

# **RAP & GWE**

**RAP – Revenue Allocation Plan**

**GWE – Tribal General Welfare Exclusion Act**

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

**GWE 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 GWE 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**

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**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**

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## 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**

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## How to Make Changes:

**1) RAP Amendment**

**2) General Welfare**

**Program or Amendment**

**3) Minors Trusts**

**Amendment or Restated**

# RAP CHANGES

- **Take advantage of flexibility under the Tribal General Welfare Exclusion (GWE) Act in accordance with December 2025 released GWE Regulations**
- **Establish a requirement for the Band to conduct a periodic evaluation of community needs**
- **The evaluation will establish a baseline amount of money required for Band members to meet their needs covered by the GWE programs and then the Band can reasonably justify making GWE**

# RAP CHANGES

- **Expressly state that minors' trust assets may be reallocated and set aside for GWE purposes**

**(even if they had previously been contributed to the trust as Per Capita payments)**

# RAP CHANGES

- **Make the RAP more flexible (Percentage ranges vs. fixed percentages – Best Practice)**
- **Remove details from the RAP that are not necessary to include (Department of the Interior approval)**
- **Permit establishing a special needs trust for disabled but legally competent persons**
- **Various technical and clerical “clean-up” to align with Band statutes and Band practices**

# **RAP ON BAND WEBSITE**

**A Redlined version of the amended RAP,  
and this powerpoint is located at:**

**Millelacsband.com / Livestream (Login  
credentials required) / Click here to find  
more information about the elected  
officials of the legislative branch**

**Announcements #6 - 8**

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