



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #SD-15-004

TITLE: Call for Amendment to the Internal Revenue Code to Support the Return of Sacred Objects to Tribes

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WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, Native Americans universally believe that our ceremonial objects are imbued with spiritual dimensions and are sacred; and

WHEREAS, we believe that we must seek the return of our Sacred Objects to ensure and restore social and spiritual balance and harmony within our tribes; and

WHEREAS, many Sacred Objects were alienated from tribes during a period when the public policy of the Federal Government held that Native American traditions and beliefs should be suppressed and a common assumption was that Native American cultures would cease to exist; and

WHEREAS, past Federal policies also encouraged settlers to displace tribes by settling on tribal lands and Federal land management policies generally failed to prevent the looting of Native American Sacred Sites and the sale of Sacred Objects by unscrupulous collectors; and

WHEREAS, Indian tribes successfully sought the enactment of the Native American Graves Protection and Repatriation Act of 1990 (NAGPRA), under which certain cultural objects including Sacred Objects that are held by museums of Federal agencies must be returned to their original native owners; and

WHEREAS, NAGPRA does not reach private collections, and private collections are a significant source of Native American Sacred Objects; and

WHEREAS, Indian tribes and tribal organizations, with the support of private foundations, have sought to obtain Sacred Objects when they are sold on the private market, often as great expense; and

WHEREAS, Indian tribes and tribal organizations have found that the owners of Sacred Objects generally expect to receive from the tribe or any other prospective buyer the fair market value of the Sacred Object; and

WHEREAS, in 1983, Congress passed the Indian Tribal Governmental Tax Status Act, which exempts charitable contributions of money or property to Indians tribes from federal income, estate and gift taxes, 26 U.S.C 7871(a)(1)(A)-(C), thereby allowing an individual to contribute a Sacred Object to a tribe and deduct the value of the donation from the individual's taxable income; and

WHEREAS, Indians tribes have found, in their efforts to seek the return of Sacred Objects, that current owners of Sacred Objects are generally unwilling to "abandon their investment" by donating Sacred Objects to tribes in exchange for a tax deduction, though many individuals also have expressed a preference for selling the Object to its rightful Native American owner rather than on the private market; and

WHEREAS, the individual owner of a Sacred Object who wishes to see the Object returned to its rightful tribal owner has only two options available: Either donate the Object to the tribe, in which case the current owner must shoulder a significant financial burden, or sell the Object to the tribe for fair market value, in which case the tribe must shoulder the entire financial burden; and

WHEREAS, Congress is in a position to provide a third option to the owners of Sacred Objects and the hundreds of Indian tribes that wish to reclaim these Sacred Objects by permitting an individual to receive a tax deduction for the value of a Sacred Object furnished to a tribe and also permitting the tribe to compensate the individual (which may include funding donated to the tribe for the purchase of Sacred Objects) for the difference between the fair market value of the Object and the value of the tax deduction the individual will receive; and

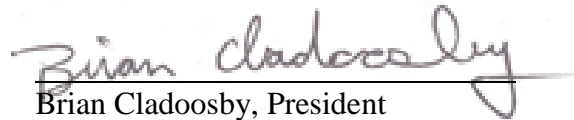
WHEREAS, this proposal is congruent with the existing Federal tax deduction for contributions of property to Indian tribes, allows individual owners of Sacred Objects to receive the fair market value of Sacred Objects furnished to tribes, and significantly reduces the cost to tribes of obtaining their Sacred Objects.

NOW THEREFORE BE IT RESOLVED, that the National Congress of American Indians (NCAI) and its member tribes hereby express full support for Federal legislation that amends the Internal Revenue Code to (1) clarify that an individual is eligible to receive a tax deduction under 26 U.S.C.7871(a)(1)(A)-(C) for 100 percent of the fair market value of a Sacred Object furnished to an Indian tribe; (2) establish that such individual also may receive from the tribe compensation in an amount equal to the fair market value of the Sacred Object minus the value of the Federal tax deduction; and (3) establish that such compensation received by the individual from the tribe shall not qualify as "income" as that term is defined under Section 61 of the Internal Revenue Code; and

BE IT FURTHER RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2015 Annual Session of the National Congress of American Indians, held at the Town and Country Resort, San Diego, CA, October 18-23, 2015, with a quorum present.


Brian Cladoosby, President

ATTEST:


Aaron Payment, Recording Secretary