

FEDERAL TAXES

While tribal membership does not exempt Indians from federal taxation, some tribal income sources are not taxable.

Is income from my trust land taxable?

Income from individually allotted land that remains held in trust by the federal government is not taxed if that income is considered “from the land.” Examples of income “from the land” include:

- Income from sale of crops, timber, or minerals from the land;
- Gain from the sale of livestock raised on allotted trust land;
- Rents and royalties from mining, agricultural or timber related activities.

Examples of income not “from the land” include income from the operation of a motel or a smokeshop on allotted land. Income not derived directly “from the land” is taxable.

Are per capita payments subject to Federal income tax?

It depends on the source of the funds. While per capita payments from Tribal gambling proceeds are taxed, per capita payments distributed as a result of a settlement or judgment resolving a trust mismanagement lawsuit by a tribe against the federal government are usually tax exempt (such as the *Cobell* case). Check

with your tribe’s financial office to verify the tax free status of your per capita payment

What about money received from the *Keepseagle* Settlement?

The *Keepseagle* settlement came out of a class action discrimination lawsuit against the FHA (Farmer’s Home Administration), not a tribal trust settlement.

Under that settlement, there were two “tracks” of awards. Under Track A, the settlement paid up to \$50,000.00, 25% of which is paid directly to the IRS in tax. Under Track B claimants may receive up to \$250,000.00, but taxes are not taken out up front so Track B claimants are responsible for paying taxes out of the proceeds.

This settlement also has some debt forgiveness provisions which may create tax liability for claimants. If you receive debt forgiveness as part of this settlement, you should consult a tax professional regarding your tax liability for amount of debt that is forgiven.

What other types of income are taxable?

- Income from land leased from others, such as grazing land a tribal member leases from the tribe.
- Income from land that is no longer in trust status, but is fee land owned by an individual, whether or not that

individual is tribal member, an Indian or non-Indian.

- Prize money paid to winning contestants at a powwow. Prizes over \$600.00 are reported on a Form 1099-MISC by the powwow sponsor.

Are general welfare payments subject to federal income tax?

General welfare payments are not taxable. General welfare payments are payments to tribal members that are:

- Made under a governmental program of the tribe;
- For the promotion of general welfare, such as to help meet a family’s needs or to help establish Indian-owned businesses on or near the reservation; and
- Not compensation for services.

What are some examples of general welfare programs?

General Welfare programs include:

- Housing programs
- Educational programs
- Elder and disabled programs
- Public transportation
- Cultural and religious programs

STATE TAXES

If I live on a reservation, isn’t my income exempt from state tax?

Your income is exempt from Montana income tax if all of the following applies:

- You are enrolled as a member of a federally-recognized American Indian tribe;
- You live on the reservation where enrolled; and
- All of your income is from sources on the reservation where enrolled.

Keep documents that establish your tribal source of income and documents that establish your place of physical residence. If you live or work off reservation, or you live or work on a reservation of a tribe in which you are not enrolled, your income is subject to state income tax.

Need Tax Help?

- Volunteer Income Tax Assistance (VITA) provides free tax preparation services: 1-800-906-9887 or www.MontanaFreeFile.org
- MLSA provides low-income taxpayers with legal assistance on tax matters: 1-800-666-6899
- www.MontanaFreeFile.org helps you find free tax assistance and free tax filing options
- IRS Tax Information for Individuals: <http://www.irs.gov/individuals/index.html>
- State of Montana Tax Information: <http://revenue.mt.gov/default.mcp>

How do I get more help?

Montana Legal Services Association (MLSA) provides free civil legal help to low-income people. Contact us to see if you qualify:

- Apply anytime online at mtlsa.org;
- Call our Helpline at 1-800-666-6899 (Helpline hours are limited).

What help can I find at MLSA?

- Legal advice and representation;
- Referrals to volunteer attorneys and other providers;
- Self-help clinics and materials.

www.MontanaLawHelp.org

Need legal information or forms? Visit www.MontanaLawHelp.org.

Can't find what you want? Use LiveHelp. Click on the LiveHelp picture and get help finding the information you need.

www.MTLSA.org

Find copies of all our brochures online. They are all available for free download!

This pamphlet is meant to give basic legal information, not legal advice about your problem. The law changes often and each case is different. We recommend you talk to an attorney about your legal problem.

Montana Legal Services Association

Low Income Taxpayer Clinic: Tax Q&As for Indians



The clinic listed herein is partially funded through matching grants provided by the Internal Revenue Service pursuant to the Internal Revenue Service Restructuring and Reform Act of 1998. The partial funding by the IRS does not imply that the clinics have a preferential relationship with the IRS. The decision of whether to use these clinics is your own and their use will not affect your rights before the IRS.

Rev. 12/16