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SECTION 149(1)(c)
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Please note that the following document, although believed to be correct at the time of issue, may not represent the current position of the CRA.

Prenez note que ce document, bien qu'exact au moment émis, peut ne pas représenter la position actuelle de l'ARC.

PRINCIPAL ISSUES: Is the XXXXXXXXXXXX a public body performing a function of government within the meaning of 149(1)(c) and therefore exempt from income tax on the interest income received from a GIC?

POSITION: Yes

REASONS: The Indian Band is governed by an elected chief and band council. The Indian Band performs several functions of government and has passed by-laws under section 83 of the Indian Act.

XXXXXXXXXXXX

2013-048866

XXXXXXXXXXXX, 2013

Dear XXXXXXXXXXXX:

Re: Advance Income Tax Ruling Request – XXXXXXXXXXXX

This is in reply to your letter of XXXXXXXXXXXX, in which you requested an advance income tax ruling on behalf of the above-named taxpayer.

We understand that, to the best of your knowledge and that of the taxpayer, none of the issues involved in the ruling request are:

- (i) in an earlier return of the taxpayer or a related person,
- (ii) being considered by a tax services office or taxation centre in connection with a previously filed tax return of the taxpayer or a related person,
- (iii) under objection by the taxpayer or a related person,
- (iv) before the courts, or
- (v) the subject of a ruling previously considered by the Directorate to the taxpayer or a related person.

Unless otherwise stated, all references to a statute are to the Income Tax Act (Canada), R.S.C. 1985, c.1 (5th Supp.), as amended to the date of this letter, (the "Act"), and all terms and conditions used herein that are defined in the Act have the meaning given in such definition unless otherwise indicated.

DEFINITIONS:

In this letter unless otherwise expressly stated:

- a) "Band Council" has the meaning assigned to it in Paragraph 6;
- b) "CRA" means Canada Revenue Agency;
- c) "FNFSM Act" means First Nations Fiscal and Statistical Management Act, S.C. 2005, c.9;
- d) "GIC" has the meaning assigned to it in Paragraph 24;
- e) "Indian Act" means the Indian Act, R.S.C, 1985, c. I-5, as amended;
- f) "Members" has the meaning assigned to it in Paragraph 4;
- g) "Paragraph" refers to a numbered paragraph in this letter;
- h) "Reserve" means those lands identified as:

XXXXXXXXXX

and

- i) "Tribal Council" has the meaning assigned to it in Paragraph 5.

FACTS:

1. The XXXXXXXXXXXX is an Indian "band" as defined in subsection 2(1) of the Indian Act.
2. The XXXXXXXXXXXX has a "reserve" as defined in subsection 2(1) the Indian Act.
3. The XXXXXXXXXXXX is serviced by the XXXXXXXXXXXX Tax Services Office and files its returns with the XXXXXXXXXXXX Tax Centre. The XXXXXXXXXXXX's business identification number is XXXXXXXXXXXX.
4. The XXXXXXXXXXXX is comprised of approximately XXXXXXXXXXXX members (the "Members"), approximately XXXXXXXXXXXX% of which live on the Reserve. The balance of the Members live off the Reserve.
5. The XXXXXXXXXXXX is a member belonging to the XXXXXXXXXXXX (the "Tribal Council"), which represents XXXXXXXXXXXX First Nations members.
6. The XXXXXXXXXXXX is governed by a Chief and a XXXXXXXXXXXX person Council. The Chief and Council are elected democratically under band custom pursuant to Section 10 the Indian Act (the "Band Council"). The Band Council exercises control over the administration and development of the Reserve, represents the members of the XXXXXXXXXXXX in dealing with third parties, including the provincial and federal governments, and has the power to make by-laws in accordance with the Indian Act.
7. XXXXXXXXXXXX.
8. The XXXXXXXXXXXX has passed XXXXXXXXXXXX by-laws in accordance with section 83 of the Indian Act.
9. The XXXXXXXXXXXX has passed XXXXXXXXXXXX by-laws under subsection XXXXXXXXXXXX of the FNFSM Act.
10. The XXXXXXXXXXXX has received an order-in-council authorizing it to manage its own revenue moneys in accordance with section 69 of the Indian Act.
11. XXXXXXXXXXXX.
12. The XXXXXXXXXXXX has entered into the following agreements and arrangements with the government of Canada in respect of the XXXXXXXXXXXX's delivery of certain programs and services to the Members:
 - a) a Comprehensive Funding Agreement with the government of Canada to cover operational requirements and programs which are administered by the XXXXXXXXXXXX to its Members;
 - b) a Contribution Agreement and a Health Services Transfer Agreement with Health Canada in respect of health services programs delivered by the XXXXXXXXXXXX; and
 - c) XXXXXXXXXXXX.
13. In addition to entering into the foregoing arrangements with the government of Canada, the XXXXXXXXXXXX, directly or through the Tribal Council, has also entered into various agreements and arrangements with the provincial government of XXXXXXXXXXXX. These arrangements include: XXXXXXXXXXXX.
14. The XXXXXXXXXXXX provides the following programs and services to its Members:
 - a) health services;
 - b) family and community services;
 - c) social development and employment programs;
 - d) education;

- e) operation of community infrastructure services;
- f) financial and economic development;
- g) operation of communication infrastructure; and
- h) various capital projects.

