

Revenue Ruling 62-16

Section 61 – Gross Income Defined

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Caution: Modified by Revenue Ruling 74-13
Caution: Modified by Revenue Ruling 67-284

The proceeds from the sale or exchange of cattle and other livestock raised by an Indian on his allotted and restricted lands while such lands are held for him by the United States, as trustee, in accordance with section 5 of the General Allotment Act of 1887, are exempt from income tax, with a specified exception.

Revenue Ruling 58-64, C.B. 1958-1, 12, and Revenue Ruling 60-377, C.B. 1960-2, 13, revoked; Revenue Ruling 56-342, C.B. 1956-2, 20, amplified.

Revenue Ruling 56-342, C.B. 1956-2, 20, which is based upon the decision of the Supreme Court of the United States in *Squire v. Horton Capoeman et ux.*, 351 U.S. 1, Ct. D. 1796, C.B. 1956-1, 605, holds that income held in trust for or received by the patent holder which is derived directly from allotted and restricted Indian lands while such lands are held by the United States, as trustee, in accordance with section 5 of the General Allotment Act, 25 U.S.C. 348, as amended, is exempt from Federal income tax. In interpreting the Capoeman decision, that Ruling holds that such exempt income includes rentals (including crop rentals), royalties, proceeds of sales of the natural resources of such land, and income from the sale of crops grown upon the land and from the use of the land for grazing purposes.

Revenue Ruling 56-342 was amplified by Revenue Ruling 58-64, C.B. 1958-1, 12, which holds that the term “income from the use of the land for grazing purposes” in Revenue Ruling 56-342 does not refer to income received from the sale of cattle raised on the allotted lands.

The effect of Revenue Ruling 58-64 was to deny a tax exemption to Indians who raise cattle and other livestock on their own allotments, while Indians who lease their allotments were entitled to treat their grazing fees as exempt income under Revenue Ruling 56-342. Revenue Ruling 58-64 accordingly was modified by Revenue Ruling 60-377, C.B. 1960-2, 13, which allows an exemption for certain proceeds from the sale of livestock but only to the extent of an amount equivalent to the grazing fees that the holder of the trust allotment might have received had the land been leased for grazing purposes.

Upon further consideration and in view of the difficulties under the formula set forth in Revenue Ruling 60-377 in allocating the portion of livestock sales proceeds attributable

to the land and the portion attributable to other factors, such as labor, the use of equipment, and the like, the determination has been made to treat the full sums received as “derived directly” from the lands within the meaning of Revenue Ruling 56-342, just as in similar circumstances, under the Ruling, proceeds from the sale of crops grown upon trust allotments are so treated.

Accordingly it is held that income held in trust for or received by an Indian from the sale or exchange of cattle and other livestock raised on his allotted and restricted Indian lands while such lands are held in trust for him by the United States, as trustee, in accordance with section 5 of the General Allotment Act is exempt from Federal income tax. Unless otherwise provided by law, the exemption described herein will not be applicable in those instances where the Indian has obtained his interest in the exempt lands through an arm’s length purchase rather than, for example, through allotment, gift, devise, or inheritance.

Revenue Ruling 58-64, C.B. 1958-1, 12, and Revenue Ruling 60-377, C.B. 1960-2, 13, are hereby revoked, and Revenue Ruling 56-342, C.B. 1956-2,20, is amplified.