



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

OFFICE OF THE CHIEF COUNSEL

September 18, 2015

Number: **2015-0032**  
Release Date: 12/24/2015

CC:ITA:4  
CONEX-127958-15

UIL: 131.00-00

The Honorable Herrera Beutler  
U.S. House of Representatives  
750 Anderson Street, Suite B  
Vancouver, WA 98661

Attention:

Dear Representative Herrera Beutler:

I am responding to your inquiry, dated August 13, 2015, on behalf of your constituents, \_\_\_\_\_, who care for their son under a program administered by the Washington State Department of Social Services (DSHS). Specifically, your constituents asked about the tax treatment of payments received for providing personal care under a state Medicaid program.

Your constituents referred to Notice 2014-7, 2014-4 I.R.B. 445, which concludes that certain Medicaid waiver payments received by an individual care provider are excludable from gross income under section 131 of the Internal Revenue Code (Code) as difficulty of care payments. The text of the notice is available on our website at [www.irs.gov/irb/2014-4\\_IRB/ar06.html](http://www.irs.gov/irb/2014-4_IRB/ar06.html).

The notice specifically addresses payments made under section 1915(c) of the Social Security Act (Act), relating to Home and Community-Based Services waivers, and does not specifically address the tax treatment of other state Medicaid programs. Your constituents indicate that the state of Washington will no longer pay for personal care services under section 1915(c) of the Act and will pay for personal care services under section 1915(k) of the Act, relating to the Community First Choice Option.

Whether the Internal Revenue Service (IRS) will treat payments received under a state program other than a section 1915(c) program (such as a section 1915(k) program) as difficulty of care payments excludable from gross income under section 131 of the Code depends on the nature of the payments and the purpose and design of the program. See Q&A1 at [www.irs.gov/Individuals/Certain-Medicaid-Waiver-Payments-May-Be-Excludable-From-Income](http://www.irs.gov/Individuals/Certain-Medicaid-Waiver-Payments-May-Be-Excludable-From-Income).

If the state of Washington would like the IRS to address whether payments made under its section 1915(k) program or another program are excludable from gross income under section 131, it may request a private letter ruling on its reporting and withholding obligations for payments under that program. Revenue Procedure 2015-1, 2015-1 I.R.B. 1 (and the first revenue procedure of each year) sets forth the procedures for a taxpayer to request a private letter ruling, including the payment of the appropriate user fee. If the state requests a private letter ruling, the current user fee is \$28,300.

I hope this information is helpful. If you have questions, please contact me or

(Identification Number ) at .

Sincerely,

Andrew Keyso  
Office of Associate Chief Counsel  
(Income Tax and Accounting)