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MEMORANDUM

TO: Susan White, Trust Department Director

FROM: Andrew J. Pyatskowit, Staff Attorney 

DATE: April 14, 2014

SUBJECT: Legal Review – OBC Resolution Establishing the Youth Development Fund

Attached please find a red-line version of the above proposed resolution. The edits made in red are a result of my review of the following:

1. Letter dated August 6, 2012 from Sandra L. King, ITG Specialist at the Internal Revenue Service wherein she states that the Oneida Tribe of Indians is a federally recognized Indian tribal government and may be treated as a State in accordance with Section 7871, and as such, the Tribe is eligible to receive charitable contributions that are deductible for federal income, estate, and gift tax purposes by the donor.
2. Revenue Procedure 2008-55, dated September 29, 2008 which provides that Indian tribal governments (or subdivisions thereof) will be treated as states for certain enumerated federal tax purposes. For example, charitable contributions to or for the use of a tribal government may be deductible under the federal income, gift, and estate tax laws.
3. The Endowments Ordinance, Chapter 84, which sets out the process for the establishment and maintenance of all endowments accounts established by the Oneida Tribe of Indians of Wisconsin.

This resolution establishes a segregated Youth Development Endowment Fund account. Charitable donations to the fund account will be set aside and dedicated exclusively to the generation and accumulation of income over a specified period of time, after which the earnings from the accumulated fund are to be used to fund the Tribe's delivery of youth development services to the Oneida people. The resolution reaffirms the recognition of the Tribe as a State in accordance with Section 7871, making the Tribe eligible to receive charitable contributions that are deductible for federal income, estate, and gift tax purposes by a donor. Charitable donations will be a mechanism for the funding of the Youth Development Endowment account.

The Account will be a segregated fund and not a part of the Tribe's General Funds and managed in accordance with the requirements of the Tribe's Endowments Ordinance. An interim Board is established to implement the purposes and polices of Section 7871. The interim Endowment

Board shall dissolve upon the account reaching a market value of one million dollars and thereafter the Account will be managed by the Oneida Trust Committee pursuant to the Endowments Ordinance.

There are no legal bars to the passage of this resolution.

Oneida Business Committee Resolution
 Youth Development Fund
OBC Resolution # _____ Number:

WHEREAS, the Oneida Tribe of Indians of Wisconsin is a federally-recognized Indian government and treaty tribe recognized by the laws of the United States; and

WHEREAS, the Oneida Business Committee may be delegated duties and responsibilities by the Oneida General Tribal Council, and is at all times subject to the review powers of the Oneida General Tribal Council, and

WHEREAS, the Oneida Tribe is a sovereign government exercising its Authority to protect the general welfare of its people by providing for them certain essential governmental services and otherwise acting to provide a secure future for the OneidaHopi people; and

WHEREAS, the cost to the Tribe of providing essential governmental services including youth developmenteducational services ~~is~~ increasing greatly and will continue to demand a high proportion of total tribal revenues in view of ~~rising Oneida population trends~~ decreasing tribal revenues; and

WHEREAS, the Oneida Tribe must take measures now which will provide a more secure future for the Oneida Tribe and its people; and

WHEREAS, the concept of a tribal permanent youth development endowment fund offers an opportunity to build a secure future by ~~setting aside a specific amount of Tribal funds~~ accepting and receiving charitable donations, which are dedicated exclusively to the generation and accumulation of income over a specified period of time, after which time the earnings from the accumulated fund are used to fund the Tribe's delivery of youth development services to the Oneida people; and

WHEREAS, financing youth development in-part through a perpetual endowment fund will complement and support tribal independence and sovereignty, self-reliance, and self-sufficiency; and

WHEREAS, the Oneida Tribe acting through its Tribal Council is recognized by the United States Department of Treasury as a tribal government qualified under section 7871 (a) of the Internal Revenue Code to receive tax-deductible contributions in accord with the Treasury Revue Procedure 2008-55 ruling, dated ~~December~~ September 1229, 19832008; and

WHEREAS, -the Oneida Business Committee wished to further the youth developmental goals of the Oneida Tribe by creating a segregated fund to receive tax deductible contributions from donors, which are eligible for charitable contribution deductions under Internal Revenue Code Section 170 and 7871, and which the

Oneida Tribe shall utilize consistent with the purposes of the Endowment Ordinance, Chapter 84; Endowments; and

~~WHEREAS, a bank account Ordinance establishing a segregated Youth Education Endowment Fund of the Oneida Tribe has been proposed, reviewed, and found acceptable and in the best interest of the Oneida Tribe by the Chairman and the Oneida Business Committee Tribal Council~~

NOW THEREFORE BE IT RESOLVED, by the Oneida Business Committee that it hereby affirms the status of the Oneida Tribe of Indians of Wisconsin as a federally recognized Indian tribal government and pursuant to Revenue Procedure 2008-55 may therefore be treated as a State in accordance with Section 7871 and as such is eligible to receive charitable contributions that are deductible for federal income, estate, and gift tax purposes by the donor, enacts the Oneida Tribe of Indians of Wisconsin qualification under section 7871(a) of the Internal revenue Code into law the attached Ordinance Chapter 84, and Ordinance of the Oneida Tribe establishing the Oneida Youth Development Endowment Fund as a segregated Fund of the Oneida Tribe.

