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life's journey...

Tribal General Welfare Exclusion Act of 2014

What is it?

The Tribal General Welfare Exclusion Act of 2014 adds Section 139E to the Internal Revenue Code. This section provides that gross income does not include the value of any Indian general welfare benefit, if all the following requirements are satisfied:

- The program is administered under specific guidelines and does not discriminate in favor of members of the governing body of the tribe.
- The benefits provided under the program are
 - available to any tribal member who meets the guidelines;
 - for the promotion of general welfare;
 - not lavish and extravagant; and
 - not compensation for services.

How is it applied?

- **Applies:** The program requires the individual recipient to establish need.
- **Does Not Apply:** The program does not require recipients to establish individual need.
Per 26 CFR 601.601

Does it Affect SSI?

Social Security excludes payments to tribal members from programs under this Act (including payments developed using gaming revenue) as ABON if all the requirements in **SI 00830.175** are met.

Tribes may develop need-based programs for tribal members using gaming revenue. In order for Social Security to exclude these program payments as ABON under SSI, tribes must develop their need-based program per the guidelines listed in **SI 00830.175**, and provide Social Security with sufficient documentation to verify the eligibility requirements of the tribe's program.

A Social Security claim specialist will review the program's eligibility requirements, determine if the program is ABON, and create a precedent.

If a program uses income to determine payment amounts, but not program eligibility, it is **not** ABON.

Assistance Based On Need (ABON)

For SSI purposes, ABON is assistance:

- provided under a program which uses income as a factor of **eligibility**; and
- funded **wholly** by a State (including the District of Columbia, Indian tribes and the Northern Mariana Islands), a political subdivision of a State, or a combination of such jurisdictions.

EXCEPTION: State supplementary payments, as defined in **SI 01401.001**, made to refugees are considered to be ABON, even if the federal government reimburses the state.

Assistance based on need is excluded from income.

Note: *The Tribal General Welfare Exclusion Act of 2014 amends the Internal Revenue Service (IRS) code. The bill language does not add any new exclusions from Indian income to the SSI program, thus, the Act has no bearing on SSI in deciding countable income for SSI eligibility and payment purposes. Its primary purpose is to codify that those payments, programs, or services provided by tribal governments for the general welfare of their people that meet the requirements under the Tribal Act are excluded from federal income tax. This is similar to the way in which the IRS treats TANF, SSI benefits, and other social services in that they are not taxed.*

For More Information

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