BIG HORN BUSINESS ASSOCIATION, Appellant	:	Order Docketing and Dismissing
v.	:	Docket No. IBIA 95-132-A
ACTING BILLINGS AREA DIRECTOR, BUREAU OF INDIAN AFFAIRS, Appellee	:	July 13, 1995

This is an appeal from a June 9, 1995, decision of the Acting Billings Area Director, Bureau of Indian Affairs (Area Director; BIA), approving Crow Tribal Resolution 95-18, enacting a Resort Tax as Chapter 4 of the Crow Tribal Taxation Code.

Appellant states that it appeals on behalf of its members, who are "owners and operators of businesses, located upon fee lands both within and outside the exterior boundaries of the Crow Indian Reservation, which received notices from the Tax Commissioner of the Crow Tribe alleging their businesses are subject to [the Resort Tax] (Notice of Appeal at 1)." It contends that "[t]he action of the Area Director should be reversed and approval of Chapter 4, as it relates to members of Appellant, and those similarly situated, denied (Id. at 9)." Appellant's argument is that the Crow Tribe lacks authority to tax nonmembers operating businesses on fee land and that the Area Director should therefore have disapproved, or limited his approval of, Resolution 95-18.

The Board has addressed similar challenges to BIA approval of tribal tax ordinances in the past. Recognizing that, as a procedural matter, it has jurisdiction over a challenge to the Area Director's approval action, the Board has nevertheless abstained from exercising that jurisdiction where, as here, the appellants' principal challenge is to the tax law itself or the application of the law to particular persons. The reasons for the Board's practice in this area were discussed in detail in Zinke & Trumbo, Ltd. v. Phoenix Area Director, 27 IBIA 105 (1995), and Burlington Northern Railroad v. Acting Billings Area Director, 25 IBIA 79 (1993) , and need not be repeated here. 1/ In brief, abstention by the Board recognizes the primary jurisdiction of tribal forums over challenges to tribal legislation. Board abstention also avoids delay in that it allows appellants to proceed promptly to tribal court.

1/ See also Secrest v. Crow Tribe of Montana, 28 IBIA 98 (1995), declining to consider a "protest" against Crow Resolution 95-18.

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Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, this appeal is docketed and dismissed.

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Anita Vogt
Administrative Judge

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Kathryn A. Lynn
Chief Administrative Judge

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