

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Date:
December 05, 2023

TY:

Legend:

Parent =
Taxpayer =

Program =
State =
District =
A =
B =

Dear :

This ruling is in response to Taxpayer’s request for a letter ruling, dated , that (i) the incentive payments made under Program to or on behalf of eligible recipients are excludable from gross income of the recipients of the incentive payments under the general welfare exclusion and (ii) the Taxpayer does not have an information reporting requirement with respect to the incentive payments under section 6041(a) of the Internal Revenue Code.

FACTS

Parent was established by State to promote and protect public health, welfare, and ecological resources through effective reduction of air pollutants. Parent is the lead agency for climate change programs and oversees all air pollution control efforts in State to attain and maintain health-based air quality standards. State has A Districts. These Districts are separate and distinct from Parent. The Districts’ duties include

administering air quality improvement grant programs managed by Parent, including Program.

The State legislature enacted Program and provided funding to improve air quality in State, reduce greenhouse gas emissions, and provide benefits to lower income constituents. Because lower income individuals make up the majority of residents in those communities, they are disproportionately affected by poor air quality in State and have high barriers to access for clean transportation and mobility options. Studies show that lower income individuals exposed to high levels of air pollution have higher mortality rates than higher income individuals. State's research on the disproportionate burden of poor air quality on lower income individuals has underscored the need to reduce emissions in the communities where they live. Under Program, Districts provide incentives to lower income individuals to replace high polluting vehicles with zero or near zero emission replacements.

In order to qualify for Program, applicants must satisfy four criteria, which are the same for all administering Districts. First, the applicant must reside within the jurisdiction of the District administering Program. Second, the applicant must establish that his or her household income is equal to or less than B. Each District has its own process for verifying income; however, the income eligibility requirements are the same across the Districts. A District has the right to lower the income eligibility requirement but not increase it. Third, the vehicle being scrapped must meet certain criteria determined by the Districts. Finally, the applicant or a member of his or her household must not have previously received a Program incentive payment.

Under Program, Taxpayer provides incentives to lower income constituents to scrap their high polluting vehicles and replace them with zero- or near-zero emission replacements. Eligible applicants have a choice to purchase replacement vehicles or other mobility options (e.g., a voucher for public transit, car sharing, bike sharing, or an electric bicycle). Program recipients generally do not receive incentive payments directly. When a recipient chooses to purchase a vehicle, Taxpayer make the payments to participating automobile dealerships on behalf of the Program recipient. For other mobility options, Taxpayer may choose to pay the bike sellers, ride share providers or other third parties directly or they may issue a pre-paid card to the recipient. The pre-paid cards must be used for a mobility option.

LAW AND ANALYSIS

Section 61(a) of the Internal Revenue Code (Code) provides that, except as otherwise provided, gross income means all income from whatever source derived. Under section 61, Congress intends to tax all gains and undeniable accessions to wealth, clearly realized, over which taxpayers have complete dominion. *Commissioner v. Glenshaw Glass Co.*, 348 U.S. 426 (1955), 1955-1 C.B. 207.

The Service has historically concluded that payments to individuals by governmental units under legislatively provided social benefit programs for the promotion of general welfare are not included in the recipient's income ("general welfare exclusion"). Rev. Rul. 76-395, 1976-2 C.B. 16 (payments made to low-income individuals primarily in order to subsidize home improvements necessary to correct building code violations and thereby provide safe and decent housing were excluded from the recipients' income); Rev. Rul. 74-205, 1974-1 C.B. 21 (replacement housing payments made to displaced homeowners pursuant to the Housing and Urban Development Act of 1968 were excluded from recipients' incomes). To qualify under the general welfare exclusion, payments must: (i) be made from a governmental fund; (ii) be for the promotion of the general welfare (i.e., generally based on individual or family need); and (iii) not represent compensation for services. Rev. Rul. 2005-46, 2005-2 C.B. 120; Rev. Rul. 76-395, 1976-2 C.B. 16; Rev. Rul. 75-246, 1975-1 C.B. 24.

Section 6041(a) provides, in part, that all persons engaged in a trade or business and making payment in the course of such trade or business to another person of rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, and income of \$600 or more in any taxable year, shall render a true and accurate return to the Secretary. Under section 6041(d), the person required to make a return is also required to furnish an information statement to the payee.

Section 1.6041-1(b)(1) of the Income Tax Regulations clarifies that the term "persons engaged in a trade or business" in section 6041 includes not only organizations engaged for gain or profit, but also organizations the activities of which are not for the purpose of gain or profit, for example, the organizations referred to in paragraph (i) of section 1.6041-1. Section 1.6041-1(i) provides, in part, that information returns on Forms 1096, Annual Summary and Transmittal of U.S. Information Returns, and 1099 of payments made by a state, or political subdivision, agency or instrumentality thereof, shall be made by the officer or employee of such state or political subdivision, agency or instrumentality thereof, having control of such payments or by the officer or employee appropriately designated to make such returns.

Section 1.6041-1(f)(1) provides that the section 6041 information reporting requirement applies to payments that are "includible in the gross income of the payee." Section 1.6041-1(a) of the Regulations provides that the section 6041 information reporting requirement applies to payments made during the calendar year to another person of "fixed or determinable income." Section 1.6041-1(c) provides that income is "fixed" when paid in amounts definitely predetermined and "determinable" whenever there is a basis for calculating the amount to be paid.

Because Taxpayer makes the incentive payments under a governmental program to help needy recipients, the Program incentive payments are excluded from gross income under the general welfare exclusion.

CONCLUSION

Based on the information and representatives provided, we conclude that (i) the incentive payments made under Program to or on behalf of eligible recipients within the Taxpayer's jurisdiction are excluded from each recipient's gross income under the general welfare exclusion and (ii) the Taxpayer does not have an information reporting requirement with respect to the incentive payments under section 6041(a) of the Code.

Except as expressly provided herein, no opinion is expressed or implied concerning the federal income tax consequences of any aspect of any transaction or item discussed or referenced in this ruling.

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,

Shareen Pflanz
Chief, Branch 8
Office of Associate Chief Counsel
(Income Tax and Accounting)

cc: