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# Tax Parity for Alaska Native Corporations

*Ensuring Equal Federal Tax Treatment Under ANCSA and the Internal Revenue Code*

Delivering on the Federal Promise to Alaska Native People

## Background: ANCSA & Alaska Native Corporations

### Federal Settlement

The U.S. Government settled the aboriginal land, fish, and wildlife claims of all Alaska Native people through ANCSA in 1971. **ANCs were created at federal direction.**

### Community Ownership

ANCs are owned by Alaska Native people through restricted, non-alienable stock to ensure continued Native ownership and control. **ANCs serve regions and communities.**

### Protected for Future Generations

ANC land is protected and shares are restricted to preserve the settlement for future generations of Alaska Natives. **Value of settlement to future generations depends on the success of the ANC.**

ANCs were entrusted to support the

**Economic, Social, & Cultural Welfare**

of Alaska Native people

*Capitalized with land and money, these community and regional corporations serve a unique role in federal Indian policy.*

## The Tax Disparity

| IRA / OIWA Corporations | | Alaska Native Corporations |
|---|---|---|
| **Tax-Exempt** | VS | **Taxed** |
| Tribally owned corporations organized under Section 17 of the Indian Reorganization Act (IRA) or Oklahoma Indian Welfare Act (OIWA) for the benefit of Native people who are the citizens/member of the Tribal governments that own them **do not pay federal taxes.** | | Village and Regional Native corporations organized under ANCSA for the benefit of Native people who are the member/shareholders of these regional and community organizations **pay federal taxes**. |
| *Established by Congress, but* **not** *subject to federal taxation per Rev. Rul. 94-16 (March 1994)* | | *Established by Congress, but subject to federal taxation in most cases despite serving the same purpose per 43 U.S.C. §1620* |

*Both serve the economic, social, and cultural welfare of their Native communities — yet they are treated differently.*

## Why ANCs Deserve Tax Parity

### Same Community Purpose

Like IRA/OIWA corporations, ANCs are owned by the Native people they serve and provide for the economic, social, and cultural welfare of their communities.

### Federal Authorization

ANCs were authorized and approved through a structure under federal authority — not simply state-law corporations but organized pursuant to a federal statute with federal rules.

### Taxed on Benefits

ANCs, while not governments, participate as tribes in certain federal benefits programs but are taxed on the benefits they receive, while tribes receiving the same benefits are not taxed.

## Additional Arguments for Parity

### Inconsistent Tax Treatment

ANCs are treated as tribal corporations for tax purposes in some provisions but not others, resulting in inconsistent, complex, and confusing tax compliance obligations.

*26 U.S.C. §139(G), §45A(c)(6), §56A(c)(8), §139D(c)(1), §179D(d)(3)(B), §6417(d)(1)(A)*

### Revenue Sharing Unfairly Taxed

Federally required sharing of revenue among ANCs — designed to address the communal nature of the settlement with all Alaska Natives — is unfairly subject to tax compared to Tribal-government owned corporations.

### Settlement Should Not Be Taxed

The operation and ownership of ANCs set up and funded by Congress was the settlement received by Alaska Native people in exchange for extinguishment of aboriginal claims. Under the principle of non-taxation of claims settlements, it should not be taxed.

## Existing ANC Tax Provisions in Federal Law

*ANCs are already treated as tribal entities in several tax code sections — demonstrating precedent for full parity.*

| Code Section | Area | Description |
|---|---|---|
| 26 U.S.C. §139(G) | Settlement Trusts | Use of Settlement Trusts to Exclude Revenue |
| 26 U.S.C. §45A(c)(6) | Indian Employment Credit | Defines "Indian tribe" to include ANCs |
| 26 U.S.C. §56A(c)(8) | Financial Income | Adjusted Rules for Statement of Financial Income |
| 26 U.S.C. §139D(c)(1) | Health Care Benefits | Defines "Indian tribe" to include ANCs |
| 26 U.S.C. §179D(d)(3)(B) | Energy Efficiency | Treats ANCs same as tribes for deductions |
| 26 U.S.C. §6417(d)(1)(A) | Elective Payment | Applicable Credits payment elections |

These existing provisions demonstrate Congress has repeatedly recognized ANCs as equivalent to tribal entities for tax purposes.

## New IRS Rule: Tribally Chartered Corporations (Dec. 2025)

### What the Rule Provides

**Tax-Exempt Status**
Entities wholly owned by tribes and organized under tribal law are not recognized as separate entities for federal tax purposes — and therefore not subject to federal income tax.

**Parity with Section 17**
Extends the same tax treatment already afforded to IRA Section 17 and OIWA Section 3 corporations to tribally chartered entities.

**Multi-Tribe Ownership**
Inter-tribal entities owned by multiple tribes qualify if organized under the laws of one or more of the owning tribes.

**Effective Date**
January 15, 2026, applicable to taxable periods beginning on or after January 1, 2026.

### The Widening Gap

This rule grants 100% federal income tax exemption to tribally chartered corporations — the same treatment as IRA Section 17 corporations. ANCs, despite serving the same community purpose, remain subject to federal taxation.

