

SUPPORTING STATEMENT  
TD 7925 - Indian Tribal Governments Treated As States For  
Certain Purposes (26 CFR 305.7871-1)  
OMB #1545-0823

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

The Indian Tribal Governmental Tax Status Act of 1982 (Title II of Pub. L. No. 97-473, 1983-1 C.B. 510, 511, as amended by Pub. L. No. 98-21, 1983-2 C.B. 309, 315) added sections 7701(a)(40) and 7871 to the Code.

Section 7871(a) provides that Indian tribal governments (or subdivisions thereof) will be treated as states for certain enumerated federal tax purposes. For example, charitable contributions to or for the use of a tribal government may be deductible under the federal income, gift, and estate tax laws; a tribal government is entitled to exemption from certain excise taxes; taxes imposed by a tribe may be deductible; and public activity bonds may be tax exempt obligations. As originally enacted in 1982, the provisions of section 7871 were temporary. These provisions were made permanent by section 1065 of the Tax Reform Act of 1984, Pub. L. 98-369, 1984-3 (Vol. 1) C.B. 556.

Section 7701(a)(40) defines the term Indian tribal government to mean the governing body of any tribe, band, community, village, or group of Indians, or (if applicable) Alaska Natives, which is determined by the Secretary, after consultation with the Secretary of the Interior, to exercise governmental functions. Temporary Regulation section 305.7701-1(a) provides that a governing body of a tribe, band, pueblo, community, village, or group of native American Indians, or Alaska Natives, qualifies as an Indian tribal government upon determination by the Internal Revenue Service that the governing body exercises governmental functions. Designation of a governing body as an Indian tribal government will be by revenue procedure. The temporary regulation further provides that if a governing body is not currently designated by revenue procedure as an Indian tribal government, and such governing body believes that it qualifies for such designation, the governing body may apply for a ruling from the Internal Revenue Service.

Revenue Procedure 2008-55 designate the Indian tribal entities that appear on the current or future list of federally recognized Indian tribes published by the Department of Interior, Bureau of Indian Affairs, as Indian tribal governments for purposes of section 7701(a)(40). Indian tribal governments are treated as States for certain purposes under

section 7871(a).

2. USE OF DATA

The information will be used by the Internal Revenue Service to determine whether a governing body or subdivision qualifies as an Indian tribal government or subdivision thereof that qualifies for treatment as a state or political subdivision of a state for purposes of sections 7701(a)(40) and 7871 of the Code.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

IRS Publications, Regulations, Notices and Letters are to be electronically enabled on an as practicable basis in accordance with the IRS Reform and Restructuring Act of 1998.

4. EFFORTS TO IDENTIFY DUPLICATION

We have attempted to eliminate duplication within the agency wherever possible.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

Not applicable.

6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES

Not applicable.

7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)

Not applicable.

8. CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

Temporary regulation (49 FR 19302) published in the *Federal Register* on May 7, 1984 added Part 305 to Title 26 of the Code of Federal Regulations.

We received no comments in response to the Federal Register notice dated April 30, 2013 (78 FR 25358).

9. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS

Not applicable.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Generally, tax returns and tax return information are confidential as required by 26 USC 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

Not applicable.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

Sections 305.7701-1(a) and 305.7871-1(e) of the Temporary Procedural and Administrative Tax Regulations under the Indian Tribal Governmental Tax Status Act of 1982 require Indian tribal governments and their subdivisions that wish to be designated as such to submit information to the Internal Revenue Service. It is estimated that approximately 25 governing bodies will request to be designated as Indian tribal governments or subdivisions thereof, and that each governing body will need approximately one hour to complete the request. Accordingly, the estimated reporting burden is 25 hours.

Estimates of the annualized cost to respondents for the hour burdens shown are not available at this time.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our Federal Register notice, dated April 30, 2013, requested public comments on estimates of cost burden that are not captured in the estimates of burden hours, i.e., estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. However, we did not receive any response from taxpayers on this subject. As a result, estimates of the cost burdens are not available at this time.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

Not applicable.

15. REASONS FOR CHANGE IN BURDEN

There is no change in the paperwork burden previously approved by OMB. We are making this submission to renew the OMB approval.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

Not applicable.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

We believe that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the regulation sunsets as of the expiration date. Taxpayers are not likely to be aware that the Service intends to request renewal of the OMB approval and obtain a new expiration date before the old one expires.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT ON OMB FORM 83-I

Not applicable.

Note: The following paragraph applies to all of the collections of information in this submission:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.