

MAKING PAYMENTS TO INDIANS FOR DESTRUCTION OF
FISHING RIGHTS AT CELILO FALLS EXEMPT FROM
INCOME TAX

JUNE 29, 1959.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. HALEY, from the Committee on Interior and Insular Affairs,
submitted the following

R E P O R T

[To accompany H.R. 7157]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 7157) to make payments to Indians for destruction of fishing rights at Celilo Falls exempt from income tax, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of H.R. 7157, introduced by Representative Ullman at the request of the Secretary of the Interior, is to exempt from Federal or State income tax the payments to Indians for destruction of fishing rights at Celilo Falls, Oreg., in the construction of the Dalles Dam on the Columbia River. A companion bill, S. 1976, has passed the Senate.

NEED FOR THE LEGISLATION

Construction of the Dalles Dam, authorized by the act of May 17, 1950 (64 Stat. 163, 179), has resulted in the inundation of the Celilo Falls fishing site which, by treaty, was used by various Indians including those of the Yakima, Nez Perce, Umatilla, and Warm Springs Tribes. The acts of July 27, 1953 (67 Stat. 197, 198), and June 30, 1954 (68 Stat. 330, 331), authorized payment of the sum of \$26,668,395.32 as damages, to be credited to the accounts of the tribes as follows:

Yakima, \$15,019,640; Nez Perce, \$2,500,000; Umatilla, \$4,616,971.06; and Warm Springs, \$4,451,784.26.

For a number of years it has been the policy of Congress when authorizing the distribution of tribal funds to tribal members to

provide that the funds shall not be subject to Federal or State income taxes.

The Internal Revenue Service has taken the position that the funds are not subject to income tax while they are in the hands of the tribes but that, when the funds are distributed to the individual Indians, they will be taxable as capital gain.

H.R. 7157 is necessary to extend to the recipients of these funds the same tax exemption that is extended to Indians generally when their properties are taken for a public purpose.

COST

The enactment of H.R. 7157 will entail no additional expenditure of Federal funds.

EXECUTIVE COMMUNICATION

The executive communication of the Department of the Interior, dated May 7, 1959, requesting enactment of this legislation follows:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., May 7, 1959

HON. SAM RAYBURN,
Speaker of the House of Representative,
Washington, D.C.

DEAR MR. SPEAKER: Enclosed herewith is a draft of a proposed bill to make payments to Indians for the destruction of fishing rights at Celilo Falls exempt from income tax.

We recommend that the proposed bill be referred to the appropriate committee for consideration, and we recommend that it be enacted.

The construction of the Dalles Dam on the Columbia River in Washington and Oregon by the Corps of Engineers pursuant to the authorization in the Rivers and Harbors Act of May 17, 1950 (64 Stat. 163, 179), has caused the inundation of Celilo Falls and the loss to the Indians of an important fishing site. The right of the Indians to the use of the fishing site is recognized by treaty.

The acts of July 27, 1953 (67 Stat. 197, 198) and June 30, 1954 (68 Stat. 330, 331), authorize payment to the Indians as follows: "the funds appropriated herein may at the discretion and under the direction of the Chief of Engineers be used in payment to the accounts of the Confederated Tribes of the Yakima Reservation; the Confederated Tribes of the Warm Springs Reservation; the Confederated Tribes of the Umatilla Reservation; or other recognized Indian tribes, and those individual Indians not enrolled in any recognized tribe, but who through domicile at or in the immediate vicinity of the reservoir and through custom and usage are found to have an equitable interest in the fishery, all of whose fishing rights and interests will be impaired by the Government incident to the construction, operation, or maintenance of the Dalles Dam, Columbia River, Washinton and Oregon, and must be subordinated thereto by agreement or litigation."

Agreements have been made pursuant to this authorization for the following payments, and the money has been placed to the credit of the tribes in the U.S. Treasury:

Yakima-----	\$15,019,640.00
Warm Springs-----	4,451,784.26
Umatilla-----	4,616,971.06
Nez Perce-----	2,500,000.00

The tribes intend to divide these funds among their members and make them available to the members for use in accordance with plans approved by the Department. The Internal Revenue Service has taken the position that the funds are not subject to the income tax while they are in the hands of the tribes, but that when the funds are distributed to the individual Indians they will be taxable as capital gain.

It has been the practice of Congress when authorizing the distribution of tribal funds to the members of a tribe to provide that the funds shall not be subject to income tax. This is particularly true when the funds represent the value of a tribal capital asset that has been taken from the tribe by the United States. See, for example, the statutes authorizing the distribution of judgments against the United States recovered by tribes in the Indian Claims Commission based upon inadequate compensation for lands taken (act of Aug. 30, 1954, 68 Stat. 979; act of Aug. 1, 1955, 69 Stat. 431; act of May 9, 1958, 72 Stat. 105), and the statutes authorizing payment for the taking of tribal lands in connection with the Missouri River flood control program (act of Sept. 2, 1958, 72 Stat. 1762; act of Sept. 2, 1958, 72 Stat. 1766; act of Sept. 2, 1958, 72 Stat. 1773), and the statutes providing for a termination of Federal supervision over the affairs of certain Indian tribes (act of Aug. 13, 1954, 68 Stat. 718; act of Aug. 13, 1954, 68 Stat. 724; act of Sept. 1, 1954, 68 Stat. 1099).

The payments for the destruction of the fishing site at the Dalles Dam should likewise be exempted from income tax, both when in the hands of the tribes and when divided among the individual Indians involved.

The Bureau of the Budget has advised us that there is no objection to the submission of this proposed legislation.

Sincerely yours,

ROGER ERNST,
Assistant Secretary of the Interior.

A BILL To make payments to Indians for destruction of fishing rights at Celilo Falls exempt from income tax

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the funds paid by the United States to Indian tribes, the portion of such funds subsequently distributed to members of the tribes or to trustees for or representatives of such members, and the funds paid by the United States directly to individual Indians, as compensation for the loss of fishing rights due to the construction, operation, and maintenance of the Dalles Dam, Columbia River, Washington and Oregon, shall not be subject to Federal or State income tax.

COMMITTEE RECOMMENDATIONS

The Committee on Interior and Insular Affairs recommends enactment of H.R. 7157.

