

Part I

Section 51—Amount of credit

26 CFR 1.51-1: Amount of credit

Rev. Rul. 2003-112

ISSUE

Does an individual whose family receives assistance for the requisite period meet the requirements to be certified as a qualified IV-A recipient under section 51(d)(2)(A) of the Internal Revenue Code (Code) if the individual is included on the grant (and receives assistance) for less than the specified period?

FACTS

Situation 1. H and W, a married couple, lived together with their children until March 1, 2002, when H moved away and established a new residence for himself. On March 25, 2002, W applied for Temporary Assistance for Needy Families (TANF) payments for herself and her children, and TANF payments began on April 1, 2002. On January 1, 2003, H returned to live with W and their children. H obtained employment on January 10, 2003 (the hiring date). H was not included on the grant at any time prior to the hiring date.

Situation 2. The facts are the same as in Situation 1, except that H was included on W's TANF grant effective February 1, 2003, and did not obtain employment until February 10, 2003 (the hiring date).

Situation 3. H and W, a married couple, lived together with their children. On August 25, 2001, H and W applied for TANF payments for themselves and their children, and TANF payments began on September 1, 2001. In November 2001, H moved away and established a new residence for himself. H was removed from the grant effective December 1, 2001. W and the children continued to receive TANF payments through December 2002. H obtained employment on August 1, 2002 (the hiring date).

Situation 4. H and W, a married couple, lived together with their children, S and D. On January 10, 2002, H and W applied for TANF payments for themselves, S, and D. TANF payments began on February 1, 2002. S's 18th birthday was on March 15, 2002. S was removed from the grant effective April 1, 2002. H, W, and D continued to receive TANF payments through December 2002. S obtained employment on December 15, 2002 (the hiring date).

In each of the situations, the state makes monthly TANF payments prospectively on the first day of the month.

LAW AND ANALYSIS

Under section 51 of the Code, an employer who hires an individual belonging to one of nine targeted groups may be entitled to a credit equal to 40 percent of qualified first-year wages for the taxable year.

Section 51(d) of the Code lists the targeted groups and defines each of them. An individual who is a qualified IV-A recipient is a member of a targeted group. Section 51(d)(2)(A) defines a “qualified IV-A recipient” as an individual who is certified by the designated local agency (state employment security agency) as being a member of a family receiving assistance under a IV-A program for any 9 months during the 18-month period ending on the hiring date. Section 51(d)(2)(B) defines a “IV-A program” as any program providing assistance under a state program funded under part A of title IV of the Social Security Act (now Temporary Assistance for Needy Families Block Grants for States; formerly Aid for Families with Dependent Children) and any successor of such program.

Before the amendment of section 51(d) by the Small Business Job Protection Act of 1996, the corresponding targeted group was limited to individuals who were certified as “being eligible for financial assistance under part A of title IV of the Social Security Act and as having continually received such financial assistance during the 90-day period which immediately precedes the [hiring date]. . . .” Section 51(d)(9) as in effect for workers hired before October 1, 1996.

In its explanation of the amendment of section 51(d) by the Small Business Job Protection Act of 1996, the Senate Finance Committee described a qualified IV-A recipient as follows:

An eligible recipient is an individual certified by the designated local employment agency as being a member of a family receiving benefits under AFDC or its successor program for a period of at least nine months part of which is during the nine-month period ending on the hiring date. For these purposes, each member of the family receiving assistance is treated as receiving such assistance and therefore is treated as an eligible recipient.

S. Rep. No. 104-291, 104th Cong., 2d Sess. 33-34 (1996).

The language above does not reflect the amendment of section 51(d) by the Taxpayer Relief Act of 1997, Pub. L. No. 105-34, § 603(b)(1) (1997). The Taxpayer Relief Act replaced the requirement that the family receive assistance for a period of at least nine months part of which is during the nine-month period ending on the hiring date with the

current requirement that the family receive assistance for “any nine months during the 18-month period ending on the hiring date.”

The 1996 amendment of section 51(d) and the legislative history evidence a clear intent to eliminate the requirement that a IV-A recipient receive assistance for the entire period specified. The corresponding targeted group before the 1996 amendment was explicitly limited to individuals who continually received assistance during a specified period. There is no such limitation in the definition of a qualified IV-A recipient; instead, a qualified IV-A recipient is required only to be a member of a family that receives assistance during the specified period.

Neither section 51(d) nor the legislative history specifies the persons who are members of the family receiving assistance. In the absence of other guidance, it is appropriate to look to the TANF rules to determine who is a family member. Thus, if an individual receives assistance under TANF as a member of a family, even if only for a day, the individual will be treated as a member of the family for purposes of section 51(d)(2)(A). Conversely, if the individual never receives assistance under TANF as a member of a family, the individual will not be treated as a member of the family for such purposes.

Accordingly, if the family receives assistance for the required period, and the individual is included on the grant for some portion of the period, the individual is a qualified IV-A recipient.

In Situation 1, H was not included on the family's TANF grant for any month and is therefore not a qualified IV-A recipient.

In Situation 2, the family received assistance for at least 9 months during the 18-month period ending on the hiring date and H was included on the grant for part of the period during which the family received assistance. Accordingly, H is a qualified IV-A recipient.

In Situation 3, H's hiring date was August 1, 2002. The 18-month period ending on the hiring date began February 2, 2001. The family received assistance for at least 9 months during the 18-month period ending on the hiring date, and H was included on the grant for part of the period during which the family received assistance. Thus, H is a qualified IV-A recipient.

In Situation 4, the family received assistance for at least 9 months during the 18-month period ending on the hiring date and S was included on the grant for part of the period during which the family received assistance. Accordingly, S is a qualified IV-A recipient.

HOLDING

An individual whose family receives assistance for the requisite period meets the requirements to be certified as a qualified IV-A recipient under section 51(d)(2)(A) of the

Code if the individual is included on the grant (and thus receives assistance) for some portion of the specified period.

The principles of this revenue ruling also apply for purposes of determining whether an individual meets the corresponding family membership requirements to be certified as a qualified veteran under section 51(d)(3)(A), a qualified food stamp recipient under section 51(d)(8)(A), or a long-term family assistance recipient under section 51A(c)(1)(A).

DRAFTING INFORMATION

The principal author of this revenue ruling is Shoshanna Tanner of the Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). For further information regarding this revenue ruling, contact Ms. Tanner at (202) 622-6080 (not a toll-free call).