

TaxNewsFlash

United States

No. 2025-355
December 15, 2025

Final regulations: Federal tax classification of entities wholly owned by Indian Tribal governments

The U.S. Treasury Department and IRS today released [final regulations](#) (T.D. 10039) providing that entities wholly owned by Indian Tribal governments and organized or incorporated exclusively under the laws of the tribes that own them generally are not recognized as separate entities for federal tax purposes.

The final regulations—which adopt the proposed regulations as final regulations with clarifying changes and modifications ([read TaxNewsFlash](#))—also clarify that these entities, along with certain Tribal corporations chartered by the Department of the Interior, are:

- Recognized as separate entities for federal employment and certain federal excise tax purposes
- Treated as instrumentalities of one or more Indian Tribal governments for purposes of making elective payment elections (including determining eligibility for and the consequences of such elections) for energy credits under the Inflation Reduction Act of 2022

Because the final regulations will treat these entities as instrumentalities for purposes of making elective payment elections to claim energy credits, Tribal governments will no longer be able to make the elections or receive the credit payments on their behalf. Rather, the entity that owns the credit property will need to make the election to claim the credit itself on a timely filed return for the year the credit property is placed in service.

For federal income tax purposes, the regulations apply to taxable periods beginning on or after January 1, 2026. However, entities may choose to apply the regulations to taxable periods beginning before January 1, 2026, for which the applicable period of limitations is open.

For section 6417 purposes, the regulations apply to tax years beginning on or after January 1, 2026, with similar provisions for early application.

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