



The Confederated Tribes of the Colville Reservation
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Updated Trust Claims Settlement Information

Released by Colville Business Council

For Immediate Release
July 13, 2012

NESPELEM, WA—The Colville Business Council today released the following updated information regarding the Colville Tribes’ settlement of its trust mismanagement lawsuit. This document is intended to update the press release and fact sheet the Colville Tribes previously disseminated on June 6, 2012. Those documents can be found on the Colville Tribes’ website.

The Colville Tribes’ Settlement

The Colville Tribes’ settlement was one of a group of trust mismanagement lawsuit settlements negotiated under an initiative the tribes involved referred to as the “Settlement Proposal to the Obama Administration” (SPOA). The SPOA initiative was intended to resolve the tribal trust cases in a manner to avoid protracted litigation and honor the government-to-government relationship between tribes and the United States.

The Colville Business Council (CBC) delegated the Chairman of the CBC and the chairs of its Management and Budget, Law and Justice, and Natural Resources committees to participate in the in-person negotiations in Washington, D.C. on the Colville Tribes’ behalf. The four members of the negotiating team kept the full CBC apprised on all aspects of the negotiations and the full CBC guided the team on strategic decisions.

The Colville Tribes’ settlement agreement provides for 20 percent of the \$193 million settlement amount (\$38.6 million) to be held in a trust account. The settlement agreement provides for the other 80 percent to be deposited in a private, non-trust account. The 20 percent figure was voted on and approved by the full CBC. The settlement agreement, including the 20 percent, was approved by a subsequent vote of the full CBC on February 24, 2012. That vote was 11 for, 0 against, and 0 abstaining, and is memorialized in CBC Resolution 2012-61.

Other Settling Tribes

A total of 41 tribal trust settlements were publicly announced on April 11, 2012, including the Colville Tribes' settlement. A link to a story that identifies these 41 tribes is below:

<http://indiancountrytodaymedianetwork.com/2012/04/11/obama-moves-to-settle-41-tribal-trust-cases-for-1-billion-107735>

In a memorandum dated May 1, 2012, the Bureau of Indian Affairs (BIA) provided BIA regional directors with information about the settlements. This memorandum can be found on the Colville Tribes' website. As explained in the memorandum, of the 41 tribal settlements announced on April 11, the Colville Tribes was one of four tribes that had any settlement proceeds kept in trust. The \$38.6 million is the largest amount secured in trust in any of these settlements.

Since April 11, three other tribal trust settlements have been publicly announced. Around June 22, 2012, the Associated Press published a news story that listed the 44 tribes that had settled and their respective settlement amounts. In addition to other online sources, that article can be found here:

http://www.boston.com/news/local/maine/articles/2012/06/22/list_of_44_tribes_in_a_government_1b_settlement/

Of these 44 tribal trust settlements, the Colville Tribes' settlement was the largest.

Tax Status of Per Capita Distributions

The IRS presumes that all sources of income received by an individual are subject to federal income taxation unless there is an explicit income tax exemption. Currently, there is no explicit tax exemption that would exclude per capita distributions from a non-trust account from being considered taxable income.

The Colville Tribes is aware that other settling tribes have approached the federal government in an attempt to obtain relief from potential per capita distributions being considered taxable to their members. In some cases, tribes have already made per capita distributions. The Colville Tribes is also discussing this issue with federal agencies.

At this time, the Colville Tribes cannot predict what, if anything, will result from these discussions or whether any relief will be granted. Unless or until a new development occurs, however, tribal members should expect that any per capita distribution from the non-trust portion of the Colville settlement will be subject to taxation.

Potential Impact of Per Capita Distributions on Benefits

The June 6 press release and fact sheet the Colville Tribes' disseminated stated that tribal members should expect that any per capita distributions from the 80 percent non-trust portion of the settlement will be considered income or resources for federal or federally assisted programs. This statement was based on an analysis of the income eligibility guidelines for the benefit programs listed in the release that were in effect at the time. Many Indian tribes that make per capita distributions from non-trust sources, specifically gaming revenues, have struggled with the impact of the distributions on the eligibility of their members for benefit programs.

Following release of the Tribes' June 6 press release and fact sheet, on June 13, 2012, the Social Security Administration (SSA) issued an "Emergency Message" that stated that per capita distributions from the tribal trust settlements announced in April would not be considered income or resources for purposes of determining eligibility for Supplemental Security Income (SSI) and Medicare Part D Extra Help. That alert can be found here:

<https://secure.ssa.gov/apps10/public/reference.nsf/links/06132012022531PM!opendocument&vName=instructiontypecode&catval=EM>

Going forward, it is conceivable that other governmental agencies and/or Congress might also adopt exceptions or issue new guidance to exclude per capita payments from non-trust sources or from the SPOA settlements generally keeping them from being treated as income or resources in determining eligibility for benefit programs. That is not, however, the current state of the law. As with the federal income tax issue, however, the Colville Tribes is not in a position to predict whether anything might happen in this regard.

The Colville Tribes strongly encourages tribal members to consult the income eligibility guidelines for the specific benefit program if they have questions about whether their benefits or those of members of their household might be affected by receipt of a per capita payment.

Future Developments

The Colville Tribes intends to update this information as circumstances warrant or as new developments occur. In the interim, if you have additional questions, please email them to 2012trustsettlement@colvilletribes.com or contact your CBC council representatives.

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