

104TH CONGRESS
1ST SESSION

S. 1307

To amend the Internal Revenue Code of 1986 to exempt from income taxation income derived by a member of an Indian tribe directly or through a qualified Indian entity derived from natural resources activities.

IN THE SENATE OF THE UNITED STATES

OCTOBER 10, 1995

Mr. MCCAIN (for himself, Mr. BAUCUS, Mr. DOMENICI, and Mr. INOUE) introduced the following bill; which was referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to exempt from income taxation income derived by a member of an Indian tribe directly or through a qualified Indian entity derived from natural resources activities.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Treatment of Indian
5 Tribal Natural Resource Income Act of 1995”.

6 **SEC. 2. FEDERAL TAX TREATMENT OF INCOME DERIVED BY**
7 **INDIANS FROM NATURAL RESOURCES AC-**
8 **TIVITIES.**

9 (a) IN GENERAL.—Subchapter C of chapter 80 of the
10 Internal Revenue Code of 1986 (relating to provisions af-

1 fecting more than one subtitle) is amended by adding at
 2 the end the following new section:

3 **“SEC. 7874. FEDERAL TAX TREATMENT OF INCOME DE-**
 4 **RIVED BY INDIANS FROM THE HARVEST OF**
 5 **TRIBALLY OWNED NATURAL RESOURCES.**

6 “(a) IN GENERAL.—

7 “(1) INCOME AND SELF-EMPLOYMENT
 8 TAXES.—No tax shall be imposed by subtitle A on
 9 income derived from a natural resources-related ac-
 10 tivity conducted—

11 “(A) by a member of an Indian tribe di-
 12 rectly or through a qualified Indian entity; or

13 “(B) by a qualified Indian entity.

14 “(2) EMPLOYMENT TAXES.—No tax shall be
 15 imposed by subtitle C on remuneration paid for serv-
 16 ices performed in natural resources-related activity
 17 by one member of a tribe for another member of
 18 such tribe or for a qualified Indian entity.

19 “(b) DEFINITIONS.—For purposes of this section:

20 “(1) NATURAL RESOURCES-RELATED ACTIV-
 21 ITY.—The term ‘natural resources-related activity’
 22 means, with respect to an Indian tribe, any activity
 23 directly related to cultivating, harvesting, processing,
 24 extracting, or transporting natural resources held in
 25 trust by the United States for the benefit of such

1 tribe or directly related to selling such natural re-
2 sources but only if substantially all of the selling ac-
3 tivity is performed by members of such tribe.

4 “(2) QUALIFIED INDIAN ENTITY.—

5 “(A) IN GENERAL.—The term ‘qualified
6 Indian entity’ means an entity—

7 “(i) engaged in a natural resources-re-
8 lated activity of one or more Indian tribes;

9 “(ii) all of whose equity interests are
10 owned by such tribes or members of such
11 tribes; and

12 “(iii) substantially all of the manage-
13 ment functions of the entity are performed
14 by members of such tribes.

15 “(B) ENTITIES ENGAGED IN PROCESSING
16 OR TRANSPORTATION.—Except as provided in
17 regulations similar to regulations in effect
18 under section 7873(b)(3)(A)(iii) on the date of
19 the enactment of this section, if an entity is en-
20 gaged to any extent in any processing or trans-
21 porting of natural resources, the term ‘qualified
22 Indian entity’ shall also include an entity whose
23 annual gross receipts are 90 percent or more
24 derived from natural resources-related activities
25 of one or more Indian tribes each of which owns

1 at least 10 percent of the equity interests in the
2 entity. For purposes of this subparagraph, eq-
3 uity interests owned by a member of such a
4 tribe shall be treated as owned by the tribe.

5 “(c) SPECIAL RULES.—

6 “(1) DISTRIBUTIONS FROM QUALIFIED INDIAN
7 ENTITY.—For purposes of this section, any distribu-
8 tion with respect to an equity interest in a qualified
9 Indian entity of one or more Indian tribes to a mem-
10 ber of one of such tribes shall be treated as derived
11 by such member from a natural resources-related ac-
12 tivity to the extent such distribution is attributable
13 to income derived by such entity from a natural re-
14 sources-related activity.

15 “(2) DE MINIMIS UNRELATED AMOUNTS MAY
16 BE EXCLUDED.—If, but for this paragraph, all but
17 a de minimis amount derived by a qualified Indian
18 tribal entity or by a tribal member through such en-
19 tity, or paid to an individual for services, would be
20 entitled to the benefits of subsection (a), then the
21 entire amount shall be so entitled.

22 “(d) NO INFERENCE CREATED.—Nothing in this
23 title shall create any inference as to the existence or non-
24 existence or scope of any exemption from tax for income

1 derived from tribal rights secured as of January 1, 1995,
2 by any treaty, law, or Executive Order.”.

3 (b) CONFORMING AMENDMENT.—The table of sec-
4 tions for subchapter C of chapter 80 of such Code is
5 amended by adding at the end the following new item:

“Sec. 7874. Federal tax treatment of income derived by Indians from the har-
vest of tribally owned natural resources.”

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to periods before, on, or after the
8 date of the enactment of this Act.

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