

107TH CONGRESS  
1ST SESSION

# S. 655

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

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## IN THE SENATE OF THE UNITED STATES

MARCH 29, 2001

Mr. McCAIN (for himself, Mr. DASCHLE, and Mr. INOUYE) introduced the following bill; which was read twice and referred to the Committee on Finance

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# A BILL

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

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 2001”.

1 **SEC. 2. FEDERAL TAX TREATMENT OF INCOME DERIVED BY**  
2 **INDIANS FROM NATURAL RESOURCES-RE-**  
3 **LATED ACTIVITIES.**

4 (a) IN GENERAL.—Subchapter C of chapter 80 of the  
5 Internal Revenue Code of 1986 (relating to provisions af-  
6 fecting more than one subtitle) is amended by adding at  
7 the end the following new section:

8 **“SEC. 7874. FEDERAL TAX TREATMENT OF INCOME DE-**  
9 **RIVED BY INDIANS FROM THE HARVEST OF**  
10 **TRIBALLY OWNED NATURAL RESOURCES.**

11 “(a) IN GENERAL.—

12 “(1) INCOME AND SELF-EMPLOYMENT  
13 TAXES.—No tax shall be imposed by subtitle A on  
14 income derived from a natural resources-related ac-  
15 tivity conducted—

16 “(A) by a member of an Indian tribe di-  
17 rectly or through a qualified Indian entity, or

18 “(B) by a qualified Indian entity.

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

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

25 “(1) NATURAL RESOURCES-RELATED ACTIV-  
26 ITY.—

1                   “(A) IN GENERAL.—The term ‘natural re-  
2                   sources-related activity’ means, with respect to  
3                   an Indian tribe, any activity directly related to  
4                   cultivating, harvesting, processing, extracting,  
5                   or transporting natural resources held in trust  
6                   by the United States for the benefit of such  
7                   tribe or directly related to selling such natural  
8                   resources but only if substantially all of the sell-  
9                   ing activity is performed by members of such  
10                   tribe.

11                   “(B) EXTRACTION OF MINERALS, ETC. EX-  
12                   CLUDED.—Such term shall not include any ac-  
13                   tivity directly related to extracting minerals,  
14                   ores, oil, or gas.

15                   “(2) QUALIFIED INDIAN ENTITY.—

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

18                   “(i) engaged in a natural resources-re-  
19                   lated activity of one or more Indian tribes,

20                   “(ii) all of whose equity interests are  
21                   owned by such tribes or members of such  
22                   tribes, and

23                   “(iii) substantially all of the manage-  
24                   ment functions of the entity are performed  
25                   by members of such tribes.

1                   “(B) ENTITIES ENGAGED IN PROCESSING  
2                   OR TRANSPORTATION.—Except as provided in  
3                   regulations similar to regulations in effect  
4                   under section 7873(b)(3)(A)(iii) on the date of  
5                   the enactment of this section, if an entity is en-  
6                   gaged to any extent in any processing or trans-  
7                   porting of natural resources, the term ‘qualified  
8                   Indian entity’ shall also include an entity whose  
9                   annual gross receipts are 90 percent or more  
10                  derived from natural resources-related activities  
11                  of one or more Indian tribes each of which owns  
12                  at least 10 percent of the equity interests in the  
13                  entity. For purposes of this subparagraph, eq-  
14                  uity interests owned by a member of such a  
15                  tribe shall be treated as owned by the tribe.

16                  “(c) SPECIAL RULES.—

17                  “(1) DISTRIBUTIONS FROM QUALIFIED INDIAN  
18                  ENTITY.—For purposes of this section, any distribu-  
19                  tion with respect to an equity interest in a qualified  
20                  Indian entity of one or more Indian tribes to a mem-  
21                  ber of one of such tribes shall be treated as derived  
22                  by such member from a natural resources-related ac-  
23                  tivity to the extent such distribution is attributable  
24                  to income derived by such entity from a natural re-  
25                  sources-related activity.

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

8           “(d) NO INFERENCE CREATED.—Nothing in this  
9        title shall create any inference as to the existence or non-  
10      existence or scope of any exemption from tax for income  
11      derived from tribal rights secured as of January 1, 2001,  
12      by any treaty, law, or Executive Order.”.

13           (b) CONFORMING AMENDMENT.—The table of sec-  
14      tions for subchapter C of chapter 80 of the Internal Rev-  
15      enue Code of 1986 is amended by adding at the end the  
16      following new item:

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

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

