

113TH CONGRESS
1ST SESSION

H. R. 3030

To amend the Internal Revenue Code of 1986 to treat Indian tribal governments in the same manner as State governments for certain Federal tax purposes, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 2, 2013

Mr. KIND introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to treat Indian tribal governments in the same manner as State governments for certain Federal tax purposes, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Tribal Tax and Invest-
5 ment Reform Act of 2013”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

1 (1) There is a unique Federal legal and political
2 relationship between the United States and Indian
3 tribes.

4 (2) Indian tribes have the responsibility and au-
5 thority to provide governmental programs and serv-
6 ices to tribal citizens, develop tribal economies, and
7 build community infrastructure to ensure that In-
8 dian reservation lands serve as livable, permanent
9 homes.

10 (3) The United States Constitution, U.S. Fed-
11 eral Court decisions, Executive orders, and numer-
12 ous other Federal laws and regulations recognize
13 that Indian tribes are governments, retaining the in-
14 herent authority to tax and operate as other govern-
15 ments, including (inter alia) financing projects with
16 government bonds and maintaining eligibility for
17 general tax exemptions via their government status.

18 (4) Codifying tax parity with respect to tribal
19 governments is consistent with Federal treaties rec-
20 ognizing the sovereignty of tribal governments.

21 (5) That Indian tribes face historic disadvan-
22 tages in accessing the underlying capital to build the
23 necessary infrastructure for job creation, and that
24 certain statutory restrictions on tribal governance

1 further inhibit tribes' ability to develop strong gov-
2 ernance and economies.

3 (6) Indian tribes are sometimes excluded from
4 the Internal Revenue Code of 1986 in key provisions
5 which results in unfair tax treatment for tribal citi-
6 zens or unequal enforcement authority for tribal en-
7 forcement agencies.

8 (7) Congress is vested with the authority to
9 regulate commerce with Indian tribes, and hereby
10 exercises that authority in a manner which furthers
11 tribal self-governance, and in doing so, further af-
12 firms the United States government-to-government
13 relationship with Indian tribes.

14 **SEC. 3. TREATMENT OF INDIAN TRIBES AS STATES WITH**
15 **RESPECT TO BOND ISSUANCE.**

16 (a) IN GENERAL.—Subsection (c) of section 7871 of
17 the Internal Revenue Code of 1986 (relating to Indian
18 tribal governments treated as States for certain purposes)
19 is amended to read as follows:

20 “(c) SPECIAL RULES FOR TAX-EXEMPT BONDS.—In
21 applying section 146 to bonds issued by Indian tribal gov-
22 ernments (or subdivisions thereof) the Secretary of the
23 Treasury shall annually—

24 “(1) establish a national bond volume cap based
25 on the greater of—

1 “(A) the State population formula ap-
2 proach in section 146(d)(1)(A) (using national
3 tribal population estimates supplied annually by
4 the Department of the Interior in consultation
5 with the Census Bureau), and

6 “(B) the minimum State ceiling amount in
7 section 146(d)(1)(B) (as adjusted in accordance
8 with the cost of living provision in section
9 146(d)(2)), and

10 “(2) allocate such national bond volume cap
11 among all Indian tribal governments seeking such an
12 allocation in a particular year under regulations pre-
13 scribed by the Secretary.”.

14 (b) REPEAL OF ESSENTIAL GOVERNMENTAL FUNC-
15 TION REQUIREMENTS.—Section 7871 of such Code is fur-
16 ther amended by striking subsections (b) and (e).

17 (c) EFFECTIVE DATE.—

18 (1) SUBSECTION (a).—The amendment made
19 by subsection (a) shall apply to obligations issued in
20 calendar years beginning after the date of the enact-
21 ment of this Act.

22 (2) SUBSECTION (b).—The repeals made by
23 subsection (b) shall apply to transactions after, and
24 obligations issued in calendar years beginning after,
25 the date of the enactment of this Act.

1 **SEC. 4. TREATMENT OF PENSION AND EMPLOYEE BENEFIT**
2 **PLANS MAINTAINED BY TRIBAL GOVERN-**
3 **MENTS.**

4 (a) AMENDMENTS TO THE INTERNAL REVENUE
5 CODE OF 1986.—

6 (1) QUALIFIED PUBLIC SAFETY EMPLOYEE.—
7 Section 72(t)(10)(B) of the Internal Revenue Code
8 of 1986 (defining qualified public safety employee) is
9 amended by—

10 (A) striking “or political subdivision of a
11 State” and inserting “, political subdivision of
12 a State, or Indian tribe”; and

13 (B) striking “such State or political sub-
14 division” and inserting “such State, political
15 subdivision, or tribe”.

