

Revenue Ruling 86-44

Section 7871. -- Indian Tribal Governments Treated As States for Certain Purposes

1986-1 Cumulative Bulletin 376; REVENUE RULING 86-44

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Indian tribal governments; treatment as states or political subdivisions. Revenue Rulings. 58-610, 68-231 and 74-179 are declared obsolete.

The Indian Tribal Governmental Tax Status Act of 1982, 1983-1 Cumulative Bulletin 510, 511, added certain provisions to the Internal Revenue Code that pertained to the status of Indian tribal governments. For two years beginning in 1983, Indian tribal governments (or subdivisions thereof) are to be treated as states (or political subdivisions thereof) for specified federal tax purposes.

Before 1982, the Service had published several revenue rulings which either held or were based upon the assumption that an Indian tribe is neither a state nor a political subdivision. Revenue Ruling 58-610, 1958-2 Cumulative Bulletin 815, Revenue Ruling 68-231, 1968-1 Cumulative Bulletin 48, and Revenue Ruling 74-179, 1974-1 Cumulative Bulletin 279, applied variously to estate and gift taxes, charitable deductions, tax-exempt municipal bonds, and excise taxes and found Indian tribes to be communities rather than states or political subdivisions. As a result of the 1982 enactment, Revenue Ruling 84-93, 1984-1 Cumulative Bulletin 279, suspended Revenue Ruling 58-610, Revenue Ruling 68-231 and Revenue Ruling 74-179.

Section 7871 of the Code, added by the Indian Tribal Government [*2] Tax Status Act of 1982, describes the circumstances under which an Indian tribal government shall be treated as a state or a political subdivision. The term "Indian tribal government" is defined under section 7701(a)(40) to mean the governing body of any tribe, band, community, village, or group of Indians, or (if applicable) Alaska Natives, that is determined by the Secretary of the Treasury, after consultation with the Secretary of the Interior, to exercise governmental functions. Section 7871(d) provides that for purposes of section 7871, a subdivision of an Indian tribal government shall be treated as a political subdivision of a state if (and only if) the Secretary of the Treasury determines (after consultation with the Secretary of the Interior) that such subdivision has been delegated the right to exercise one or more of the substantial governmental functions of the Indian tribal government.

Revenue Procedure 83-87, 1983-2 Cumulative Bulletin 606, provides a list of Indian tribal governments that were to be treated as states for the two-year period. Revenue Procedure 84-36, 1984-1 Cumulative Bulletin 510, sets forth a list of subdivisions of Indian tribal governments that are to be treated as political subdivisions [*3] of states for the two-year period, and Revenue Procedure 84-37, 1984-1 Cumulative Bulletin 513, provides procedures under which a governmental unit of an Indian tribe or subdivision thereof may request a determination qualifying it for treatment as a state or political subdivision of a state for purposes of section 7871 of the Code.

Section 1065 of the Tax Reform Act of 1984, 1984-3 (Vol. 1) Cumulative Bulletin 556, made permanent the rules treating Indian tribal governments (or subdivisions thereof) as states (or political subdivisions thereof).

Revenue Procedure 86-17, page 40, this Bulletin, modifies Revenue Procedure 83-87, Revenue Procedure 84-36 and Revenue Procedure 84-37 to eliminate the two-year limitation period.

EFFECT ON OTHER REVENUE RULINGS

Revenue Ruling 58-610, Revenue Ruling 68-231, Revenue Ruling 74-179 and Revenue Ruling 84-93 are declared obsolete.

Certain revenue procedures suspended as to their respective applications to Indian tribes, or subdivisions thereof. See Revenue Procedure 86-17, page 40. [*4]