

DOES THE MUNICIPAL, COUNTY, OR STATE GOVERNMENT HAVE THE RIGHT TO COLLECT REAL ESTATE PROPERTY TAXES IN INDIAN COUNTRY ?

The predictable and standard response you will receive, as a homeowner, is a resounding “yes” from the bureaucrats if addicted to the rule of law. **18 United States Code, §1151** (“**Indian country**”) is the basic premise upon which we unleash the genie from the bottle, and open up Pandora’s box containing all the dirty secrets relating to tribal lands. All three organs of government – the legislature, executive and judiciary – have played pucks with this issue depending on *political* inclinations, persuasions and preferences since the Louisiana Purchase followed by the westward tsunami of pioneers, settlers and homesteaders.

Like grammar and usage is to language teaching and learning, **Indian country** is the *sine qua non* to tribal land and soil in America which never got repealed by a successor treaty. New laws were made circumventing and circumscribing treaties that were concluded between Indian tribes and the federal government to avoid repealing them. Repeal would require tribal consent.

Indian country has had the maternal patience, grace and courtesy to accommodate airports, hospitals, homes, commercial buildings, government buildings, byways, highways, freeways, recreational parks, hotels, motels, resorts, army barracks, naval dockyards, wharves, quays, harbors, manufactories, golf courses, railroads, turnpikes, canals, orchards, farms ranches, and all other improvements of tribal land. **There is no evidence that any tribe received any rent from the usufruct** (the right to enjoy the use and advantages of *another's* property short of the destruction or waste of its substance).

The Native American Law & Justice Center Tribal Court ©, a tribal organization under the aegis of **25 United States Code 450b[L]**, has developed a Questionnaire designed to be addressed to the County Tax Assessor under the Judicial Affidavit Rule (JAR). The County Tax Assessor is required answer those Questions truthfully under the rule of law and the role of justice. If the property taxes have a legal foundation and standing, then by all means, collect the taxes due and payable. Otherwise, be civilized and let Indian Manifest Destiny guide your conscience.

For the Native American Indians, “Manifest Destiny” is the continuation in the enjoyment of a “warm, deep and lasting communal bond among all things in nature in a common vision of their proper relationship,” which “assumes the form of an interpersonal spiritual communion which has never been and may never be destroyed by outside forces.” to quote Russel Lawrence Barsh and James Youngblood Henderson in their enlightening work *The Road: Indian Tribes and Political Liberty* (p. vii, Prologue).

WHAT IS THE JUDICIAL AFFIDAVIT RULE

1. The JUDICIAL AFFIDAVIT RULE (JAR), an element of tribal law, is used to save time and other resources so that a speedy and just outcome to conflicts and controversies can be accomplished without the need for trials where transport, time, money, and other resources may prove cumbersome.
2. The JAR is made up of several Questions that are sent to the County Tax Assessor so that all the relevant facts, data, details and particulars can be marshaled by the Tribal Judge to arrive at a just conclusion as to how the case ought to be disposed and decided with all Parties participating. The County Tax Assessor is required to send their Responses and Answers to the Questions as Affidavits.
3. Tribal courts are recognized by the United States government because tribal sovereignty, although limited in certain instances, is sacrosanct under federal Indian law and policy that emanated from treaties, agreements, executive orders, congressional imperatives and decisions of the United States Supreme Court with useful hints and tips from international law.
4. The County Tax Assessor is required to send written answers to the Tribal Court within **fourteen days** upon receipt of the JAR. Failure to do so will trigger the imposition of sanctions by way of a declaratory or money judgment in favor of the Plaintiff(s) who sought this Tribal Court’s intercession in the matter. This matter may be referred to a federal court for disposition since federal questions and cognizable legal theories exist in federal Indian law and policy. These judgments are effective and enforceable as negotiable instruments.
5. Defendants are cautioned that federal Indian law determines the outcome of this matter. Indians and Indian tribes have been deemed “sovereign dependent domestic wards” protected by the United States (federal)

government from any encroachment upon their rights recognized since time immemorial.

6. This Tribal Court exercising its tribal ordinances and customs, is duly constituted pursuant to the Northwest Ordinance of 1787, the Indian Reorganization Act of 1934, the Indian Civil Rights Act of 1968, the Indian Tribal Self-Governance Act of 1994, and 25 United States Code § 1322 (c).

QUESTIONS TO THE COUNTY TAX ASSESSOR

1. A) Do you have proof and evidence in your records as to the exact date that the Enduring Native Aboriginal Customary Title (ENACT) was transferred and conveyed to APN# _____ with a physical address of _____;
and, B) the name of the aboriginal tribe that first occupied and possessed the realty.
2. Assuming your records show valid transfer of ENACT to fee simple, land patent, or land grant, please send this Tribal Court any proof or evidence as to the name of the *first* owner of that particular piece of realty cited as APN# _____ in #1 above.
3. Who was the *first* purchaser of the realty in question, and how was the realty acquired – by treaty provisions, judicial sale, private contract, homestead laws, annexation, cession, Manifest Destiny, etc.
4. What was the consideration for the transfer and conveyance of the ENACT to fee simple, land patent or land grant relating to APN# _____.
5. List the number of times this realty experienced transfer and conveyance of title commencing with ENACT.
6. Were any funds that were collected from property taxes ever sent to any Indian tribe(s) in California?
7. Please evidence a list of Indian tribes, both historic and created, that lived in California during the material time it achieved statehood.

8. Do you agree that that all land and soil in California belonged to Indian tribes before achieving statehood?
9. Please evidence the first law passed by the legislature of the State of California authorizing the collection of property taxes.
10. Please state the legislative authority, or other authority, if any, that expressly granted you the power and authority to tax the realty in question cited as APN# _____ .
11. Please, accurately and truthfully, state the total funds you have collected from the realty in question cited as APN# _____ .

CONCLUSION

If the County Tax Assessor employs the “oh-go-away” attitude, the Tribal Court shall issue Show Cause Order. If this is also ignored, an Order and Judgment may be awarded in favor of the homeowner(s).

Tribal courts deserve full faith and credit since they are the court of an independent sovereign (Wis. Stat. § 806.245; in order to end confusion, cases filed in state or **tribal courts** require mutual consultation. *Teague v. Bad River Band*, 236 Wis.2d384 (2000). According to the Restatement (Second) of Conflicts § 86, when courts of separate sovereigns both have jurisdiction over the same matter, the court *first* rendering judgment is commonly entitled to have its judgment receive full faith and credit by the other jurisdiction.

Judge Silver Cloud Musafir

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