

Internal Revenue Service

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Department of the Treasury

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September 13, 2004

Legend:

Taxpayer =

State =

Act =

A =

Dear

This letter is in response to your request for a ruling on the tax treatment of certain reimbursements made by the Taxpayer to family members of developmentally disabled persons. Specifically, you have asked whether the reimbursements are taxable income to the recipients, and whether the Taxpayer must file information returns with respect to the reimbursements.

The Taxpayer is a non-profit corporation organized under the Act to provide services to developmentally disabled persons. The Taxpayer is exempt from federal income tax as an organization described in § 501(c)(3) of the Internal Revenue Code.

The Act is intended to prevent or minimize the institutionalization of developmentally disabled persons and their dislocation from family and community. Its goal is to enable such persons to lead more independent and productive lives within the community. The Act defines "developmental disability" to include mental retardation, cerebral palsy, epilepsy, autism, and disabling conditions that require similar treatment.

A is the agency of State that has general jurisdiction over the execution of the laws relating to the care, custody, and treatment of developmentally disabled persons. However, the duty of providing such persons with access to the facilities and services best suited to them throughout their lifetime is delegated to regional centers operated by private non-profit community agencies under contract to A. The Taxpayer, a regional center, provides these services to qualified individuals within a specified region of State. The services include locating persons with developmental disabilities, assessing their needs, and providing individual services to meet those needs.

Normally, the Taxpayer purchases certain items needed by developmentally disabled persons such as day care expenses, diapers, nutritional supplies, and other disability related expenses. However, family members of disabled persons sometimes purchase such items directly from service providers and then obtain reimbursement from the Taxpayer for the cost of such items upon presentation of proof of purchase. The amount of reimbursement is based on a sliding scale in accordance with the family's economic need.

Section 61(a) of the Internal Revenue Code provides the general rule that, except as otherwise provided by law, gross income includes all income from whatever source derived.

However, the Internal Revenue Service has held that payments under legislatively provided social benefit programs for the promotion of general welfare are not includible in an individual's gross income (the general welfare exception). In determining whether the general welfare exception applies to such payments, the Internal Revenue Service generally requires that the payments (1) be made from a governmental general welfare fund; (2) be for the promotion of the general welfare (i.e., on the basis of need rather than to all residents without regard to, for example, financial status, health, educational background, or employment status) and (3) not be made with respect to services rendered by the recipient. See, for example, Rev. Rul. 74-74, 1974-1 C.B. 18, which holds that awards made by a state's Crime Victims Compensation Board to victims of crime or their surviving spouses or dependents are not includible in the gross income of the recipients.

Section 6041(a) provides that, generally, all persons engaged in a trade or business who pay another person \$600 or more of fixed or determinable income in the course of that trade or business must file an information return setting forth the amount of the payment and the recipient of that payment.

Section 1.6041-1(b) of the Income Tax Regulations states that the term "all persons engaged in a trade or business" includes nonprofit organizations.

Here, the Taxpayer implements the Act by reimbursing the family members of developmentally disabled persons for certain expenses they incurred in caring for such persons. The payments are made from a governmental welfare fund, are based on

economic need, and are not for services rendered. Therefore, the payments are not includible in the recipients' gross incomes, and the Taxpayer is not required by § 6041 to file information returns for such payments.

A copy of this letter must be attached to any income tax return to which it is relevant. We enclose a copy of the letter for this purpose. Also enclosed is a copy of the letter showing the deletions proposed to be made when it is disclosed under § 6110.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representatives.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any item discussed or referenced in this letter. This letter ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

Sincerely,

Robert A. Berkovsky
Branch Chief
Office of Associate Chief Counsel
(Income Tax and Accounting)

Enclosures