The types of services and programs provided under the foregoing categories are further detailed below.

15. Under a Health Services Transfer Agreement, entered into with Health Canada, the XXXXXXXXXXXX administers its health programs to the Members. The health services provided by the XXXXXXXXXXXX include:

- a) doctor's office, including XXXXXXXXXXXX;
- b) dental care;
- c) targeted health programs, such as infant and child development and infant illness, immunizations and nursing clinics, nutrition, diabetic screening and mobile diabetes;
- d) communicable disease control programs;
- e) home support and community care;
- f) patient travel; and
- g) pre-and post-natal clinics.

16. The XXXXXXXXXXXX also provides and administers an extensive list of family and community services, including:

- a) community learning centre;
- b) cultural and linguistic programs;
- c) community and family wellness programs;
- d) young parent program;
- e) daycare and pre-school; and
- f) justice programs.

17. In addition to providing family and community services, the XXXXXXXXXXXX also provides a wide-range of services in respect of social development, employment and infrastructure for the Members including, but not limited to:

- a) social assistance;
- b) employment and education program;
- c) child benefit programs;
- d) Aboriginal Head Start on Reserve Program;
- e) youth and elder outreach;
- f) family support services;
- g) community water supply and maintenance;
- h) fire protection;
- i) maintenance of Reserve road system;
- j) maintenance of community buildings; and
- k) operation of communication infrastructure systems.

18. The XXXXXXXXXXXX also provides various educational services to the Members. For example, the XXXXXXXXXXXX administers and operates XXXXXXXXXXXX, a community school for students in nursery through to and including, Grade 12. The XXXXXXXXXXXX community school is situated on the Reserve. Additionally, for high school students, the XXXXXXXXXXXX offers XXXXXXXXXXXX. After school programming is also offered by the XXXXXXXXXXXX to the Members. Aside from elementary and secondary school services, the XXXXXXXXXXXX operates the XXXXXXXXXXXX, which is situated on the Reserve.

19. The financial and economic development services provided by the XXXXXXXXXXXX are extensive in nature and include:

- a) administration of property and commodity taxation;
- b) rehabilitation of residential properties on the Reserve;
- c) development of the Reserve lands;
- d) land leases;
- e) operation of XXXXXXXXXXXX;

- f) operation of a XXXXXXXXXXXX;
- g) participation in joint ventures; and
- h) business development.

20. In addition to the foregoing services, the XXXXXXXXXXXX also operates and administers various capital fund programs, including programs pertaining to residential housing and capital infrastructure improvements.

21. XXXXXXXXXXXX.

22. XXXXXXXXXXXX.

23. XXXXXXXXXXXX.

PROPOSED TRANSACTION:

24. It is proposed that the XXXXXXXXXXXX will purchase, with cash, a \$XXXXXXXXXX redeemable, renewable, guaranteed investment certificate (the "GIC") issued by XXXXXXXXXXXX. This GIC will earn interest at the rate of XXXXXXXXXXXX%.

PURPOSE OF THE PROPOSED TRANSACTION:

25. The purpose of the proposed transaction is to generate additional income for the XXXXXXXXXXXX to fund and support the governance, public works, infrastructure, social services and general development of the XXXXXXXXXXXX.

RULING GIVEN:

Provided that the preceding statements constitute a complete and accurate disclosure of all of the relevant facts, proposed transactions and purposes of the proposed transactions, we rule as follows: Because the XXXXXXXXXXXX is a public body performing a function of government in Canada within the meaning of paragraph 149(1)(c) of the Act, and therefore exempt from income tax under Part I of the Act, no tax will be payable under Part I of the Act by the XXXXXXXXXXXX on any interest from the GIC included in its income as a result of the proposed transaction described above.

The above advance income tax ruling, which is based on the Act and Regulations in their present form and does not take into account any proposed amendments thereto, is given subject to the general limitations and qualifications set out in the Information Circular 70-6R5, "Advance Income Tax Rulings", dated May 17, 2002, and is binding on the CRA provided that the proposed transaction is completed by XXXXXXXXXXXX.

This letter is based solely on the facts and proposed transactions described above. The documentation submitted with your request does not form part of the facts and proposed transactions and any references thereto are provided solely for the convenience of the reader.

Yours truly,

XXXXXXXXXX

Manager

Non-Profit Organizations and Aboriginal Issues Section

Financial Sector and Exempt Entities Division

Income Tax Rulings Directorate

Legislative Policy and Regulatory Affairs Branch