16 (2) GOVERNMENTAL PLAN.—The last sentence
17 of section 414(d) of such Code (defining govern-
18 mental plan) is amended to read as follows: “The
19 term ‘governmental plan’ includes a plan established
20 or maintained for its employees by an Indian tribal
21 government (as defined in section 7701(a)(40)), a
22 subdivision of an Indian tribal government (deter-
23 mined in accordance with section 7871(d)), an agen-
24 cy, instrumentality, or subdivision of an Indian trib-
25 al government, or an entity established under Fed-

1 eral, State, or tribal law which is wholly owned or
2 controlled by any of the foregoing.”.

3 (3) DOMESTIC RELATIONS ORDER.—Section
4 414(p)(1)(B)(ii) of such Code (defining domestic re-
5 lations order) is amended by inserting “or tribal”
6 after “State”.

7 (4) EXEMPT GOVERNMENTAL DEFERRED COM-
8 PENSATION PLAN.—Section 3121(v)(3) of such Code
9 (defining governmental deferred compensation plan)
10 is amended by inserting “by an Indian tribal govern-
11 ment or subdivision thereof,” after “political subdivi-
12 sion thereof,”.

13 (5) GRANDFATHER OF CERTAIN DEFERRED
14 COMPENSATION PLANS.—Section 457 of the Internal
15 Revenue Code is amended by adding at the end the
16 following new subsection:

17 “(h) CERTAIN TRIBAL GOVERNMENT PLANS GRAND-
18 FATHERED.—Plans established before the date of enact-
19 ment of this subsection and maintained by an Indian tribal
20 government (as defined in section 7701(a)(40)), a subdivi-
21 sion of an Indian tribal government (determined in accord-
22 ance with section 7871(d)), an agency, instrumentality, or
23 subdivision of an Indian tribal government, or an entity
24 established under Federal, State, or tribal law which is
25 wholly owned or controlled by any of the foregoing, in com-

1 pliance with subsection (b) or (f) shall be treated as if
2 established by an eligible employer under subsection
3 (e)(1)(A).”.

4 (b) AMENDMENTS TO THE EMPLOYEE RETIREMENT
5 INCOME SECURITY ACT OF 1974.—

6 (1) IN GENERAL.—The last sentence of section
7 3(32) of the Employee Retirement Income Security
8 Act of 1974 (29 U.S.C. 1002(32)) is amended to
9 read as follows: “The term ‘governmental plan’ in-
10 cludes a plan established or maintained for its em-
11 ployees by an Indian tribal government (as defined
12 in section 7701(a)(40) of the Internal Revenue Code
13 of 1986), a subdivision of an Indian tribal govern-
14 ment (determined in accordance with section
15 7871(d) of such Code), an agency, instrumentality,
16 or subdivision of an Indian tribal government, or an
17 entity established under Federal, State, or tribal law
18 which is wholly owned or controlled by any of the
19 foregoing.”.

20 (2) DOMESTIC RELATIONS ORDER.—Section
21 206(d)(3)(B)(ii)(II) of such Act is amended by in-
22 sserting “or tribal” after “State”.

23 (3) CONFORMING AMENDMENTS.—

24 (A) Paragraph (2) of section 109(d) of the
25 Worker, Retiree, and Employer Recovery Act of

1 2008 (Public Law 110–458; 122 Stat. 5112) is
2 repealed, and, subject to subparagraph (B),
3 each provision amended by such paragraph is
4 amended to read as if such paragraph had not
5 been enacted.

6 (B) Section 4021(b) of the Employee Re-
7 tirement Income Security Act of 1974 is
8 amended by striking “or” at the end of para-
9 graph (12), by striking the period at the end of
10 paragraph (13) and inserting “; or”, and by in-
11 serting after paragraph (13) the following new
12 paragraph:

13 “(14) established or maintained for its employ-
14 ees by an Indian tribal government (as defined in
15 section 7701(a)(40) of the Internal Revenue Code of
16 1986), a subdivision of an Indian tribal government
17 (determined in accordance with section 7871(d) of
18 such Code), an agency, instrumentality, or subdivi-
19 sion of an Indian tribal government, or an entity es-
20 tablished under Federal, State, or tribal law which
21 is wholly owned or controlled by any of the fore-
22 going.”.

23 (C) Section 4021(b)(2) of such Act (29
24 U.S.C. 1321(b)(2)) is amended by striking “, or

1 which is described in the last sentence of sec-
2 tion 3(32)” and inserting a comma.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to years beginning after the date
5 of the enactment of this Act.

6 **SEC. 5. TREATMENT OF TRIBAL FOUNDATIONS AND CHAR-**
7 **ITIES LIKE CHARITIES FUNDED AND CON-**
8 **TROLLED BY OTHER GOVERNMENTAL**
9 **FUNDERS AND SPONSORS.**

10 (a) IN GENERAL.—Section 170(b)(1)(A) of the Inter-
11 nal Revenue Code of 1986 is amended by adding at the
12 end the following: “For purposes of clause (vi), the term
13 ‘governmental unit’ includes an Indian tribal government
14 (determined in accordance with section 7871(d) of such
15 Code), an agency, instrumentality, or subdivision of an In-
16 dian tribal government, or an entity established under
17 Federal, State, or tribal law which is wholly owned or con-
18 trolled by any of the foregoing.”.

