



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

OFFICE OF THE CHIEF COUNSEL

January 16, 2024

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The Honorable Brian Schatz
United States Senate
Washington, D.C. 20510

Attention:

Dear Senator Schatz:

I am responding to your November 13, 2023, inquiry on behalf of your constituent . They asked about the tax treatment of the Program in response to the I apologize for the delay.

It is our understanding that conceived of the Program after noticing how residents were incurring significant costs in . We understand that program administrators established the Program with funds from charitable organizations. These funds are to provide monthly payments to reimburse or help defray expenses for households who

Section 61 of the Internal Revenue Code (Code) provides that, unless otherwise excluded, gross income means all income from whatever source derived. If the payments are includible in the gross income, the organization responsible for

administering the Program may be required to file information returns reporting the payments as taxable income.

Two exclusions from gross income may apply to the payments the Program makes to households

as further described below. Absent application of an exclusion, the payments would appear to represent compensation and may constitute net earnings from self-employment.

Gift Exclusion

Section 102(a) of the Code provides an exclusion from gross income for gifts. In *Duberstein v. Commissioner*, 363 U.S. 278, 285 (1960), the Supreme Court explained that a gift proceeds from a “detached and disinterested generosity” and is made “out of affection, respect, admiration, charity or like impulses.” By contrast, payments that proceed primarily from “the constraining force of any moral or legal duty” are not gifts. *Id.*

If the payments from the Program are from a detached and disinterested generosity to help

, the payments may be excludable from the recipients' gross income as gifts under section 102(a) .

Inclusion in Gross Income (Absent an Exclusion) and Information Reporting

In the absence of an exclusion, the payments would be included in the taxable gross income under section 61 of the Code and reportable by the Program's administrator under section 6041. The Program's administrator would be required to issue Form 1099-MISC, Miscellaneous Income, reporting the payments to , but only the extent they are at least \$600 in a single calendar year.

Net Earnings from Self-Employment

If the Program would like to seek a private letter ruling, it can submit a request by following the instructions in Section 7 of Revenue Procedure 2024-1. Before submitting a private letter ruling request, the Program may want to ask for a pre-submission conference as based on Section 10.07 of Revenue Procedure 2024-1. I'm enclosing a copy of the Revenue Procedure with this letter for your reference.

I hope this information is helpful. I'm sending a similar response to your colleagues, . If you have any questions, please call or at .

Sincerely,

Shareen S. Pflanz
Branch Chief
Office of Associate Chief Counsel
(Income Tax & Accounting)

Enclosure