

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
Office of Indian Tribal Governments
5338 Montgomery Blvd. NE
Albuquerque, NM 87109



TAX EXEMPT AND
GOVERNMENT ENTITIES DIVISION

Date: September 3, 2015

RECEIVED

The Honorable Kevin Wright
Lower Brule Sioux Tribe
187 Oyate Circle
Lower Brule, SD 57548

Re: Lower Brule Sioux Tribe EIN # 46-0222351 - Form 941 Examination for
Tax Periods from July 1st 2012 to October 31, 2014.

Dear Chairman Kevin Wright:

We received the information we requested regarding Form 4564 (*Information Documents Request*) No. 2 and No. 2-b on July 31, 2015. In order to thoroughly complete our examination, we will need additional records. Enclosed you will find Form 4564 No. 3 for Lower Brule Sioux Tribe. A summary of document request is shown below:

1. General Ledgers. See Form 4564 No. 3, Item No. 1.
 - a. We received general ledgers for the control accounts for all quarters under examination. The control account is a summary-level account. It contains aggregated totals for transactions that are individually stored in subsidiary-level ledger accounts. Therefore, we are requesting for the subsidiary ledgers for control accounts to start with. Please include column for description to help us in narrowing the scope of the examination.
 - b. In addition to the subsidiary ledgers, we are also requesting reports for specific accounts. Please include column for description to help us in narrowing the scope of the examination.
 - c. We may request additional ledgers during the process of the examination.
 - d. Once we review the ledgers we receive for Form 4564 No. 3, we will request supporting documentation for specific transactions.
2. Salazar Settlement.
 - a. We found a document on the Internet called *An Open Letter to the Tribal Members of the Lower Brule Sioux Tribe* dated December 4, 2012 regarding the Cobell Settlement Agreement and the "Salazar" Settlement. The letter was from the Lower Brule Sioux Tribal Council. We do not have any issues with payments made to "tribal members" of \$750 per tribal members. We will further review amounts paid above \$750 to tribal members and all transfers made to other accounts from the Salazar Settlement. See Form 4564 No.3, item No. 2 and No. 3.

September Memo 2015

What a busy month and a half it has been. We filed an affidavit in court against the old council of last term seeking one thing: information on the West Rock 22.5 Million loan through BIA, our Salazar monies, and the Ranch/farm funds. Those three items are a huge part of our money. We asked no more than what our tribal constitution guarantees us and those on council before, never provided to anyone but a select few.

We went to tribal court on October 2 defending ourselves, but some of the old council were countersuing saying:

1. -Defendant (themselves) cannot act/authorize as an individual for the tribe.
2. -Says we are aware of tribal council meetings and special meetings which are and open to membership and which financial business is discussed by council members.
3. -As far as they are aware, all members benefited from tribal monies.
4. -No proof of service of any request to them.
5. -Not exhausted all remedies.
6. -Suggests we did not file to obtain information but to continue a course of harassment. If we wanted we would attend meetings.
7. -Asked us to pay for their attorney.

We went to court and presented our case. As of today, we have not heard the judge's decision.

The tribe (us) owns a number of houses that council and other staff has been living in **rent free**.

- There is a house in Iron Nation with a cabin/modular.
- A house at Cherry Ranch had been lived in by Claire Green.
- Small house in Reliance not in necessarily good shape.
- One council member is in a tribally owned house.

We understand that we as a tribe have at least 25 bank accounts in South Dakota, Oklahoma, Utah, and DC. There may be more states but no one knows yet. This money regardless of where it is placed is all of our monies. We want to know where, how much, and what was spent. The IRS is also looking (see page 3).

SPOILS SYSTEM (From Webster Dictionary on-line): a practice regarding public offices and their rewards as plunder for members of the victorious party.

On the Lower Brule reservation it is an unwritten policy of placing council people who didn't get back onto the council into a job somewhere here at the tribe probably at the same salary regardless of opening or qualifications. This practice is the opposite of rewarding the winning political group and does not serve the tribe and its members well. This system is seen on other reservations but doesn't justify it. Other tribal members living in poverty deserve a job, not those who were voted out. How many violations of contract and personnel policy have been done just by this practice alone? Fair competition and following our own policies of selecting tribal members who are qualified needs to be followed.

Control of the money: the only tribal money the three new council have is a monthly amount to give out to tribal members for gas and food. Office products and copier are not even available. Planning for the 638 contracts did not happen because the staff including the two old council representatives would not meet. Denial of access to information for the new council members since the swearing in and blaming them for the control of the money is misdirection considering the pact of staff and two council members who are controlling the tribe. Who controls the 76 programs?

