

IHS TRIBAL SELF-GOVERNANCE ADVISORY COMMITTEE

c/o Self-Governance Communication and Education
P.O. Box 1734, McAlester, OK 74501

Telephone (918) 302-0252 ~ Facsimile (918) 423-7639 ~ Website: www.Tribalselfgov.org

Sent via email: Mark.Chambers@Treasury.gov

October 21, 2015

Dr. Elaine Buckberg
Deputy Assistant Secretary for Policy
Office of Economic Policy
Department of Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

RE: Excise Tax on Certain Employer-Sponsored Health Benefits


Dear Dr. Buckberg:

On behalf of the Tribal Self-Governance Advisory Committee to IHS (TSGAC), I am submitting this letter as a follow-up to our discussion at the TSGAC meeting in Washington, DC, on October 7, 2015.

First, we would like to thank you for listening to Tribal leaders voice their concerns about Section 4980I, a provision that establishes an excise tax on certain employer-sponsored health benefits under which coverage providers, including health insurance issuers and employers who administer self-funded plans, must pay a tax on employee plans that exceed certain statutory cost thresholds. As voiced in the meeting, Tribal leaders interpret Section 4980I as not applying to Tribal government plans in that the provisions specific to governmental employer plans only references plans established or maintained by federal and state governments. Tribes are interpreting this to mean that the excise tax does not apply to Tribal government plans. The legal analysis for this position is provided in TSGAC's comments to the IRS on Notice 2015-16, submitted on May 15, 2015 (attached). We respectfully request that any proposed regulations implementing Section 4980I expressly exclude Tribal government plans and that any other interpretation of Section 4980I be subject to Tribal consultation before any proposed regulations are issued.

Second, we would like to thank the Treasury for stating that it would accept comments on IRS Notice 2015-52 beyond the October 1, 2015 deadline. TSGAC submitted comments on IRS Notice 2015-52 on October 14, 2015 (also attached) and comments from other Tribes and Tribal employers are forthcoming. We look forward to your continued engagement with us on this matter. If you have any questions, you can reach me at (860) 862-6192; or via email: lmalerba@moheganmail.com. Thank you.

Sincerely,



Chief Lynn Malerba, Mohegan Tribe
Chairwoman, TSGAC

cc: Mr. Robert McSwain, Deputy Director, IHS
P. Benjamin Smith, Director, OTSG, IHS
TSGAC and Technical Workgroup

Enclosures: TSGAC Letters dated May 15, 2015 and October 14, 2015