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million for the West Miami-Dade tribe's failure to report and withhold taxes from its distribution of gambling profits to tribal members, according to court records.

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The [Internal Revenue Service](#) has slammed the [Miccosukee Indians](#) with a bill of \$170 million for the West Miami-Dade tribe's failure to report and withhold taxes from its distribution of gambling profits to tribal members, according to court records.

In a long-running battle, the IRS also has smacked hundreds of the tribe's members with separate bills totaling \$58 million for their failure to pay personal income taxes on those distributions during the same period, 2000 to 2005, records show.

The agency's crackdown comes after years of fighting with the 600-member tribe over its refusal to pay taxes on the distribution of profits from its casino operation off the Tamiami Trail. The assessments for back taxes, interest and penalties, outlined in federal tax lien notices filed in Miami-Dade Circuit Court, reveal for the first time the sheer scope of the tribe's tax problems with the IRS.

Without the extras, the tribe's withholding taxes alone for 2000 to 2005 totaled \$45 million, and individual members' taxes amounted to \$30 million for that period, according to the tax liens.

The tax obligations of the tribe and its members are expected to soar because IRS examiners also are auditing the Miccosukee's gambling distributions for the years 2006-2010, when payouts to each member were as high as \$160,000 annually.

Despite the audits, the Miccosukee Tribe continues to argue that it does not have to withhold taxes on the gaming distributions and that individual members do not have to pay taxes on the income derived from the Miccosukee's bingo-style slot machines and poker.

“The Miccosukee people will continue to pay all applicable lawful taxes, as they

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distributions at issue are not subject to federal income taxation and therefore not subject to federal reporting and withholding under applicable Supreme Court precedent.”

According to federal law, the Miccosukee Tribe's status as a sovereign nation means the entity itself is not subject to taxes. But once the tribe distributes profits from its casino to members, they are individually responsible for reporting and paying income taxes on their annual tax returns, several legal experts say. Moreover, the tribe itself must withhold taxes on the income and turn those deductions over to the IRS.

Experts say those requirements are spelled out clearly in the 1988 Indian Gaming Regulatory Act and in the IRS tax code. David Garvin, a prominent Miami defense attorney and CPA, said that the Miccosukee Tribe is going to lose the battle.

“Ultimately, reality will set in and, ultimately, taxes will be paid,” Garvin said. “I think they have kicked the can a little bit down the road, but the problem is the number is going to increase substantially when the next round of years hits. ... It's a little perplexing that the tribe continues with their old ways of not paying their taxes.”

The Miccosukees have historically kept secret their gambling revenues and how they distribute profits to tribe members, including flouting a regulatory law that requires them to file a distribution plan with the U.S. Bureau of Indian Affairs.

The Miccosukees are the only tribe in the United States that doles out gambling profits to members but fails to follow the Indian Gaming Regulatory Act, according to the Bureau.

In 2005, the National Indian Gaming Commission issued a bulletin saying that tribes can make gambling distributions as long as they file a plan, report the income

payments and withhold taxes.

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government's sovereign power trumps the tribe's.

While the Miccosukees sparred with the IRS, the tribe underwent a dynamic leadership change with the ouster of Chairman Billy Cypress in late 2009. Under his replacement, Colley Billie, the tribe has sued Cypress for embezzling nearly \$26 million and filed malpractice cases against Lehtinen and Lewis.

In particular, the tribe has attacked Lehtinen, who served as its general counsel from 1992 to 2010. Lehtinen's law firm was paid \$50 million, primarily for legal services on the tribe's disputes with state and federal authorities over environmental issues in the Everglades.

But the tribe, in a lawsuit, blamed Lehtinen for giving the Miccosukees bad advice on their tax liabilities and for their current confrontation with the IRS over back taxes.

The suit cited a June 2006 letter by Lehtinen to the IRS, which said in part: "The Miccosukee Tribal members are not required to pay income tax, nor does the Tribe have any related withholding obligations."

Lehtinen, Lewis and the late Anthony J. O'Donnell Jr., reiterated that position in a separate, lengthy legal memo to the IRS.

Lehtinen, who is no longer muzzled by attorney-client privilege because his former client sued him, said the Miccosukees have distorted the truth. "The basis for their not paying taxes was their position — not mine," Lehtinen told The Herald in late 2011 after he was sued.

On Tuesday, Lehtinen's lawyer, Joseph Klock, said the "tribe's strategy of blaming everyone else but themselves is coming up short. ... Mr. Lehtinen never advised them they could avoid paying their taxes."

To make their point, the duo produced an internal Miccosukee document dating back

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on most sources of income, and are required to timely file an annual federal tax return.”

And in 2010, before he was fired, Lehtinen wrote the tribe’s general council:
“Individual Indians...are subject to federal taxation on incomes they receive.”

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