

IRC Section 7873

Income derived by Indians from exercise of fishing rights

- (a) In general.
- (1) Income and self-employment taxes. No tax shall be imposed by subtitle A on income derived--
 - (A) by a member of an Indian tribe directly or through a qualified Indian entity, or
 - (B) by a qualified Indian entity,from a fishing rights-related activity of such tribe.
 - (2) Employment taxes. No tax shall be imposed by subtitle C on remuneration paid for services performed in a fishing rights-related activity of an Indian tribe by a member of such tribe for another member of such tribe or for a qualified Indian entity.
- (b) Definitions. For purposes of this section—
- (1) Fishing rights-related activity. The term 'fishing rights-related activity' means, with respect to an Indian tribe, any activity directly related to harvesting, processing, or transporting fish harvested in the exercise of a recognized fishing right of such tribe or to selling such fish but only if substantially all of such harvesting was performed by members of such tribe.
 - (2) Recognized fishing rights. The term 'recognized fishing rights' means, with respect to an Indian tribe, fishing rights secured as of March 17, 1988, by a treaty between such tribe and the United States or by an Executive order or an Act of Congress.
 - (3) Qualified Indian entity.
 - (A) In general. The term 'qualified Indian entity' means, with respect to an Indian tribe, any entity if—
 - (i) such entity is engaged in a fishing rights-related activity of such tribe,
 - (ii) all of the equity interests in the entity are owned by qualified Indian tribes, members of such tribes, or their spouses,
 - (iii) except as provided in regulations, in the case of an entity which engages to any extent in any substantial processing or transporting of fish, 90 percent or more of the annual gross receipts of the entity is derived from fishing rights-related activities of one or more qualified Indian tribes each of which owns at least 10 percent of the equity interests in the entity, and
 - (iv) substantially all of the management functions of the entity are performed by members of qualified Indian tribes.For purposes of clause (iii), equity interests owned by a member (or the spouse of a member) of a qualified Indian tribe shall be treated as owned by the tribe.
 - (B) Qualified Indian tribe. For purposes of subparagraph (A), an Indian tribe is a qualified Indian tribe with respect to an entity if such entity is engaged in a fishing rights-related activity of such tribe.
- (c) Special rules.
- (1) Distributions from qualified Indian entity. For purposes of this section, any distribution with respect to an equity interest in a qualified Indian entity of an Indian tribe to a member of such tribe shall be treated as derived by such member from a fishing rights-related activity of such tribe to the extent such distribution is attributable to income derived by such entity from a fishing rights-related activity of such tribe.
 - (2) De minimis unrelated amounts may be excluded. If, but for this paragraph, all but a de minimis amount--
 - (A) derived by a qualified Indian tribal entity, or by an individual through such an entity, is entitled to the benefits of paragraph (1) of subsection (a), or
 - (B) paid to an individual for services is entitled to the benefits of paragraph (2) of subsection (a),then the entire amount shall be entitled to the benefits of such paragraph.