

**Internal Revenue Service**

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Person To Contact:  
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Telephone Number:

Refer Reply To:  
CC:ITA:B05  
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Date:  
July 28, 2017

LEGEND:

Agency =

State =

Program =

Act =

Dear :

This letter responds to your ruling request submitted on behalf of Agency by letter dated February 2, 2017. You requested a ruling on whether certain payments Agency will make under its Program to allow individuals with intellectual or developmental disabilities to receive services and support at home or at a community-based facility are excludable from the individual's gross income under the general welfare doctrine. Further you asked whether the Agency is required to file information returns for payments made under the Program described below.

FACTS

The Agency is a state agency established in the executive branch of the government of State. The purpose of the Program is to support the continued residence of individuals with an intellectual or a developmental disability, in their own homes or their families' homes, and to prevent placement in an institution. Under Act, Medicaid Home and Community Based Services waivers ("Medicaid waiver") for individuals with intellectual

and developmental disabilities provide opportunities, for individuals who otherwise would require care in an institution, to receive services and support at home or in another community-based setting. Funds available to individuals and families through the Program serve a similar purpose; supporting the individuals so that they can avoid institutional placement and continue living in their own or their families' homes while awaiting a Medicaid waiver.

Funds for the Program are appropriated by State's legislative body and implemented by the Agency. Based on funding availability, the Agency establishes an annual individual financial support limit, which is the maximum amount of the Agency disbursements an individual can receive from the Program each year. Disbursement may be provided in varying amounts up to that limit. Individuals and family members may submit applications for the Program during the announced funding period. Applications are considered by the Agency on a first-come, first-served basis until the annual allocation appropriated to the Program by the State for the applicable year has been expended.

The disbursements are to pay for services and support, such as respite, transportation, behavioral consultation, and behavior management; assistive technology and home modifications that directly support the individual; emergency assistance with rent or utilities; dental or medical expenses of the individual; emergency assistance and crisis support; and other direct support services needed to support continued residence of the individual in the community and reduce risk of institutionalization.

Eligibility for the Program is established by demonstrating (1) that an individual is on the statewide Medicaid waiver wait list; (2) other public funding sources were explored but are not available to purchase the requested services or items; and (3) the individual is living in his or her own home or a family home. Eligibility for the statewide Medicaid waiver wait list is established by demonstrating (1) that the individual has an intellectual or developmental disability, and (2) that the individual is at risk of being placed in an institutional intermediate care facility.

Individuals and families seek assistance from the Program after exhausting other sources of public support. They are generally informed of the Program upon placement on the Medicaid waiver wait list. The individuals and families seek assistance to pay for the additional costs for an individual with intellectual or developmental disability beyond the normal living expenses, which add financial stress on the individual or their family. Thus, the Program helps reduce the economic hardship inherent in assisting these individuals, and their family members, to continue living at home.

Once the Agency approves a request for funds, the funds are distributed by the Program directly to the individual or family member, or on behalf of the individual. All Program funds must be exclusively used for approved services and items. There is no expectation or requirement that the individual or the family member perform any services as a condition for receiving the payments.

The Agency conducts post-funding reviews to verify that the funds are used in the manner and for the services and items initially approved. Funds inappropriately used are subject to recovery, and future funding requests may be denied.

### LAW AND ANALYSIS

Under § 61(a) of the Internal Revenue Code, except as otherwise provided in subtitle A, gross income includes all income from whatever source derived. The Internal Revenue Service has consistently concluded, however, that certain payments to individuals by governmental units under legislatively provided social benefit programs for the promotion of the general welfare of the public (*i.e.*, based on need) are not includible in a recipient's gross income (general welfare exclusion).

To qualify under the general welfare exclusion, payments must (i) be made from a governmental fund, (ii) be for the promotion of general welfare (*i.e.*, generally based on individual or family needs such as housing, education, and basic sustenance expenses), and (iii) not represent compensation for services. *See, e.g.*, Rev. Rul. 57-102, 1957-1 C.B. 26, (general welfare exclusion applies to payments to the blind); Rev. Rul. 78-46, 1978- 1 C.B. 22 (general welfare exclusion applies to debt forgiveness for public safety officers killed in the line of duty); Rev. Rul. 75-246, 1975-1 C.B. 24 (general welfare exclusion applies to amounts paid in connection with job training for economically disadvantaged); and Rev. Rul. 63-136, 1963-2 C.B. 19 (general welfare exclusion applies to payments made under government grant for retraining individuals for better job skills). *Compare* Rev. Rul. 76-131, 1971-1 C.B. 16 (general welfare exclusion does not apply to bonuses paid by state to long-time residents as not based on need) *with* Rev. Rul. 98-19, 1998-1 C.B. 840 (general welfare exclusion applies to relocation payments made by city to residents to move from flood-damaged residence to another residence).

Section 6041 provides in part that “[a]ll persons engaged in a trade or business and making payment in the course of such trade or business” report payments 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. Section 1.6041-1(a) of the Income Tax Regulations refers to such payments as payments “of fixed or determinable income.” Section 1.6041-1(b)(1) clarifies that the term “persons engaged in a trade or business” in § 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. This would include a State and any agency or instrumentality of a State. *See* § 1.6041-1(i).

The term “income” as used in § 6041 and the regulations thereunder is not defined by statute or regulation. However, comparison to the other items listed in § 6041, and in particular the phrase “fixed or determinable gains, profits, and income,” indicates that

“income” refers to gross income, and not merely the gross amount paid. Section 1.6041-1(f)(1) reinforces this conclusion by stating that “the amount to be reported as paid to a payee is the amount includible in the gross income of the payee.” Thus, § 6041 only requires reporting of payments in excess of \$600 which are includible in the recipient’s gross income.

#### CONCLUSION

Based on the facts submitted, we conclude that the payments distributed from the Program to or on behalf of the individual or the family member are for the promotion of general welfare and are therefore excludable from the individual’s gross income. Accordingly, the Agency is not required by § 6041 to file information returns reporting payments made by the Program.

Except as expressly provided herein, no opinion is expressed or implied concerning the federal tax consequences of any aspect of these transactions other than those expressed above.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

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 S. Pflanz  
Senior Technician Reviewer, Branch 5  
Office of Associate Chief Counsel  
(Income Tax and Accounting)