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## United States Senate

WASHINGTON, DC 20510

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COMMITTEES:  
ARMED SERVICES  
BANKING, HOUSING, AND  
URBAN AFFAIRS  
ENVIRONMENT AND PUBLIC WORKS  
VETERANS AFFAIRS

Mr. John Koskinen  
Commissioner  
Internal Revenue Service  
U.S. Department of the Treasury  
1111 Constitution Avenue NW, Room 3241  
Washington, DC 20224

Dear Commissioner Koskinen,

I write in regard to the upcoming employer mandate penalties authorized by the Patient Protection and Affordable Care Act, commonly referred to as the Affordable Care Act (ACA). Specifically, I am concerned about the impact and the irony of the ACA employer mandate penalties as it affects tribal employers. Because of the mandate, South Dakota tribal employers are facing exorbitant penalties that they cannot afford.

As you may know, the ACA exempted tribal members from the individual mandate. Tribes themselves are comprised of their membership who may be exempted. Tribal members are exempted considering the federal government is already obligated to cover their health care needs. However, the tribes are treated in a different manner. Although the vast majority of their employees are tribal members, the ACA supposedly subjects them to employer mandate penalties. This is a double standard that will adversely impact tribes. Indeed, the federal government has a trust obligation to provide health care to Native American tribes and members. Indian Health Service (IHS), a federal government entity designed to meet those health care needs, has failed miserably. The Internal Revenue Service, via the ACA, now appears to be on a mission to penalize an entire group of people who represent some of the poorest among us, and to whom the federal government actually is obligated to provide health care. Here is the irony: 1) Tribes are communal and represent their membership who may be exempt. In the federal government's eyes they are apparently being viewed as a municipality or private industry; and 2) one government health care program (ACA) is penalizing tribes because another government agency (IHS) has failed to do its job. Frankly, this appears to be an oversight by a federal agency who fails to understand tribal communities.

These fines could devastate tribal business when Indian country already has some of the highest unemployment rates in the country. Some tribes in South Dakota hover around 80 percent unemployment. The last thing they need is an onerous penalty handed down from the federal government. I respectfully request you work with the tribes to find a solution before any penalties are imposed. Or as an alternative, please consider exempting tribal employers from the mandate. Please respond within 90 days of receipt of this letter.

Sincerely,



M. MICHAEL ROUNDS  
United States Senator

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