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Farm Service Agency

Income Received from USDA Agriculture/ Conservation Programs for Indian Operators on Indian Trust Lands

Montana

All producers who participate in USDA soil and water conservation programs and agricultural commodity programs, receive a 1099G form outlining income received from participation in these types of USDA programs.

Question: Is farm income generated from Soil and Water Conservation Programs and Agricultural Commodity Programs on Indian Trust lands exempt from taxation?

If the Indian operator is farming/ranching on their own allotment(s) of Indian Trust land, USDA payments made under programs administered by the USDA for soil and water conservation programs and agricultural commodity programs are considered "derived directly from the Indian Trust lands." As a result, this income is considered tax exempt.

The most prevalent of the three rulings is Ruling 69-289, which defines gross income. This is the ruling most utilized in determining whether you have to pay taxes on the income reported on the 1099G.

Revenue Ruling 69-289

Revenue Ruling 69-289 defines gross income from USDA programs on Indian Trust Lands: Payments made under USDA 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 are considered payments "derived directly from the land."

Under USDA programs, payments are made to Indians for agreeing to use the land in certain ways and 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 or the proceeds of sales of crops grown on the land, and are excludable from Indians' gross income for Federal income tax purposes.

Question: What type of income from Indian Trust Land is tax exempt?

To be tax exempt, *income must be derived directly or attributable to the use of the Indian Trust (allotted) land.*

Revenue Ruling 67-284

Revenue Ruling 67-284, Gross Income Defined is the second most important ruling. This ruling outlines the general principles applicable to the federal income tax treatment of income received by Indians on Indian Trust (Allotted) lands.

*The Internal Revenue Service recognizes the exempt status of income received by an enrolled member of an Indian Tribe where **ALL** of the following five tests are met:*

1. The land in question must be held in federal trust status by the United States Government;
2. Such land must be restricted and allotted land and is held for an individual Indian; and not for a tribe;
3. The income must be derived directly from the Indian Trust 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 that land is removed from federal trust status;
5. The authority in question must contain language indicating clear congressional intent that the Indian Trust land is not subject to taxation.

If all of these five tests are not met, and if the income is not otherwise exempt by law, it is subject to Federal income taxation.

Payments or income derived directly from Indian Trust lands that are exempt include:

- Rentals (including crop and grazing rentals);
- Royalties;
- Proceeds from the sale of natural resources on Indian Trust lands and income from the sale or exchange of cattle/livestock raised on these lands; and,
- Income from the sale of crops grown on Indian Trust lands and from the use of these lands for grazing purposes.

Question: So what does that mean?

Indian producers receiving a 1099G form for USDA payments from soil and water conservation programs and agricultural commodity programs for the production of crops and livestock on Indian Trust lands may claim an exemption from taxation if:

1. The Indian operator or Indian Trust land owner is an enrolled member of a tribe and resides on their respective reservation.
2. The income reported on the 1099G form is from:
   - The conservation of soil and water resources, maintenance of reasonable and stable supplies of agricultural commodities, and the protection of farm income.
   - Crops, livestock or other agricultural products.
3. **AND** The Indian operator is operating on their own allotment in which case the income would be "derived directly from" Indian Trust lands.

Then the agricultural income "derived directly from the land" may be reported as tax exempt.

Revenue Ruling 57-523

The third ruling that applies is Revenue Ruling 57-523, which states farm income derived from Indian trust lands rented by an Indian operator (farm/pasture leases or range unit permits) is not considered income held in trust for or received by the allottee (land owner) and is included in gross income.

Question: If you are an Indian producer, operating on Indian Trust Land, what do you do with the 1099G form you receive?

Farm income reported on tax form 1099G should be reported on tax form **Schedule F - Profit or Loss from Farming, Form 1040**. Contact your accountant or tax advisor for further information.

There is no provision in the Internal Revenue Code of 1954 which exempts an individual from the payment of Federal income tax solely on the grounds that he/she is an Indian.

Question: Where did Indian Trust Land come from and why is it exempt from taxation?

General Allotment Act

The General Allotment Act, commonly referred to as the Dawes Act, passed in 1887, allotted specified amounts of land to individual Indians to be held in trust by the United States Government. Indian lands held in trust by the federal government are restricted as to sale, encumbrance or taxation. In 1934, Congress enacted the Indian Reorganization Act, which for all practical purposes, terminated the allotment system but continued the Federal Governments Trust responsibility to Indian lands allotted under the General Allotment Act.

The Bureau of Indian Affairs (BIA) is the primary federal trustee of Indian trust lands and must approve conservation plans when conservation practices are applied on Indian trust lands.

When a Native American land owner converts Indian Trust lands to fee simple title, the tax exempt status of income derived directly from that land ends. That income or those proceeds derived from the land once it has attained fee simple title are then subject to taxation.

Revenue Rulings 67-284 and 69-289

Revenue Rulings 67-284 and 69-289 do not diminish your responsibility to file an income tax return and to report income specified on a 1099G form on Schedule F-Profit or Loss From Farming, Form 1040.

Verification of Income

The USDA reviews Limited Resource Farmer/Rancher operations on an annual basis to verify continued eligibility.

For More Information

Consult your accountant or tax advisor or visit the Internal Revenue Service Indian Tribal Governments website at: http://www.irs.gov/tribes.

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