

RAP & GWE

Summary:

Payments by the Tribe that promote the general welfare of tribal members are tax-exempt (Per Capita payments are NOT tax-exempt)

RAP = Revenue Allocation Plan

GWE – General Welfare Exclusion

Requirements:

- 1) Established Program**
- 2) Promotes general welfare**
- 3) Available for all members or class and does not discriminate**
- 4) Cannot be substitution for compensation**
- 5) Cannot be lavish or extravagant**

RAP & GWE

History and Evolution of this Law and Regulation:

- Tribal General Welfare Exclusion Act of 2014
- Revenue Procedure Rulings: 2014-35 and 2015-34
- Proposed Regulations (September 2024)
- **Final Regulations (December 2025)**

Continually more favorable to Tribes.

Substantial deference is to be given to Tribal Leadership's determination of general welfare as long as they are not lavish or extravagant.

RAP & GWE

Final regulations also address minors' trusts and allow distributions from the minors' trusts to be distributed as tax-exempt general welfare distributions as long as the distributions are for qualified general welfare purposes ...

... regardless of whether the initial contribution was general welfare or per capita or whether the source of funds is from gaming.

This means that the Tribe's current Minors Trust balances can be distributed as tax-exempt general welfare distributions and members will not be taxed on their Minors Trust distributions!

RAP & GWE

What are Qualified General Welfare Purposes:

General welfare purposes are broad:

- **Housing, including repairs and enhancements**
- **Utilities**
- **Education**
- **Child care**
- **Job counseling and placement**
- **Tutoring**
- **Other assistance**
- **Cultural, heritage, religious camps**

RAP & GWE

How to Make Changes:

- 1) **RAP Amendment**
- 2) **General Welfare Plan or Amendment**
- 3) **Minors Trusts Amendment or Restated**