

Revenue Ruling 94-65

Section 61--Gross Income Defined

(Also Section 7805; 26 CFR 301.7805-1.)

1994-2 Cumulative Bulletin 14;; Revenue Ruling 94-65

October 17, 1994

Federal income taxation of corporations organized by Indian tribes under section 3 of the Oklahoma Welfare Act. A tribal corporation organized under section 3 of the Oklahoma Welfare Act is not subject to federal income tax on income earned in the conduct of commercial business on or off the tribe's reservation. Relief under section 7805(b) of the Code will be granted in appropriate circumstances. Revenue Ruling 94-16 amplified.

Revenue Ruling 94-16, 1994-1 Cumulative Bulletin 19, holds that an unincorporated Indian tribe or an Indian tribal corporation organized under section 17 of the Indian Reorganization Act of 1934, 25 U.S.C. section 477 (1993) (IRA), is not subject to federal income tax on the income earned in the conduct of commercial business on or off the tribe's reservation. The ruling further holds, however, that a corporation organized by an Indian tribe under state law is subject to federal income tax on the income earned in the conduct of commercial business on and off the tribe's reservation.

Applying the rationale of Revenue Ruling 94-16 that relates to a tribal corporation organized under section 17 of the IRA, a tribal corporation organized under section 3 of the Oklahoma Welfare Act, 25 U.S.C. section 503 (1993), is not subject to federal income tax on the income earned in the conduct of commercial business on or off the tribe's reservation.

Revenue Ruling 94-16 provides, under section 7805(b) of the Internal Revenue Code, that it will not apply to income earned prior to October 1, 1994, by a corporation organized by an Indian tribe under state law from activities conducted within the boundaries of the reservation (including gain or loss properly allocable to such activities from the sale or exchange of assets).

A tribe seeking to dissolve a corporation organized under state law and organize into a corporation under section 17 of the IRA or under section 3 of the Oklahoma Welfare Act will be granted further relief under section 7805(b) of the Code upon application for such relief provided it demonstrates to the Service that it has acted reasonably and in good faith to achieve the dissolution and organization. In other circumstances, the Service will consider the application of section 7805(b) on a case-by-case basis. Relief under this paragraph will be limited to income earned after September 30, 1994, by a corporation organized by an Indian tribe under state law from activities conducted within the boundaries of the reservation (including gain or loss properly allocable to such activities from the sale or exchange of assets).

EFFECT ON OTHER RULINGS

Revenue Ruling 94-16 is amplified.