

Part III - Administrative, Procedural, and Miscellaneous

Former Indian Reservations in Oklahoma

Notice 98-45

This notice defines "former Indian reservations in Oklahoma" for purposes of § 168(j)(6) of the Internal Revenue Code, as amended by the Taxpayer Relief Act of 1997 (the Act), Pub. L. No. 105-34, 111 Stat. 788.

BACKGROUND

Sections 13321 and 13322 of the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, 1993-3 C.B. 1, 146-151, amended the Internal Revenue Code by adding two provisions to the Code to establish two Indian reservation-based federal tax incentives. Section 45A generally provides an Indian employment credit for certain wages and health insurance costs paid or incurred by an employer whose employees are enrolled members of an Indian tribe or the spouses of enrolled members of an Indian tribe who perform substantially all their services for the taxpayer within an Indian reservation and have a principal place of abode on or near such reservation. Section 168(j) generally provides more favorable depreciation for qualified Indian reservation property (that is, certain depreciable property used predominantly in the active conduct of a trade or business within an Indian reservation and not regularly used or located outside the reservation). Section 45A applies to wages and health insurance costs paid or incurred after December 31,

1993, in a taxable year that begins on or before December 31, 2003. Section 168(j) applies to property placed in service after December 31, 1993, and on or before December 31, 2003.

Section 45A(c)(7) states that the term "Indian reservation" has the meaning given the term by § 168(j)(6). Section 168(j)(6) (prior to its amendment by the Act) provided that, for purposes of § 168(j), the term "Indian reservation" means a reservation, as defined in either section 3(d) of the Indian Financing Act of 1974, 25 U.S.C. § 1452(d), or section 4(10) of the Indian Child Welfare Act of 1978, 25 U.S.C. § 1903(10). Section 3(d) of the Indian Financing Act of 1974 defines reservation to include "former Indian reservations in Oklahoma."

Section 1604(c) of the Act (generally effective as of January 1, 1994) amended the definition of "Indian reservation" under section 168(j)(6). Under the amendment, only lands within the jurisdictional area of an Oklahoma Indian tribe (as determined by the Secretary of the Interior) that are recognized by such Secretary as an area eligible for trust land status under 25 CFR Part 151 as in effect on August 5, 1997 (the date of enactment), are "former Indian reservations in Oklahoma."

DETERMINATION OF SECRETARY OF THE INTERIOR AS TO THE MEANING OF
FORMER INDIAN RESERVATIONS

The Secretary of the Interior has determined that, for purposes of section 168(j)(6), lands that are within the jurisdictional area of an Oklahoma Indian tribe are those lands within the boundaries of the last treaties, Executive Orders,

federal agreements, federal statutes, and Secretarial Orders with the Oklahoma tribes. The Secretary of the Interior also has determined that any lands within the boundaries of the last treaties, Executive Orders, federal agreements, federal statutes, and Secretarial Orders with the Oklahoma tribes are lands eligible for trust land status under 25 CFR Part 151.

The areas of Oklahoma located outside the boundaries of the last treaties, Executive Orders, federal agreements, federal statutes, and Secretarial Orders with the Oklahoma tribes are (1) the Cherokee Outlet, (2) No Man's Land (also known as the Panhandle), (3) the historic Greer County, and (4) those former Seminole and Creek domain lands in central Indian Territory that were deemed to be "unassigned lands." The location of those areas in Oklahoma that are outside the boundaries of the last treaties, Executive Orders, federal agreements, federal statutes, and Secretarial Orders with the Oklahoma Indian tribes can best be described in terms of entire present-day counties that are ineligible (Alfalfa, Beaver, Cimarron, Garfield, Grant, Greer, Harmon, Harper, Jackson, Major, Texas, Woods, and Woodward) and present-day counties that are split by the boundaries, that is, part of the county is eligible and part of the county is not eligible (Beckham, Canadian, Cleveland, Ellis, Kay, Kingfisher, Logan, Noble, Oklahoma, Pawnee and Payne).

ADDITIONAL INFORMATION

The Arkansas-Oklahoma District of the Internal Revenue Service will make available a plain language description of the

boundary for each split county. Written requests should include the name of the applicable split county and be sent to the following address: Internal Revenue Service, 55 North Robinson Street, Mail Stop 4030-OKC, Attention: RSC, Oklahoma City, OK 73102. The plain language description is also available on the Internet at <http://www.irs.ustreas.gov/prod/hot/atn/oklahoma.html>.

DRAFTING INFORMATION CONTACT

The principal author of this notice is Winston H. Douglas of the Office of the Assistant Chief Counsel (Passthroughs and Special Industries). For further information regarding this notice contact Mr. Douglas on (202) 622-3110 (not a toll-free call). For information concerning the boundaries, contact the Arkansas-Oklahoma District office on (405) 297-4690 (not a toll-free call).