OFFICE OF THE CHIEF COUNSEL

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

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The Honorable Glenn F. Ivey
Member, U.S. House of Representatives
Washington, DC 20515

Attention:

Dear Representative Ivey:

I am responding to your letter dated May 17, 2023, on behalf of . He asked us to clarify the taxability of money recipients received from the .

helps fund the rehabilitation, restoration, or preservation of historic properties in . Eligible recipients include individuals, nonprofit organizations, and political subdivisions. Grant recipients must convey a perpetual historic preservation easement on the property after the grant is awarded. Properties awarded grants are required to be designated as Historic Sites, if not designated already.

Although the Historic Preservation Commission must pre-approve the spending of grant funds, grant money is distributed incrementally as reimbursements upon receipt of properly documented expenditures. Grant money is used to repair, restore, or replace the exterior features of the property, in a historically appropriate manner. Additionally, the grant recipients are required to make a 10% match of the proceeds from the grant.

Gross income includes all accessions to wealth, clearly realized, and over which the taxpayer has complete control. Although government grants and cost-sharing benefits generally constitute gross income for federal income tax purposes, courts have held that taxpayers do not have gross income where the recipient of the grant lacks complete dominion and control over the grant.[1]

[1] See Bailey, 88 T.C. 1301-03 (recipient of a façade grant lacked complete dominion and control because the recipient had no contact or discretion in how or to whom the money was disbursed).

Conversely, courts have held that reimbursements the government makes to a taxpayer for expenses related to constructing, repairing or purchasing property, come under the taxpayer’s control. Therefore, they are considered gross income for the recipient. See Bailey, 88 T.C. 1302.

Additionally, asked if grants from the would be excluded under the general welfare exclusion, similarly to the grants made under the District Historic Homeowner Grant Program in Washington D.C. To qualify under the general welfare exclusion, payments must be:

- made from a governmental fund,
- for the promotion of the general welfare (i.e., generally based on individual or family need); and
- not represent compensation for services.[2]

Unlike the Washington D.C. program, which provided grants to low and moderate-income households, award applicants are not restricted to individuals in need.

I hope this information is helpful. If you have any questions, please call me or , legal administrative specialist, at .

Sincerely,

Shareen S. Pflanz
Chief, Branch 8
Office of Associate Chief Counsel
(Income Tax & Accounting)

[2] Rev. Rul. 76-395, 1976-2 C.B. 16 (grants to low-income recipients primarily for correction of critical code violations); Rev. Rul. 78-170, 1978-1 C.B. 24 (grants to reduce energy costs for low-income, elderly, or disabled taxpayers); Rev. Rul. 76-144, 1976-1 C.B. 17 (grants to persons who as a result of a major disaster are unable to meet necessary expenses and needs).