


RAP PER CAPITA VS. GENERAL WELFARE PROGRAM BENEFITS

TOPICS

- ▶ Overview of the difference between cash payments made to Tribal Citizens through a Revenue Allocation Plan (RAP) and cash payments through a General Welfare Benefit Program (GWP)
 - ▶ Addressing questions raised by Tribal Citizens
 - ▶ Update on new IRS regulations governing GWBs and recommended changes to the Tribe's General Welfare Statute
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Indian Gaming Regulatory Act of 1988 (IGRA)

Option 1: IGRA provides one mechanism for distributing cash payments to tribal citizens (often referred to as “per caps”)

- To use this mechanism, a tribe must first adopt a Revenue Allocation Plan (RAP) that is approved by Interior.
- The RAP governs how all gaming revenues spent. Must specify the percentage of revenues to be used for tribal operations and programs, economic development, and per capita payments.
 - e.g., 50% for Tribal Gov’t, 10% for econ. dev., and 40% for per capita payments
- **Per capita payments under a RAP are subject to federal income tax**
 - Tribe must deduct and withhold tax before issuing payments to citizens. The Tribe is required to report per capita payments of \$600 or more in any taxable year on Form 1099-Misc.

TRIBAL GENERAL WELFARE EXCLUSION ACT OF 2014

- Option 2:** 2014 GWE Act is another mechanism for making cash payments to tribal citizens.
- 2014 GWE Act allow tribes to provide benefits to citizens that promote their general welfare (e.g. housing, medical, education assistance)
 - Program parameters: available to any tribal citizen who meets the guidelines; not lavish and extravagant, and not compensation for services.
 - Cash distributed through a GWE program is NOT counted as gross income and **is NOT subject to federal income tax.**
 - So Tribe not required to withhold taxes or file 1099 with IRS
 - 2025 IRS regulations expressly confirm that GWEs *can* be funded by gaming revenues and *can* be distributed as uniform cash payments to tribal citizens.
 - 2025 IRS regulations clarify that individuals do not need to fill out an application certifying their financial need in order to receive a uniform cash payment.
 - Lone already has a General Welfare Statute in place, although it should be updated to reflect new regulations

IBMI GENERAL WELFARE STATUTE

Authorizes the Tribal Council to fund General Welfare Programs for the following purposes:

- (a) Healthcare Assistance;
- (b) Housing Assistance;
- (c) Education Assistance;
- (d) Elders Assistance;
- (e) Legally Incompetent Tribal Members Assistance;
- (f) Disabled Members Hardship Assistance;
- (g) Low Income Elders and Disabled Members Hardship Assistance (Supplemental Social Security Income recipients);
- (h) Promotion of Tribal Culture and Native American Spirituality;
- (i) Bereavement Assistance;
- (j) Emergency Assistance;
- (k) Job Training and Readiness;
- (l) Nutrition;
- (m) Parent Assistance;
- (n) Indian Business Grants.

	GENERAL WELFARE DISTRIBUTIONS	RAP PER CAPITA DISTRIBUTIONS
Can I get a CASH distribution?	YES	YES
Is the payment TAXABLE?	NO	YES
Will the Tribe withhold TAXES from my distribution?	NO	YES
Does the plan require FEDERAL APPROVAL before distributions can be made?	NO	YES
Will the distribution affect my ELIGIBILITY FOR OTHER PROGRAMS? (e.g., Elder Rental Assistance, TANF, Section 8, Disability)	NO	YES
Does federal law require an APPLICATION or CERTIFICATION?	NO*	NO
Can distributions be made directly for TRIBAL CHILDREN?	YES	NO

CHEAT SHEET

TRIBAL CITIZEN QUESTIONS

- ▶ The chart states “can I get a cash distribution?” I want to know “WILL I get a cash distribution?” under GWP. Policy call for GC.
- ▶ Per capita, does distribution amounts increase w/how profitable the casino does? Under RAP, limited by RAP percentage cap. Under either RAP or GWP approach, depends on the Tribe’s approved budget for that year.
- ▶ What will the general welfare distributions cover? Can cover any approved program, will ultimately depend on which programs funded each year.
- ▶ What are potential options for benefits to children with both models? Benefits other than what is already offered? RAP per caps to minors must be placed in trust fund; under GWP, can be paid directly to parent/custodian (or even to minor).
- ▶ Is there an option to switch programs if one is not benefiting us? Yes.
- ▶ Can we have both? Yes, but probably doesn’t make sense.
- ▶ Per capita ensures an essentially equal distribution among citizens, how does the GWP ensure an equal distribution among citizens? Build it into statute.
- ▶ What does that look like for people who have a mortgage already, cars...etc? Flexible range of uses built into programs, don’t need to prove how used by submitting receipts.
- ▶ Give examples of how the general welfare program will work. Will all citizens receive the same? For uniform cash assistance through GWP, would receive same amount (although option for minors or elders to receive different amounts).

RECOMMENDED UPDATES TO GWP STATUTE

- ▶ Amend statute so either have new cash assistance program (for array of purposes, e.g. housing, food, transportation) or clarify that uniform cash payments can be made under existing programs.
- ▶ Include process for distributing cash payments, e.g. monthly checks in the mail (doesn't need to be prepaid credit card)
- ▶ Update application and paperwork requirements.
 - ▶ Most citizens will not need to submit application, although still required for SSI recipients, minors, and adults with conservator/guardian
 - ▶ Tribe may also need to conduct surveys to better understand needs of citizens, which programs should be funded and how much
- ▶ If GC wants to include payments to minors, specify how those payments will be made (directly—don't recommend, to parent/custodian, to trust fund)

Takeaways

- ▶ Recommendation: There is no need to obtain an Interior-approved RAP at this time. Instead, cash payments to Tribal Citizens should be made through the Tribe's General Welfare Programs.
 - ▶ Recommendation: the Tribe should update its General Welfare Statute to incorporate the new IRS regulations and to clearly authorize uniform cash distributions to Citizens
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