

Internal Revenue Service

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LEGEND

- Taxpayer =
- Events =
- Rebate Program =
- Statute =
- B =
- C =
- D =
- E =
- F =
- G =
- p =
- r =
- s =
- t =
- v =
- w =
- x =
- y =
- z =

Dear :

This is in reply to Taxpayer's request for a ruling that it is not subject to an information reporting obligation under § 6041 of the Internal Revenue Code for reimbursing property owners for installation of B located on their property under the Rebate Program because the reimbursements will not result in gross income to the owners under § 61.

FACTS

Taxpayer is a political subdivision of a state. Taxpayer owns and operates a D in which w and x share the same y and are together delivered to z. During Events, x can overwhelm the D, which causes G and leads to E. A recent increase in Events has also resulted in a significant increase in F.

Therefore, Taxpayer created the Rebate Program, which requires installation of B on certain private properties. B are v that can be installed inside t and allow s but block r. Taxpayer established the Rebate Program for the governmental purposes of enabling it to avoid large expenditures for separating its C and paying future F. Taxpayer determines which properties require the installation of B based on furthering these governmental purposes and only the owners of those properties can participate in the Rebate Program.

The Rebate Program will reimburse property owners for up to generally \$p of the cost of installing B on their property. Under the Rebate Program, Taxpayer requires property owners to enter into contracts for installation of B with a Taxpayer-approved contractor under which City only pays for installations that provide the needed public benefit. Pursuant to Statute, as a condition of connecting to Taxpayer's C, property owners have the duty to repair or reconstruct nonconforming facilities (including B) to make them comply with applicable law. Thus, Taxpayer has the authority to inspect B on private property to verify that property owners comply with Taxpayer's requirements. Property owners who are required to have B installed are not required to participate in the Rebate Program. Instead, Taxpayer may install B in Taxpayer's right-of-way adjacent to an owner's property under Taxpayer's public works program.

LAW AND ANALYSIS

Section 6041 requires all persons engaged in a trade or business who, in the course of that trade or business, pay another person "fixed and determinable gains, profits, and income" aggregating \$600 or more in any taxable year to (1) file an information return for each calendar year in which they make such payments and (2) furnish a copy of the information return to that person. See § 6041(a) and (d) and § 1.6041-1(a)(1) and (b) of the Income Tax Regulations. Although the word "income" as used in § 6041 is not defined by statute or regulation, its appearance in the phrase "fixed or determinable gains, profits, and income" indicates that it refers to "gross income," not the gross amount paid. Thus, § 6041 requires a payor to report only those payments aggregating \$600 or more that are includible in the recipient's gross income.

Under § 61(a), gross income means all income from whatever source derived. Gross income extends to undeniable accessions to wealth, clearly realized, over which the

taxpayers have complete dominion. *Commissioner v. Glenshaw Glass Co.*, 348 U.S. 426 (1955).

The Rebate Program is for Taxpayer's benefit. For example, the Rebate Program will reduce Taxpayer's expenses for future F and enable Taxpayer to avoid large capital expenditures for a complete separation of its C. Taxpayer represents that the contracts for installation only pay for installations that provide the needed public benefit. Further, Taxpayer requires installation of B on or adjacent to designated properties through either the Rebate Program or Taxpayer's public works program. Thus, Taxpayer is undertaking the Rebate Program for the governmental purposes of avoiding large expenses for future F and a complete separation of its C, without regard to whether B benefits an owner's property. In addition, B may or may not benefit an owner's property.

Under these facts, the installation of B under the Rebate Program does not give rise to income to the property owners under § 61. Because there is no income under § 61, Taxpayer does not have an information reporting obligation under § 6041 with respect to reimbursements to property owners for the installation of B located on their property under the Rebate Program.

CONCLUSION

Based strictly on the information submitted and representations made, we conclude that Taxpayer does not have an information reporting obligation under § 6041 with respect to reimbursements to property owners for installation of B located on their property under the Rebate Program because the installation will not result in gross income to the property owners under § 61.

This letter ruling is directed only to the taxpayer requesting it, and does not express or imply an opinion on the federal tax consequences of any aspect of this transaction other than that expressed in the preceding sentence. Section 6110(k)(3) provides that this letter ruling may not be used or cited as precedent.

The rulings contained in this letter are based upon information and representations that Taxpayer submitted under penalties of perjury. 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.

Taxpayer must attach to any income tax return to which it is relevant a copy of this letter or, if it files its returns electronically, include a statement providing the date and control number of this letter ruling.

In accordance with the Power of Attorney on file with this office, we are sending a copy of this letter to your authorized representative.

Sincerely,

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