



WHITE MOUNTAIN APACHE TRIBE

*A Sovereign Nation Exercising Self-Governance
Over the Fort Apache Indian Reservation*

Resolution No. 10-2012-157C

(Resolution of the Apache Tribes of Arizona, New Mexico, and Oklahoma Regarding the General Welfare Exclusion Doctrine)

WHEREAS, the Jicarilla Apache Nation, the Mescalero Apache Tribe, the White Mountain Apache Tribe, the San Carlos Apache Tribe, the Yavapai-Apache Nation, the Tonto Apache Tribe, and the Fort Sill Apache Tribe (the “Seven Apache Tribes”) are federally-recognized Indian Tribes, located in Arizona, New Mexico, and Oklahoma, whose inherent powers of self-government have been recognized by the United States; and

WHEREAS, the sovereign authority of the Apache Nations has been recognized by the United States through treaties, statutes, and agreements, and the Apache Nations are self-governing, indigenous nations; and

WHEREAS, the United States undertook many treaty and trust obligations to provide education, health care and other governmental services to Indian tribes, yet the Federal Government programs and services have all been underfunded and have fallen short of actual Indian community needs for generations; and

WHEREAS, Indian tribes must make up for these Federal shortfalls by providing our own tribal government programs in order to better our tribal community life, to make our reservations and Indian lands to be “livable” as our permanent homes in accord with treaty pledges, and in order to provide for the welfare of our tribal citizens; and

WHEREAS, the Apache Nations provide government programs and services for their respective tribal members, including child care, cultural programs and cultural preservations, education, elder care, health care, housing, general assistance, language programs, utility services, water and sewer services, police and fire protection, and transportation, among other things; and

WHEREAS, tribal government programs and services, including education, health care, elder care, housing, general assistance, water and sewer services, utility services, police and fire protection, language and culture programs are in the nature of essential government programs and services, are an aspect of tribal community life, and are not personal income to individual tribal members; and

WHEREAS, the IRS has made value judgments that categorize Federal and State government programs as governmental in nature, not personal income to individual tax payers, yet has classified Tribal governmental programs as personal income to tribal member citizens because tribal government serve all tribal community members; and

WHEREAS, when the U.S. Government settles breach of trust cases, the IRS seeks to collect tax from individual tribal members for payments of damages; and

WHEREAS, the 1924 Indian Citizenship Act (Act of June 2, 1934) expressly preserves tribal citizens' rights to tribal property, not impaired or affected in any way (Act of June, 1924).

BE IT RESOLVED that the Seven Apache Tribes call upon Congress to respect our treaty, statutory, and executive order rights, to honor the Federal trust responsibility, and to promote Indian Self-Determination by enacting legislation to recognize that when tribal governments provide education, elder care, housing, general assistance, police and fire protection, utility services, water and sewer services, transportation, language and culture preservation, and other tribal government programs and services, these programs and services are matters of tribal self-government, not taxable income to individual tribal members.

BE IT FURTHER RESOLVED that the Seven Apache Tribes call upon Congress to specifically recognize through legislation that when Indian tribes provide governmental programs and services to tribal members to provide for the betterment of the tribal community, to promote the welfare of tribal citizens, or to make Indian lands livable as permanent homes, such programs and services further the general welfare interest of the United States by promoting the Federal trust responsibility, supporting Indian rights under federal treaties, statutes, and executive orders, and promoting Indian Self-Determination.

BE IT FURTHER RESOLVED that the Seven Apache Tribes call upon Congress to ensure that such tribal government programs and services are not subject to federal taxation as received by tribal members or citizens.

BE IT FINALLY RESOLVED that Federal or tribal government treaty-based or trust resource based payments to tribal members or citizens are not subject to Federal income taxation.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that in the event that this Resolution conflicts with a prior Resolution or Policy, this Resolution shall supersede and govern over the conflicting subject matter.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that in the event this Resolution directly conflicts with the Tribal Constitution, Tribal Ordinances or Federal Laws, this Resolution shall be declared null and void and have no legal effect.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the Chairman, or in his absence, the Acting Chairman, is hereby authorized to execute any and all documents necessary to effectuate the intent of this Resolution. In the event that the Chairman fails to delegate signatory authority to an Acting Chairman, the Vice-Chairman may sign.

The foregoing resolution was on **OCTOBER 3, 2012** duly adopted by a vote of **EIGHT** for and **ZERO** against by the Tribal Council of the White Mountain Apache Tribe, pursuant to the authority vested in it by Article IV, Section 1 (a), (i), (k), (s), (t) and (u) of the Tribal Constitution, ratified by the Tribe September 30, 1993, and approved by the Secretary of the Interior on November 12, 1993, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).



Ronnie Lupe, Chairman

11/28/12
Date



Mariddie J. Craig, Secretary

12/03/2012
Date