19 (b) CERTAIN SUPPORTING ORGANIZATIONS.—Sec-
20 tion 509(a) of such Code is amended by adding at the
21 end the following: “For purposes of paragraph (3), an or-
22 ganization described in paragraph (2) shall be deemed to
23 include an Indian tribal government (determined in ac-
24 cordance with section 7871(d) of such Code), an agency,
25 instrumentality, or subdivision of an Indian tribal govern-

1 ment, or an entity established under Federal, State, or
 2 tribal law which is wholly owned or controlled by any of
 3 the foregoing.”.

4 (c) EFFECTIVE DATE.—The amendments made by
 5 this section shall apply to taxable years beginning after
 6 the date of the enactment of this Act.

7 **SEC. 6. IMPROVING EFFECTIVENESS OF TRIBAL CHILD**
 8 **SUPPORT ENFORCEMENT AGENCIES BY PAR-**
 9 **ITY OF ACCESS TO THE FEDERAL PARENT LO-**
 10 **CATOR SERVICE AND FEDERAL TAX REFUND**
 11 **OFFSETS.**

12 (a) ACCESS TO FEDERAL PARENT LOCATOR SERV-
 13 ICE.—Section 453(c) of the Social Security Act (42 U.S.C.
 14 653(c)) is amended—

15 (1) by striking “and” at the end of paragraph

16 (3);

17 (2) by striking the period at the end of para-
 18 graph (4) and inserting “; and” ; and

19 (3) by adding at the end the following:

20 “(5) the child support enforcement agency of an
 21 Indian tribe or tribal organization that is eligible for
 22 a grant under section 455(f).”.

23 (b) IMPROVING THE COLLECTION OF PAST-DUE
 24 CHILD SUPPORT FROM FEDERAL TAX REFUNDS.—

1 (1) AMENDMENT TO THE SOCIAL SECURITY
2 ACT.—Section 464 of the Social Security Act (42
3 U.S.C. 664) is amended by adding at the end the
4 following:

5 “(d) APPLICABILITY TO INDIAN TRIBES AND TRIBAL
6 ORGANIZATIONS ELIGIBLE FOR A GRANT UNDER THIS
7 PART.—This section, except for the requirement to dis-
8 tribute amounts in accordance with section 457, shall
9 apply to an Indian tribe or tribal organization eligible for
10 a grant under section 455(f) in the same manner in which
11 this section applies to a State with a plan approved under
12 this part.”.

13 (2) AMENDMENT TO THE INTERNAL REVENUE
14 CODE.—Subsection (c) of section 6402 of the Inter-
15 nal Revenue Code of 1986 is amended by adding at
16 the end the following: “‘For purposes of this sub-
17 section, any reference to a State shall include a ref-
18 erence to any Indian tribe or tribal organization de-
19 scribed in section 464(d) of the Social Security
20 Act.”.

21 **SEC. 7. APPLICATION OF CLEAN RENEWABLE ENERGY**
22 **BONDS TO TRIBES.**

23 (a) IN GENERAL.—Section 54(j) of the Internal Rev-
24 enue Code of 1986 is amended by adding at the end the
25 following new paragraph:

1 “(6) INDIAN TRIBAL GOVERNMENT.—The term
2 ‘Indian tribal government’ has the meaning given
3 such term by section 7701(a)(40) and includes a
4 subdivision of an Indian tribal government (deter-
5 mined in accordance with section 7871(d)), an agen-
6 cy, instrumentality, or subdivision of an Indian trib-
7 al government, or an entity established under Fed-
8 eral, State, or tribal law which is wholly owned or
9 controlled by any of the foregoing.”.

10 (b) ALLOCATION.—Section 54(f) of such Code is
11 amended by adding at the end the following:

12 “(3) SPECIAL RULE FOR INDIAN TRIBAL GOV-
13 ERNMENTS.—

14 “(A) IN GENERAL.—Notwithstanding sub-
15 section (m), there is a clean renewable energy
16 bond limitation for Indian tribal governments of
17 \$200,000,000 for each of calendar years 2014,
18 2015, and 2016.

19 “(B) ALLOCATION BY SECRETARY.—The
20 Secretary shall allocate the amount described in
21 subparagraph (A) among qualified projects in
22 such manner as the Secretary determines ap-
23 propriate, except that the Secretary may not al-
24 locate more than 20 percent of the national

1 clean renewable energy bond limitation to fi-
2 nance any 1 qualified project.”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to obligations issued after Decem-
5 ber 31, 2014.

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