Tribal Program funding according to the 2013 audit:

1. School Breakfast Program 2. National School lunch program 3. Summer Food Service Program 4. Child and adult care Food Program 5. Food Distribution on Res. 6. Fresh Fruit & Vegetable Program. 7. RUS Grant 8. Econ Dev.-Planning 9. Economic Adjustment Assistance 10. Terrestrial habitat Restoration. 11. Econ. Dev. Initiative-Neighborhood Initiative 12. Services to Indian Children, Elderly & Families 13. Higher Education Grant 14. Tribal Courts 15. Road Maintenance 16. Resource management plan 17. Forestry on Indian lands 18. Indian Rights Protection-Wildlife 19. Water Resource program 20. Indian school Equalization program 21. Student Transportation 22. Administrative cost grants for schools 23. BIA facilities operations 24. Endangered species on Indian land 25. Replacement & repair of schools 26. Indian Employment Assistance 27. Indian Welfare Assistance 28. Higher Ed Post-Secondary Ed 29. Indian Ed Assistance to schools 30. BIA Indian Housing Assistance 31. Indian Child Welfare act 32. National Fire plan-community fire assistance 33. Range Land Resource Management 34. Cooperative agreements Water supply 35. Tribal wildlife grant 36. Tribal Sexual Assault Services 37. Juvenile Justice & Delinquency prevention 38. Law Enforcement Assistance grant 39. Children's Justice Act Partner for Indian Communities 40. Adult Drug Court Grant 41. Tribal Correctional Facilities 42. Tribal Courts Assistance program 43. Boys & Girls Clubs Youth Mentoring programs 44. Tribal Youth Program 45. Native American Employment & Training 46. Formula Grants (DOT) 47. Highway Planning and Construction 48. US EEOC Employment Discrimination Project 49. Supplemental water pollution program 50. EPA Performance partnership grants 51. Underground storage tank program 52. Energy Efficiency & Conservation Block grant 53. India Ed. Grants to LEA 54. Rehab Services for Indians 55. IDEA Individuals with Disabilities 56. Impact Aid-pass through-Lyman 57. Homeless grant 58. Indian Ed special programs for Indian children 59. Gaining Early Awareness & Readiness Undergraduate Programs-pass to SD 60. Title IIA Teacher Quality Enhancement-pass BIA 61. College Access Challenge Grant 62. ARRA Ed jobs-BIA pass through 63. Investing in Innovation fund Pass thru parents as teachers 64. Title I grants to LEA thru BIA 65. Title I part a 66. Special programs for Aging 67. Older Americans Action-nutrition services 68. Native American Caregivers support 69. Special Diabetes Program 70. Substance Abuse & Mental Health grant 71. Low-Income Home Energy Assistance 72. Child Care & Dev. Block Grant 73. Child Care mandatory & Matching fund 74. Native Employment Works Program 75. Head Start 76. Disaster grants

Reflection: Isn't it wonderful we have so many programs to help us? With funding for these 76 programs, from which have you benefited? What services are you interested in? Ask the tribe for more information.

- b. According to the financial records you provided to our office on July 31, 2015, a total of \$2,986,500 was paid to 3,982 tribal members. However, credit reversals were made for a total of \$298,500 for 398 individuals. Out of the \$18 million of the Salazar settlement, approximately \$2.7 million was paid to tribal members. See Table 1. Salazar Settlement paid to Lower Brule Tribal Members by Each Year.

Table 1: Salazar Settlement paid to Lower Brule Tribal Members for Each Year.

| Amount Issued to Tribal Membe | | Tax Year | | | |
|-------------------------------|-------------------|----------------|----------------|--------------|-----------------|
| SRTFUND | LOWER BRULE SIOU: | 2012 | 2013 | 2014 | Grand Total |
| 55 | Debit | \$2,910,750.00 | \$ 58,500.00 | \$17,250.00 | \$2,986,500.00 |
| 55 | Credit | \$ (46,500.00) | \$(250,500.00) | \$(1,500.00) | \$(298,500.00) |
| | Grand Total | \$2,864,250.00 | \$(192,000.00) | \$15,750.00 | \$2,688,000.00 |

3. Payroll Bank Statements for Account No. 2870000326.
- a. We are missing a few pages from September 31, 2012.
4. Pow-Wow Expenses.
- a. On Form 4564 No. 1 dated March 2, 2015 and March 5, 2015, we had all prizes for pow-wows and/or other tribal contests removed from Form 4564 No. 1 after discussing pow-wow issue with Ms. Trish Lundell in March 2015. Without further research, I removed the pow-wow item from the Form 4564 No. 2 dated March 20, 2015. However, on June 16, 2015, Revenue Agent Kim Wind researched Private Letter Ruling (PLR) 200420028. Per PLR 200420028, we will proceed with our review for pow-wow expenses. See Form 4564, No. 3, No. 4.
5. Bank statements.
- a. We received a list of bank statements for a total of 25 bank accounts for checking and saving accounts at Wells Fargo Bank N.A. The Form 4564 No. 2 dated March 20, 2015 and for Form 4564 No. 2-b dated June 17, 2015, specifically requested for bank statements and canceled checks but we were only provided with Payroll account No. 2870000326 and Accounts Payable account No.2870000334. See Form 4564 No. 3, item No. 5.
- b. Copies of canceled checks will be requested during the process of the examination.
6. Wells Fargo Bank, Payroll No. 2870000326.
- a. On March 19th and 20th of 2015, Ms. Trish Lundell suggested I use their office computer to perform my examination. Neither paper documents nor electronic files were provided for payroll audit at that time.
- b. Since we do not have the payroll check register and detail payroll general ledgers, we are sampling a few transactions from the Payroll 2870000326 bank statements. See Form 4564 No.3, item No. 6.
7. Other accounts.
- a. We will be requesting a description of accounts. We may ask for additional documentation during the process of the examination. See Form 4564 No. 3, item No. 7.