

[Congressional letterhead]
March __, 2013

The Honorable Jack Lew, Secretary
Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, DC 20220

Re: IRS Moratorium on Examinations of Tribal GWE Benefits

Dear Secretary Lew:

We write to express concerns about the targeted audits and enforcement actions by the Internal Revenue Service (IRS) of tribal government-provided benefits. These actions are taking place while the Service is concurrently seeking input from tribes on the proposed General Welfare Exclusion (GWE) guidance (IRS Notice 2012-75) and developing standards for the Adapt Detection and Prevention Team (ADAPT) program pursuant to TIGTA Report Reference Number 2013-10-018. Further, in light of Congress' increasing interest to examine this matter, we urge you to take immediate steps to halt the discriminatory audits of tribal government-provided benefits to tribal citizens.

The United States has a legal and political relationship with Indian tribes established through and confirmed by the U.S. Constitution, treaties, federal laws, executive orders, and Supreme Court decisions. Tribal governments ceded hundreds of millions of acres of tribal homelands to help build this Nation. In return, the U.S. promised to maintain tribal self-determination over the permanent homelands of tribes and to provide for and further the health, education, safety, and well-being of Native Americans. Accordingly, hundreds of federal laws acknowledge the federal government's obligations. Unfortunately, the U.S. has failed to fully fund these programs. As a result, some tribes have taken action to meet these shortfalls by providing their citizens health care, education and housing assistance, and other areas to improve the lives of their people.

For more than four decades, Congress has supported a policy of Indian self-determination, and as a result, we support these acts of self-determination.

While we appreciate that the Department and the IRS have increased consultation with tribal leaders, the ongoing campaign of audits by the IRS has cast a shadow over the government-to-government relationship between the U.S. and Indian tribes. Therefore, we urge you to focus the Department's compliance efforts towards the training of staff and field agents about the federal government's unique obligations to tribes as well as the federal policy of tribal self-determination. Until these training efforts occur, and the Department's GWE guidance and ADAPT standards are completed, we urge you to place a moratorium on all IRS actions relating to tribal general welfare programs and services. Thank you for your consideration of this important matter and we look forward to hearing from you.

Sincerely,