

Revenue Ruling 69-289

Section 61 – Gross Income Defined

1969-1, C.B. 34

Payments made to noncompetent Indians under programs administered by the Department of Agriculture's Stabilization and Conservation Service are income "derived directly from the land" and are excludable from gross income.

Advice has been requested whether payments made to noncompetent Indians under certain programs administered by the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture are excludable from their gross incomes. The payments are made under programs having as their general objectives the conservation of soil and water resources, the maintenance of reasonable and stable supplies of agricultural commodities, and the protection of farm income. Payments are made to farmers for carrying out approved conservation practices, for diverting acreage from the production of crops, and in support of the prices for the crops they do produce. The programs under which the payments are made are: Agricultural Conservation Program (16 U.S.C. 590h(b)); Appalachian Land Stabilization and Conservation Program (40 U.S.C. App. 203); Cropland Adjustment Program (7 U.S.C. 1838); Cropland Conversion Program (16 U.S.C. 590p(e)); Conservation Reserve Program (7 U.S.C. 1831); Feed Grain Program (16 U.S.C. 590p(i), 7 U.S.C. 1441 note); Wheat Program (7 U.S.C. 1339, 1379c); Upland Cotton Program (7 U.S.C. 1444(d)); Wool and Mohair Program (7 U.S.C. 1782, 1783); and Sugar Program (7 U.S.C. 1131).

The payments in question are those made in connection with allotted and restricted lands held in trust by the United States, as trustee for the noncompetent Indians, under the General Allotment Act of 1887, 24 Stat. 388, 25 U.S.C. 331 et seq.

Revenue Ruling 67-284, C.B. 1967-2, 55, provides general principles applicable to the Federal income tax treatment of income received by Indians. Section II of the Revenue Ruling sets forth five tests that must be met for such income to be excludable: (1) the land in question must be held in trust by the United States Government; (2) such land must be restricted and allotted and held for an individual noncompetent Indian; (3) the income must be derived directly from the land; (4) the statute, treaty or other authority involved must evidence congressional intent that the allotment be used as a means of protecting the Indian until such time as he becomes competent; and (5) the authority in question must contain language indicating clear congressional intent that the land, until conveyed in fee simple to the allottee, is not to be subject to taxation.

The question to be resolved in the instant case is whether the payments are "derived directly from the land" as that term is used in Revenue Ruling 67-284.

Payments “derived directly from the land” include such items as rentals (including crop rentals), royalties, proceeds from the sale of natural resources on the land and from the sale of cattle and other livestock raised on the land, and income from the sale of crops grown on the land or from the use of the land for grazing purposes, Revenue Ruling 56-342, C.B. 1956-2, 20, as amplified by Revenue Ruling 62-16, C.B. 1962-1, 7.

Under the programs administered in the instant case, the payments are made to the noncompetent Indians for agreeing to use the land in certain ways, and for agreeing not to use the land in certain ways. Therefore, these payments are considered to be income “derived directly from the land” to the same extent as would be rentals of the land, or the proceeds of sale of crops grown on the land, and are excludable from the Indians’ gross income for Federal income tax purposes.