BE IT FURTHER RESOLVED, that the Oneida Tribe of Indians of Wisconsin establishes the Oneida Youth Development Endowment Fund as a segregated Fund of the Oneida Tribe.

~~BE IT FURTHER RESOLVED that the Hopi Tribal Council hereby authorizes that the funds already dedicated as yearly payments specifically for educational purposes such as the 1997 Peabody Coal Lease amendments, Four Corners Pipeline Agreement and other funds received for education purposes will hereafter be deposited into the Hopi Educational Endowment Fund.~~

BE IT FURTHER RESOLVED, that the funds dedicated to the Oneida Tribe Youth Development Endowment Fund by the Oneida Business Committee as part of the Tribe's segregated Endowment Fund are no longer a part of the Oneida Tribe's General Funds and will be kept separately and managed in accordance with the requirements of the Ordinance Chapter 84 Endowments.

BE IT FURTHER RESOLVED, that the Oneida Tribal Chairman and the Oneida Tribal Treasurer are hereby directed to immediately take all actions necessary to fulfill their responsibilities under Endowment Ordinance Chapter 84 to fully implement the Oneida Youth Development Endowment Fund. ~~that the Hopi Tribal Council hereby authorizes that the funds already dedicated as yearly payments specifically for educational purposes such as the 1997 Peabody Coal Lease amendments, Four Corners Pipeline Agreement and other funds received for education purposes will hereafter be deposited into the Hopi Educational Endowment Fund.~~

~~BE IT FURTHER RESOLVED that the Oneida Tribal Chairman and the Oneida Tribal Treasurer are hereby directed to immediately take all actions necessary to fulfill their responsibilities under Ordinance Chapter 84 to fully implement the Oneida Youth Development Endowment Fund.~~

BE IT FINALLY RESOLVED, that until such time as the Oneida Youth Development Hopi Tribe Education Endowment Fund has organized its Board Membership to its satisfaction, or has duly enacted the necessary by-laws ~~as directed under Ordinance 54,~~ ~~or until six months have passed, whichever first occurs,~~ there shall be an Interim Endowment Board with all the powers necessary to implement the purposes and policies of Section 7871 Ordinance 54. The interim Endowment Board shall dissolve immediately upon reaching a market value of one million dollars, at which time the fund will be moved to the Oneida Trust/Enrollment Committee as cited within Endowment Ordinance Ch 84 pursuant to Sec. 84.6-1 of the Endowments Ordinance, Chapter 84. ~~The interim the organization of the Board Membership, through~~ the enactment of the by-laws, ~~or the end of the six-month period, whichever first occurs,~~ and shall consist of representation from each of the following offices and/or organizations: the Office of the Internal Services Director Chairman, the Office of Grants and Scholarships, the Oneida Trust Committee Hopi Foundation, the Office of Governmental Services, ~~Office of Finance, and the Office of the Treasurer~~. The Chairman shall serve as ex-officio of the Interim Endowment Board.

CERTIFICATION

The foregoing resolution was duly adopted by the Hopi Tribal Council on November 20, 2000 at a meeting a which a quorum was present with a vote of 17 in favor, 0 opposed, 00 abstaining (Vice Chairman presiding and not voting) pursuant to the authority vested in the Hopi Tribal Council by ARTICLE VI POWERS OF THE TRIBAL COUNCIL, SECTION 1 (a), (c) AND (f) of the Hopi Tribal Constitution and By-Laws of the Hopi Tribe of Arizona, as ratified by the Tribe on October 24, 1936, and approved by the Secretary of Interior on December 19, 1936, pursuant to Section 16 of the Act of June 18, 1934. Said resolution is effective as of the date of adoption and does not require Secretarial approval

 Phillip R. Quoehytewa Sr, Vice Chairman
 Hopi Tribal Council

ATTEST:

 Mary A. Felter, Tribal Secretary
 Hopi Tribal Council

CERTIFICATION

I, the undersigned as Secretary of the Oneida Business Committee, hereby certify that the Oneida Business Committee is composed of 9 members of whom 5 members constitute a quorum. _____ members were present at a meeting duly called, noticed and held on the ____ day of December,

2012; that the foregoing resolution was duly adopted at such meeting by a vote of _____ members for, _____ members against, and _____ members not voting; and that said resolution has not been rescinded or amended in any way.

Patricia Hoeft, Tribal Secretary
Oneida Business Committee