



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

OFFICE OF
CHIEF COUNSEL

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[REDACTED]

Dear [REDACTED]:

Thank you for your letter dated August 16, 2000, addressed to Senator [REDACTED]. Your letter was forwarded to this office for response. In your letter, you expressed concern about the Sixth Circuit's decision in *Wuebker v. Commissioner*, 205 F.3d 897 (6th Cir., March 3, 2000), that Conservation Reserve Program (CRP) payments farmers receive is self-employment income and subject to self-employment tax.

Wuebker involved an active farmer who received payments under the Department of Agriculture's Conservation Reserve Program. The annual payments were compensation for removing land from farm production. The Sixth Circuit concluded that the CRP payments were self-employment income because there was a direct link between the CRP payments and the Wuebkers' farming operations. Next, the court considered whether taxpayers could exclude the CRP payments from self-employment income as "rentals from real estate" under section 1402(a)(1) of the Internal Revenue Code. The court decided the CRP payments were not "rent," which ordinarily means "consideration paid for the use or occupancy of property," because the CRP payments did not entitle the government to the use or occupancy of the Wuebkers' land. Circuit Judge, Nathaniel R. Jones, dissented on this question finding that the limitations imposed on the Wuebkers' use of their land constituted "use" by the government.

We appreciate your concerns regarding the taxation of CRP payments and will forward your letter to the Department of the Treasury Office of Tax Policy.

Under the Freedom of Information Act, we will make this letter available to the public after we delete names, addresses, and other identifying information

I hope this information is helpful. If you have any questions regarding this matter, or if you need further assistance, please contact me or Robyn L. Mathis (ID No. 50-15986) of my staff at (202) 622-3615.

Sincerely,

JERRY E. HOLMES
Chief, Employment Tax Branch 2
Tax Exempt and Government Entities
Office of Assistant Chief Counsel
(Exempt Organizations/Employment
Tax/Government Entities)

cc: Senator 