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Person To Contact:
, ID No.

Telephone Number:

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Date:
April 21, 2011

LEGEND:

A =
B =
State =
Year =

Dear :

This is in reply to a letter dated September 28, 2010, which was submitted by your authorized representative. The letter requests a ruling on behalf of A and B concerning the federal income tax consequences of certain adult foster care payments.

FACTS

A was incorporated under the laws of State in Year. A elected to be taxed as a corporation and made a Subchapter S election effective the same day. A uses the cash basis method of accounting and files its federal income tax return on a calendar year basis. B is the president of A and owns 100% of its stock. B uses the cash basis method of accounting.

A has been certified by State to provide adult foster care and adult day training. B provides these services in his home. The individuals receiving adult foster care live in B's home and are cared for by B and his wife.

A receives payments from State for both adult foster care and adult day training, but only the payments for adult foster care are the subject of this ruling request. After paying certain expenses of the individuals in foster care, A transfers the adult foster care payments to B. A does not retain any of the foster care payments.

The two individuals currently receiving foster care in B's home were placed in B's home by State.

LAW AND ANALYSIS

Section 131(a) of the Internal Revenue Code (the Code) states that gross income shall not include amounts received by a foster care provider during the taxable year as qualified foster care payments.

Section 131(b)(1) of the Code defines the term "qualified foster care payment." These are payments made pursuant to a foster care program of a state or political subdivision thereof. They must be paid by a state or a political subdivision thereof, or by a qualified foster care placement agency, and they must be paid to a foster care provider for caring for a qualified foster individual in the provider's home or paid as "difficulty of care payment[s]").

Section 131(b)(2) of the Code defines the term "qualified foster individual" as any individual living in a foster family home in which the individual was placed by an agency of a state or political subdivision thereof, or by a qualified foster care placement agency.

The adult foster care payments at issue in this case are qualified foster care payments made to a foster care provider and otherwise satisfy the statutory requirements for exclusion from gross income under section 131 of the Code.

Under section 131(b)(1) of the Code, qualified foster care payments generally must be paid by a state, pursuant to its foster care program. Here, State is making the payments for adult foster care.

Section 131(b)(1) of the Code also requires that a qualified foster care payment be made for the care of a qualified foster individual in the provider's home. Section 131(b)(2) defines the term "qualified foster individual" as someone who is placed in a foster family home by a state, a political subdivision thereof, or by a qualified placement agency. Here, the individuals who receive adult foster care were placed in B's home by State.

An issue is whether State's payment of the adult foster care payments to A, the S corporation, rather than B, the individual providing adult foster care services in his home, precludes the availability of Code section 131. The statute contemplates that the foster care provider is an individual providing care in his or her home, and an S corporation or other entity would be incapable of providing care in its "home."

In this case, however, it is appropriate to treat the payments as received by B. A does not retain any of the foster care payments that it receives from State. Rather, it

transfers these amounts to B after paying certain expenses of the individuals in foster care. B owns 100% of the stock in A. B and his wife provide the adult foster care for which payment is made, in a home B owns. Under the particular circumstances of this case, A acts as a conduit for State's payment of adult foster care payments to B. For the purposes of Code section 131, the payments will be treated as received by B.

CONCLUSION

Based on the information submitted, the applicable law, and the representations made, we conclude that the adult foster care payments accepted by A on behalf of B are properly treated as payments to B. These adult foster care payments are excludable from income, under Code section 131.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. This letter ruling covers only the payments received for foster care.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent. In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Sincerely,

John M. Aramburu
Senior Counsel, Branch 5
Office of Associate Chief Counsel
(Income Tax & Accounting)