

Rev. Rul. 59-349, 1959-2 C.B. 16, 1959 WL 12225 (IRS RRU)

Internal Revenue Service (I.R.S.)

Revenue Ruling

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(Also Part II, Section 22(a); Regulations 118, Section 39.22(a)-1.)

Income directly derived from lands held in trust by the United States under section 1 of the Oklahoma Indian Welfare Act, the Act of March 2, 1931, as amended, and section 2 of the Act of June 20, 1936, as amended, is exempt from Federal income tax in line with the holding in *Squire v. Horton Capoeman et ux.*, 351 U.S. 1, Ct. D. 1796, C.B. 1956-1, 605.

Where exemption from Federal income tax exists under any of the above-cited Acts, or under the General Allotment Act of February 8, 1887, as amended, such exemption will inure to the benefit of the Indian heirs and devisees by or for whom the property is held, regardless of whether their interest is entire or an undivided fractional interest, to the same extent and degree that the decedent would have enjoyed the exemption if he had been living.

Advice has been requested as to the application of the decision in the case of *Squire v. Horton Capoeman et ux.*, 351 U.S. 1, Ct. D. 1796, C.B. 1956-1, 605, to income directly derived from lands held by Indians under certain statutes discussed herein.

The case of *Squire v. Horton Capoeman et ux.*, *supra*, involved the taxability of the proceeds from the sale by the United States of standing timber on lands to which the United States held the fee title in trust for the individual members of the Quinaialet Tribe pursuant to a treaty with the Tribe, 12 Stat. 971, and the General Allotment Act of February 8, 1887, [25 U.S.C. 331](#) *et seq.* The Supreme Court of the United States held that the income in question received by the noncompetent Indians was exempt from Federal income tax.

The first question raised is whether income directly derived from property held by the United States in trust for Indian tribes and individual Indians is exempt from Federal income tax if such lands have been acquired under the provisions of the Oklahoma Indian Welfare Act, [25 U.S.C. 501](#).

Section 1 of the Oklahoma Indian Welfare Act, *supra*, reads, in part, as follows:

The Secretary of the Interior is hereby authorized, in his discretion, to acquire by purchase, relinquishment, gift, exchange, or assignment, any interest in lands, water rights, or surface rights to lands, within or without existing Indian reservations, including trust or otherwise restricted lands now in Indian ownership: *Provided*, That such lands shall be agricultural and grazing lands of good character and quality in proportion to the respective needs of the particular Indian or Indians for whom such purchases are made. Title to all lands so acquired shall be taken in the name of the United States, in trust for the tribe, band, group, or individual Indian for whose benefit such land is so acquired and while the title thereto is held by the United States said lands shall be free from any and all taxes, save that the State of Oklahoma is authorized to levy and collect a gross-production tax, not in excess of the rate applied to production from lands in private ownership, upon all oil and gas produced from said lands, which said tax the Secretary of the Interior is hereby authorized and directed to cause to be paid.

The above-quoted section of the Act specifically exempts land acquired under the Act from 'any and all taxes' so long as the title thereto is held by the United States, with the exception of the described tax which may be levied by the State of Oklahoma. The reasons for this exemption are similar to the reasons that the Supreme Court, in the *Capoeman* decision, *supra*, found had led Congress to confer exemption upon trust allotments held by the Quinaieit Indians under section 5 of the General Allotment Act, *supra*. In [Revenue Ruling 56-342, C.B. 1956-2, 20](#), it was held that under the *Capoeman* decision the income directly derived from such trust allotments is exempt from Federal income tax when received by or for the trust patent holder.

Therefore, it is held that income received by or for the beneficial owner which is directly derived from lands situated in Oklahoma, held in trust by the United States under the provisions of section 1 of the Oklahoma Indian Welfare Act, *supra*, is exempt from Federal income tax. The second question pertains to the taxability of income directly derived from lands acquired by individual Indians pursuant to the Act of March 2, 1931, Public Law 780, 71st Cong., [25 U.S.C. 409\(a\)](#), as amended by the Act of June 30, 1932, Public Law 231, 72d Cong., [25 U.S.C. 409\(a\)](#), as well as the Act of June 20, 1936, Public Law 716, 74th Cong., [25 U.S.C. 412\(a\)](#), as amended by the Act of May 19, 1937, Public Law 96, 75th Cong., [25 U.S.C. 412\(a\)](#).

The Act of March 2, 1931, *supra*, as amended, provides as follows:

Whenever any nontaxable land of a restricted Indian of the Five Civilized Tribes or any other Indian tribe is sold to any State, county, or municipality for public-improvement purposes, or is acquired, under existing law, by any State, county, or municipality by condemnation or other proceedings for such public purposes, or is sold under existing law to any other person or corporation for other purposes, the money received for said land may, in the discretion and with the approval of the Secretary of the Interior, be reinvested in other lands selected by said Indian, and such land so selected and purchased shall be restricted as to alienation, lease, or incumbrance, and nontaxable in the same quantity and upon the same terms and conditions as the nontaxable lands from which the reinvested funds were derived, and such restrictions shall appear in the conveyance.

In view of the fact that the Act of March 2, 1931, as amended, explicitly states that land acquired thereunder shall be nontaxable and restricted as to incumbrance, it is held that income derived directly from land so acquired is exempt from Federal income tax so long as it remains restricted, to the same extent as was the land for which it was substituted.

Section 2 of the Act of June 20, 1936, *supra*, as originally amended, provides as follows:

All homesteads, heretofore purchased out of the trust or restricted funds of individual Indians, are declared to be instrumentalities of the Federal Government and shall be nontaxable until otherwise directed by Congress: *Provided*, That the title to such homesteads shall be held subject to restrictions against alienation or encumbrance except with the approval of the Secretary of the Interior: *And provided further*, That the Indian owner or owners shall select, with the approval of the Secretary of the Interior, either the agricultural and grazing lands, not exceeding a total of one hundred and sixty acres, or the village, town, or city property, not exceeding in cost \$5,000, to be designated as a homestead.

The above-quoted section of the Act likewise provides an exemption from tax and a restriction against incumbrance. The reasons for this exemption are also similar to those found for the exemption in the *Capoeman* case, *supra*.

Therefore, it is also held that income directly derived from restricted homesteads designated under the Act of June 20, 1936, *supra*, as amended, and purchased prior to that date out of the trust or restricted funds of individual Indians is exempt from Federal income tax to the owners of the homesteads while the restrictions remain in effect. Where exemption from Federal income tax exists under any of the above-cited Acts, or under the General Allotment Act, *supra*, such exemption will inure to the benefit of the Indian heirs and devisees by or for whom the property is held, regardless of whether their interest is entire or an undivided fractional interest, to the same extent and degree that the decedent would have enjoyed the exemption were he living.

Accordingly, it is held that income directly derived from lands held in trust by the United States under section 1 of the Oklahoma Indian Welfare Act, *supra*, the Act of March 2, 1931, *supra*, as amended, and section 2 of the Act of June 20, 1936, *supra*, as amended, is exempt from Federal income tax.

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