***The disparity between ANCs and other tribal entities is now wider than ever.***

### Rule Details

**TD 10039 | 90 FR 58151**
Published: December 16, 2025
Effective: January 15, 2026
26 CFR Parts 1 and 301 (§301.7701-1)

## Growing ANC Participation in Fed. Contracting is Good for Alaska and the Country

**~220 Alaska Native village corporations** were created under ANCSA

**~66 village corporations** currently participate in federal contracting
 **~1 in 3** village corporations engage in federal contracting activity

Combined with regional ANCs:
 **79 total ANCs** (13 regional + ~66 village) involved in federal contracting

These ANCs collectively own:
 **~1,400 subsidiaries and enterprises** engaged in federal contracts

**>$12 billion** in federal contract revenue generated annually. ANCs contribute ~ **$6 billion** to Alaska GDP, second only to oil & gas.

Participation is primarily through:
 **SBA 8(a) subsidiaries**
 **Mentor-Protégé joint ventures**

**Department of Defense** is the dominant federal customer

## Why Federal Contracting Competitiveness Is Challenging

- Regulatory and Compliance Costs - Small firms face high indirect costs for compliance, cybersecurity, HR, and quality control impacting profit margins.
- Financial Constraints and Obligations – ANCs balance shareholder benefits and community programs, limiting reinvestment capital.
- Growth and Bonding Limitations - Limited access to capital and bonding capacity restricts expansion in construction and remediation sectors.
- Competitive Market Pressures - Price sensitivity and competition with large contractors with economies of scale limit growth opportunities.

*ANCs should compete with Lower 48 Tribes on a level tax playing field.*

## ANCs at Cost Competitiveness Disadvantage

### Impact of Tax Immunity

- Tax immunity reduces federal income tax liability, lowering overhead costs and improving after-tax margins for village corporations.

### Enhanced Bid Competitiveness

- Lower costs allow more aggressive bids in fixed-price and best-value federal procurements without risking financial sustainability.

### Market Positioning Benefits

- Success in competitive bidding strengthens past performance and improves chances for larger, complex contracts over time.

## Reinvestment & Growth Capacity

### Increased Reinvestment Capacity

Federal tax immunity boosts after-tax earnings, enabling greater reinvestment into business infrastructure and growth.

### Infrastructure and Compliance Investment

Funds can enhance proposal teams, capture management, and compliance systems like DCAA accounting and CMMC cybersecurity.

### Diversification and Scaling

Reinvestment supports entry into new markets, technical capability development, and scaling for higher-value opportunities.

### Community Benefit Support

Village corporations can reinvest without reducing community distributions, promoting faster growth and sustainability.

## Capital Formation & Financial Strength

### Importance of Financial Strength

Financial strength is essential for managing upfront capital and long project cash flows in federal contracting. The greater the financial strength the lower the cost structure, resulting in winning awards.

### Impact of Tax Immunity

Federal tax immunity can improve net income, equity, and financial ratios, boosting balance sheet strength increasing opportunities and cost proposals that can compete with lower 48 Tribes.

### Access to Credit and Bonds

Stronger finances enhance access to and lowers cost of commercial credit, surety bonds, and lines of credit for contracts.

### Expanded Opportunities

Improved capital formation broadens opportunities and reduces risks for joint ventures and federal customers.

## Balancing Shareholder Obligations & Business Growth

### Shareholder Economic Support
Shareholders depend on dividends and benefits as vital economic resources.

### Business Growth Challenges
Underinvestment in operations threatens long-term sustainability of Native village corporations.

### Federal Tax Immunity Benefits
Tax immunity could ease funding tensions, allowing more capital for reinvestment alongside distributions.

### Strategic Decision-Making
Reducing trade-offs supports stable, strategic governance aligning short-term needs with long-term goals.

## Alignment With Federal Policy Goals

### Promoting Economic Self-Determination
Extending tax immunity supports ANC communities in building economic capacity and self-determination.

### Diversifying Federal Industrial Base
Stronger ANC-owned contractors help diversify the federal industrial base and improve supply chain resilience.

### Ensuring ANCSA Settlement is Broadly Distributed and Valuable
Consistent with the ANC 8(a) program goals of delivering opportunity for economic self sufficiency to ANCs across Alaska.

### Reducing Dependency on Assistance
Successful firms may reduce reliance on set-aside programs and compete in open markets.

## Bottom Line

### ANC 8(a) Program was Intended to Lift all ANCs
Two-thirds of ANCs do not have access to the marketplace outside Alaska to generate revenues supporting their members, communities, and future generations. They should not be disadvantaged versus Tribes.

### Greater ANC Participation is Good for Alaska
Already the second largest contributor to Alaska GDP generating thousands of jobs, doubling the number of ANCs participating would put this economic engine on par with oil and gas and reduce the state revenue needed to support rural communities.

### Benefits of Tax Immunity
Extending federal tax immunity can enhance pricing competitiveness and accelerate reinvestment for village corporations.

### Enabling Condition, Not Guarantee
Tax immunity is a supportive factor, but success requires governance, mentoring, and strategic execution.

## The Case for Tax Parity

- ANCs serve the same purpose as IRA/OIWA corporations — supporting Native people.
- Existing law already recognizes ANCs as tribal entities in multiple tax provisions – lack of parity undermines effectiveness of ANC 8(a) program.
- The December 2025 IRS rule now extends full tax exemption to all 100% tribally chartered corporations — deepening the disparity between Tribes and ANCs.
- The ANCSA settlement should not be taxed under the principle of non-taxation of claims settlements. This was an oversight that should be corrected.

*ANCs should receive equal federal tax treatment — achieving the promised settlement and true parity for Alaska Native people.*