hold government to government consultations with all tribal nations and incorporate recommendations from consultations into the Department's policy and regulatory guidance.

Submitted this 9th day of December by the Subcommittee Chairpersons and its Members:

Addendum

Testimony

**U.S. House Committee on Ways and Means
Subcommittee on Select Revenue Measures
Hearing on Examining the Impact of the Tax Code on Native American Tribes**

March 4, 2020

Written Testimony of President Fawn Sharp, NCAI President

Testimony of Rodney Butler, Chairman Mashantucket Pequot Tribal Nation

Testimony of Matthew Wesaw, Chairman, Pokagon Band of Potawatomi Indians

Written Testimony of Kenneth Kahn, Chairman Sana Ynez Band of Chumash Indians (did not address dual taxation)

Written Testimony Native American Financial Officers Association (discussed treaty obligations and lack of tax base but did not address dual taxation specifically)

Governmental and Financial studies (note with explicit signed permission from authors/tribe)

U.S. Commission on Civil Rights "Broken Promises: Continued Federal Funding Shortfall for Native Americans. 2018

Articles

"The Power to Tax Economic Activity in Indian Country". Willis, Michael F. Natural Resources and Environment. Vol 28. No.4. Spring 2014.

"Why Beggar Thy Indian Neighbor? The Case for Tribal Primacy in Taxation in Indian Country". Croman, Kelly S. & Taylor, Jonathan B. JOPNA 2016-1. The Harvard Project on American Indian Economic Development and The University of Arizona Native Nations Institute.

"Government to government: Models of cooperation between states and tribes." Johnson, S., Kaufmann, J., Dossett, J., Hicks, S. & Davis S. National Conference of State Legislatures. April, 2009).

"The Unfulfilled Promise of the Indian Commerce Clause and State Taxation, the Tax Lawyer, Summer 2010 (published by the American Bar Association).

Relevant laws

Indian Gaming Regulatory Act. 25 U.S.C. §2710(d)(4).

25 U.S.C §3505 (establishing a commission to develop recommendations on dual taxation and report to Congress). Not established and repealed by Title V of the Energy Policy Act of 2005. 25 U.S.C. §3501 et. seq.

Bureau of Indian Affairs, Residential Business, and Wind and Solar Resource Leases on Indian Lands, 77 Red. Reg. 72440 (Dec 5, 2012), Codified at 25 C.F.R pt. 162.

Indian Tribal Governmental Tax Status Act of 1983. 26 U.S.C §7871

Indian Trader Regulations

Court Decisions

Agua Caliente Band of Cabuilla Indians v. Riverside Cnty. et al., 749 Fed. Appx. 650 (9th Cir. 2019),

Confederated Tribes of the Chelhalis Reservation v. Thurston County Board of Equalization 724 F3d (1153) (9th Cir. 2013)

Cotton Petroleum v. New Mexico 490 U.S 163 (1989)

Flandreau Santee Sioux Tribe v. Noem, 938 F.3d 928 (8th Cir. 2019).

Mashantucket Pequot Tribe v. Town of Ledyard, 772 F.3rd 457 (2d Cir.2013)

Merrion v. Jicarilla Apache Tribe, 455 U.S. 130, 137

McClanahan v Ariz. State Tax Commission 411 U.S. 164, 165, (1973)

Mescalero Apache Tribe v. Jones 411 U.S. (1973)

Michigan v. Bay Mills Indian Community, 2014

Moe v. Confederated Salish and Kootenai Tribes, 1986

Montana v. Crow Tribe, 484 U.S. 997 (1988), affirming 819 F.2d 895 (9th Cir. 1987)

Oklahoma Tax Commission v. Potawatomi Tribe, 1991

Okla. Tax Comm'n v. Sac & Fox Nation, 508 U.S. 114, 123 (1993)

Oneida Tribe of Indians of Wis. v. Village of Hobart, 732 F.3d 837 (7th Cir. 2013)
Poarch Band of Creek Indians v. Moore, No. CV 1:15-0277-CG-C (S.D. Ala, Dec. 5, 2016).

Ramah Navajo School Board v. Bureau of Revenue, 458 U.S. 832 (1982)

Seminole Tribe of Florida v. Stranburg, 799 F.3d 1324 (2015)

Seminole Tribe v. the State of Florida, 2014

South Dakota v. Wayfair, 138 S.Ct. 2080 (2018)

Ute Mountain Ute Tribe v. Rodriguez, 660 F.3d 1177 (10th Cir. 2011)

Tulalip Tribes v. State of Washington, No. CV 15-00940 (W.D. Wash. Oct. 4, 2018).

Wagnon v. Prairie Band Potawatomi Nation, 546 U.S. 95 (2005)

Washington v. Colville, 1980

Washington State Department of Licensing v. Cougar Den, Inc., No. 16-1498 (2019) (note the treaty discussion in Justice Gorsuch's concurring opinion)

White Mountain Apache Tribe v. Bracker, 448 U.S. 136 (1980)

Bibliography

Butler, R. (2020, March 4). House Ways and Means Subcommittee on Select Revenue Measures. Washington, DC.

Consulting, M. (2018). *The Economic Impact of Tribal Gaming: A State by State Analysis*. American Gaming Association.

Croman, K. S., & Taylor, J. B. (2016). "Why Beggar Thy Indian Neighbor? The Case for Tribal Primacy in Taxation in Indian Country." *JOPNA1*, 1.

Dean PhD, K. D. (2017). *The Economic Impact of Tribal Nations in Oklahoma Fiscal Year 2017*. Oklahoma City, OK: Oklahoma City University.

Kaufmann, D. H. (2009). Government to government: Models of Cooperation between states and tribes. *National Conference of State Legislatures*, (p. 1).

Maruca, M. (2019). From Exploitation to Equity: Building Native-Owned Renewable Energy in Indian Country. *William and Mary Environmental Law and Policy Review*, 489.

Merrion v. Jicarilla (U.S. Supreme Court 1982).

Miskwish, M. C. (2015). *Quantification of the Public Benefit of Indian Economies in San Diego County*". Created for the Sycuan Band of the Kumeyaa Nation.

NCAI. (2015). Resolution #Sd-15-045. Washington, DC: National Congress of American Indians.

(2015). *Reno-Sparks Indian Colony*. Retrieved January 10, 2016, from <http://www.rsic.org/about/business-enterprises-andeconomic-development/>

Taylor, J. B. (2019). *Economic Impact of the Mashantucket Pequot Tribal Nation*. Hyannis, MA: Taylor Policy Group.

(2008). *The California Economic Forecast, Economic Impact of the Chumash Casino Resort on the County of Santa Barbara*. Santa Barbara.

(2008). *The California Economic Forecast, Economic Impact of the Chumash Casino Resort on the County of Santa Barbara*. Santa Barbara.

USET. (2017, May). USET SPF Proposals for Tribal Tax Reform. Adopted by the Board of Directors.

