



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

OFFICE OF THE CHIEF COUNSEL

March 29, 2012

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UIL: 61.00-00; 131.00-00

Dear _____ :

This letter responds to your inquiry dated February 29, 2012, to Commissioner Shulman, regarding the payments that you receive for the care of your adult son as the care provider in a certified family home in Idaho. Commissioner Shulman asked us to respond to your letter.

As a certified family home provider, you receive payment for the care of your son from Medicaid funds. You represent that you are a foster care provider of your son. A foster care provider may exclude from income qualified foster care payments, including difficulty of care payments (section 131 of the Internal Revenue Code). The IRS has taken the position in Program Manager Technical Advice that a biological parent of a disabled child may not exclude payments under section 131, because care by a biological parent is not foster care (PMTA 2010-007). As you point out, the facts in *Bannon v. Commissioner*, 99 T.C. 59 (1992), differ in some respects from your situation. Nevertheless, your situation appears to be covered by the PMTA. The Service has posted Q&As on www.irs.gov concerning "family caregivers." See <http://www.irs.gov/businesses/small/article/0,,id=229048,00.html>

You ask about the social security payments that your son receives and that he uses to pay for his room and board. Your letter does not specify the type of social security payments he receives. If the payments he receives are Supplemental Security Income (SSI) payments, SSI payments are not taxable to him. See Publication 907, *Tax Highlights for Persons with Disabilities*.

We hope this information is helpful. If you have any questions, please contact
or at .

Sincerely,

Michael J. Montemurro
Chief, Branch 4
Office of Associate Chief Counsel
(Income Tax & Accounting)