



COALITION OF LARGE TRIBES

Blackfeet Nation • Cheyenne River Sioux Tribe • Confederated Tribes of the Warm Springs Indian Reservation of Oregon
Crow Nation • Eastern Shoshone Tribe • Fort Belknap Indian Community • Mandan, Hidatsa & Arikara Nation
Muscogee (Creek) Nation • Navajo Nation • Northern Arapaho Tribe • Oglala Sioux Tribe • Rosebud Sioux Tribe
San Carlos Apache Tribe • Shoshone-Bannock Tribes • Shoshone-Paiute Tribes of the Duck Valley Indian Reservation
Sisseton Wahpeton Sioux Tribe • Spokane Tribe • Ute Indian Tribe • Ute Mountain Ute Tribe • Walker River Paiute Tribe

COLT Applauds Proposed Guidance on the Tax Treatment of Wholly-Owned Tribal Entities from U.S. Department of the Treasury

October 7, 2024

MISSION, SOUTH DAKOTA – The Coalition of Large Tribes, an intertribal organization representing the interests of the more than 50 tribes with reservations of 100,000 acres or more, encompassing more than 95% of the Indian Country lands and more than half the Native American population, warmly welcomes today’s [announcement](#) that the U.S. Department of the Treasury and the Internal Revenue Service have issued a [Notice of Proposed Rulemaking](#) (NPRM) to implement guidance on the federal tax treatment of wholly-owned tribal entities. COLT’s member tribes span Washington, Oregon, Idaho, Montana, North Dakota, South Dakota, Utah, Wyoming, Colorado, Nevada, Arizona, New Mexico and Oklahoma. The Proposed Rule announced today will be [transformative](#) for Indian Country across those states if enacted.

COLT Treasurer Lisa White Pipe joined Deputy Secretary of the Treasury Wally Adeyemo in a press call to applaud the Proposed Rule. “Supporting Treasury’s consideration of this Proposed Rule has been one of COLT’s top priorities because we know it will be transformative for ALL TRIBES, and especially large land base tribes,” White Pipe said.

COLT provided [extensive comments](#) to demonstrate that “Indians not taxed”¹ is a fundamental textual phrase of the U.S. Constitution that has been largely ignored by federal courts and policymakers until the current U.S. Treasury returned to original principles and very recently adopted deference to tribes in the [Tribal General Welfare Act proposed rule](#), [which COLT also applauded](#), and today proposes to clarify that the federal government may not tax wholly-owned tribally-owned entities.

White Pipe also serves as Co-Chair of the Tribal Interior Budget Council. “Getting this guidance is foundational to the aims of Executive Order 14112, reforming federal funding, including tax collections, and supporting tribal nations self-determination,” she said. “We know the budget formulation process is in need of profound reforms for Indian Country, but that is a long and iterative process involving significant consultation over many budget years.”

For many decades, Native Americans have been trapped in classic cases of taxation without representation that have unjustly crippled Native economies since because of the litany of legally-baseless, results-oriented federal court decisions and agency interpretations that drifted far afield

¹ U.S. CONST. ART. I, § 2, cl. 3.



COALITION OF LARGE TRIBES

Blackfeet Nation • Cheyenne River Sioux Tribe • Confederated Tribes of the Warm Springs Indian Reservation of Oregon
Crow Nation • Eastern Shoshone Tribe • Fort Belknap Indian Community • Mandan, Hidatsa & Arikara Nation
Muscogee (Creek) Nation • Navajo Nation • Northern Arapaho Tribe • Oglala Sioux Tribe • Rosebud Sioux Tribe
San Carlos Apache Tribe • Shoshone-Bannock Tribes • Shoshone-Paiute Tribes of the Duck Valley Indian Reservation
Sisseton Wahpeton Sioux Tribe • Spokane Tribe • Ute Indian Tribe • Ute Mountain Ute Tribe • Walker River Paiute Tribe

from the sovereign-to-sovereign relationship between tribes and the United States enshrined in the Constitution and tribal treaties.²

Wholly-owned entities are the vast majority of reservation employers and generate the revenue that most tribes utilize to fund their basic services to citizens, outside of federal resources.

“This guidance will increase those tribal entities’ access to credit, the larger capital market, and provide the certainty we need to negotiate better terms and expand the breadth and depth of what these entities bring to tribal governments to fund basic services to tribal citizens,” said COLT Executive Director OJ Semans, Sr.

The results of the Proposed Rule, if enacted, will be immediate and positive for all tribes and their neighboring communities. Such catalytic positive change results from Treasury’s return to the Framers’ intent in the Constitution, referring to “Indians not taxed,”³ and recognizing tribal nations as among the United States’ most important allies. The Proposed Rule puts us back on the Constitution’s doctrinal trail: where tribal nations were independent nations with established local economies and trade networks and sovereign-to-sovereign relationships that uplifted the inhabitants of the continent.

White Pipe explained, “Treasury’s Proposed Rules on federal tax treatment of wholly-owned tribal entities and GWE work in combination to take the handcuffs off tribal economies by trusting tribal governments to make the best decisions for our own citizens, thereby creating a certainty environment for access to capital and investment in Indian Country.”

“COLT predicts the successes the Proposed Rules achieve will eclipse the positive impacts of all the other federal self-determination initiatives. The Proposed Rules combine to create a transformative moment for Indian Country and our many neighbors,” Semans said.

He added, “While we also welcome guidance on majority-owned entities, we agree with the Treasury’s approach to address wholly owned tribal entities first, to set a foundation, and then analyze other tribal entities and that additional process will require more consultation and more time.”

Getting the guidance on wholly-owned tribal entities is foundational – tribal treaties, sovereignty, and self-determination are protected and enhanced as a result.

² See *Haaland v. Brackeen*, 599 U.S. __ (2023) (Gorsuch, J., concurring, Slip Op. 13-36) (detailing the legal history, steadfast persistence of tribal sovereignty and limited powers of the federal government, and virtually non-existent powers of state governments, with respect to tribal sovereign entities).

³ U.S. CONST. ART. I, § 2, cl. 3.



COALITION OF LARGE TRIBES

Blackfeet Nation • Cheyenne River Sioux Tribe • Confederated Tribes of the Warm Springs Indian Reservation of Oregon
Crow Nation • Eastern Shoshone Tribe • Fort Belknap Indian Community • Mandan, Hidatsa & Arikara Nation
Muscogee (Creek) Nation • Navajo Nation • Northern Arapaho Tribe • Oglala Sioux Tribe • Rosebud Sioux Tribe
San Carlos Apache Tribe • Shoshone-Bannock Tribes • Shoshone-Paiute Tribes of the Duck Valley Indian Reservation
Sisseton Wahpeton Sioux Tribe • Spokane Tribe • Ute Indian Tribe • Ute Mountain Ute Tribe • Walker River Paiute Tribe

COLT is heartened by the [strong supportive analysis](#) also announced today by the Harvard Project on Indigenous Government and Development. The study finds that adoption of the Proposed Rules would greatly strengthen the capacities of tribal governments, to the benefit of tribes and the United States as a whole.

CONTACTS:

- COLT Treasurer Lisa White Pipe, Vice President, Rosebud Sioux Tribe – (605) 208-2122, lwhitepipe@rst-nsn.gov
- COLT Executive Director OJ Semans - (605) 828-1422, tateota@hotmail.com
- COLT Counsel, Del Laverdure – (406) 850-1856, del.laverdure@arrowcreeklaw.com