



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

OFFICE OF THE CHIEF COUNSEL

June 11, 2015

Number: **2015-0020**
Date: 6/26/2015

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Dear _____ :

I am responding to your inquiry dated April 29, 2015, to the Office of Chief Counsel. You ask whether certain payments the government of _____ or its agencies makes to citizens of the _____ living in _____ are taxable in the _____ and, if so, how they should be reported. The Internal Revenue Service has not issued published guidance concerning whether the payments you refer to in your inquiry must be included in income for federal income tax purposes. However, we are pleased to provide you with the following general information.

Payments made to or on behalf of individuals or other persons under governmental programs are included within the broad definition of gross income under § 61 of the Internal Revenue Code unless an exclusion applies. The Service has consistently concluded, however, that certain payments made to or on behalf of individuals by governmental units under governmentally provided social benefit programs for the promotion of the general welfare are not included in a recipient's gross income (general welfare exclusion).

To qualify under the general welfare exclusion, the payments must (1) be made pursuant to a governmental program, (2) be for the promotion of the general welfare (that is, based on need), and (3) not represent compensation for services. Thus, the general welfare exclusion applies if the grant is received under a program requiring the individual recipient to establish need. Grants received under social welfare programs that do not require recipients to establish individual need do not qualify under the general welfare exclusion. *Bailey v. Commissioner*, 88 T.C. 1293, 1300 (1987), *acq.*, 1989-2 C.B. 1.

Whether a payment qualifies under the general welfare exclusion is determined under the federal income tax laws (including provisions not in the Code), not under the laws of state, local, sovereign tribal, or foreign governments, or other federal laws. Thus, an

incentive payment that a _____ citizen received from the City of _____, under a program to encourage spending and consumption was not excludable from the recipient's gross income simply because it was paid pursuant to a program of a sovereign government when the program did not meet the requirements of the general welfare exclusion under U.S. tax law. *Foley v. Commissioner*, 87 T.C. 605 (1986).

In addition, the Internal Revenue Service has ruled that where a state provides a credit against a state income tax liability, the state tax credit is not includible in gross income but rather reduces the taxpayer's state income tax deduction for federal income tax purposes. Rev. Rul. 79-315, 1979-2 C.B. 27, Holding (3). Likewise, if the payments you refer to in your letter are merely reductions in _____ tax, they might not be includible in income for federal income tax purposes.

If you wish to obtain a private letter ruling from the IRS that applies the law to your particular facts and circumstances, you must submit a request for a private letter ruling under Rev. Proc. 2015-1, 2015-1 I.R.B. 1 and pay the appropriate user fee. You may obtain a copy of Rev. Proc. 2015-1 on the Service's website, irs.gov and www.irs.gov/pub/irs-irbs/irb15-01.pdf. The Schedule of User Fees is set forth in Appendix A of Rev. Proc. 2015-1. Generally, the fee for letter ruling requests is \$28,300. However, taxpayers whose gross income is less than \$1,000,000 and \$250,000 or more qualify for a reduced user fee of \$6,500. Taxpayers whose gross income is less than \$250,000 qualify for a reduced user fee of \$2,200.

You must submit with the request for a private letter ruling a copy of the relevant parts of all foreign laws, including statutes, regulations, administrative pronouncements, and any other relevant legal authority. The documents submitted must be in the official language of the country involved and must be copied from an official publication of the foreign government or another widely available and generally accepted publication. If English is not the official language of the country involved, the taxpayer must also submit a copy of an English language version of the relevant parts of all foreign laws. The translation must be: (i) from an official publication of the foreign government or another widely available, generally accepted publication; or (ii) a certified English translation submitted in accordance with paragraph (c) of section 7.01(2) of Rev. Proc. 2015-1 (copy attached).

If you have any questions, please contact _____ or me at () _____.

Sincerely,

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