



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

OFFICE OF THE CHIEF COUNSEL

August 17, 2015

CC:ITA:4
CONEX-125638-15

Number: **2015-0026**
Release Date: 9/25/2015

UIL: 131.00-00

The Honorable Dave Loebsack
Member, U.S. House of Representatives
125 South Dubuque Street
Iowa City, IA 52240

Attention:

Dear Representative Loebsack:

I am responding to your letter, dated July 28, 2015, written on behalf of your constituent, . She contacted your office about the application of Notice 2014-7, concerning certain Medicaid waiver payments, and its impact on her federal income tax returns for 2011 and later years.

filed an amended 2011 tax return to exclude from income payments described in Notice 2014-7. Notice 2014-7 provides that certain Medicaid waiver payments are excludable from the gross income of an individual care provider as difficulty of care payments under section 131 of the Internal Revenue Code. The text of the notice is available at www.irs.gov/irb/2014-4_IRB/ar06.html. Questions and answers on the notice are available at www.irs.gov/Individuals/Certain-Medicaid-Waiver-Payments-May-Be-Excludable-From-Income.

2011 amended return shows negative adjusted gross income. She asks how this negative amount would affect her tax liability for other tax years. We note that her original and amended returns show an IRA deduction of the maximum amount for the year that reduces her adjusted gross income.

A taxpayer's IRA deduction from gross income may be limited by the amount of the taxpayer's taxable compensation. Thus, it appears that because reduced her taxable compensation by payments described in the notice, she should also have reduced her IRA deduction from gross income. If she had reduced her IRA deduction, her amended return would have shown a positive amount for adjusted gross income.

Further, it appears that she has made excess contributions to her IRA for 2011, for which she may have an ongoing excise tax liability. See Publication 590-A, *Contributions to Individual Retirement Arrangements (IRAs)*, formerly part of Publication 590, *Individual Retirement Arrangements (IRAs)*. Forms and publications for prior years are available on the IRS's website, www.irs.gov.

Notice 2014-7 allows a taxpayer to amend a return for a tax year before 2014 to exclude payments described in the notice, but a taxpayer may choose not to amend an earlier tax year's return to exclude those payments. If a taxpayer chooses to amend an earlier tax year's return to claim a refund, the amended return must be filed within certain time limits (generally, 3 years from the time the original return was filed or 2 years from the date the tax was paid, whichever period ends later).

In deciding whether to amend her 2012 and 2013 federal income tax returns to exclude from income payments described in the notice, _____ should consider whether she must reduce an IRA deduction from gross income and whether excluding those payments from taxable compensation would result in excess contributions to her IRA for the year. Thus, for example, she may choose not to amend her 2012 and 2013 tax returns to exclude payments described in the notice from income, because of the effect the exclusion would have on her allowable IRA contributions and her IRA deduction, as well as her tax liability.

I hope this information is helpful. If you have any questions, please contact me or _____ (Identification Number _____) at _____.

Sincerely,

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