

“(1) benefits provided by an Indian tribe or tribal organization that are not within the scope of this section, and

“(2) benefits provided prior to the date of the enactment of this Act [Mar. 23, 2010].”

§ 139E. Indian general welfare benefits

(a) In general

Gross income does not include the value of any Indian general welfare benefit.

(b) Indian general welfare benefit

For purposes of this section, the term “Indian general welfare benefit” includes any payment made or services provided to or on behalf of a member of an Indian tribe (or any spouse or dependent of such a member) pursuant to an Indian tribal government program, but only if—

(1) the program is administered under specified guidelines and does not discriminate in favor of members of the governing body of the tribe, and

(2) the benefits provided under such program—

(A) are available to any tribal member who meets such guidelines,

(B) are for the promotion of general welfare,

(C) are not lavish or extravagant, and

(D) are not compensation for services.

(c) Definitions and special rules

For purposes of this section—

(1) Indian tribal government

For purposes of this section, the term “Indian tribal government” includes any agencies or instrumentalities of an Indian tribal government and any Alaska Native regional or village corporation, as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601,¹ et seq.).

(2) Dependent

The term “dependent” has the meaning given such term by section 152, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B).

(3) Lavish or extravagant

The Secretary shall, in consultation with the Tribal Advisory Committee (as established under section 3(a) of the Tribal General Welfare Exclusion Act of 2013),² establish guidelines for what constitutes lavish or extravagant benefits with respect to Indian tribal government programs.

(4) Establishment of tribal government program

A program shall not fail to be treated as an Indian tribal government program solely by reason of the program being established by tribal custom or government practice.

(5) Ceremonial activities

Any items of cultural significance, reimbursement of costs, or cash honorarium for participation in cultural or ceremonial activities for the transmission of tribal culture shall not be treated as compensation for services.

¹ So in original. The comma probably should not appear.

² See References in Text note below.

(Added Pub. L. 113-168, §2(a), Sept. 26, 2014, 128 Stat. 1883.)

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in subsec. (c)(1), is Pub. L. 92-203, Dec. 18, 1971, 85 Stat. 688, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

Section 3(a) of the Tribal General Welfare Exclusion Act of 2013, referred to in subsec. (c)(3), probably should be a reference to section 3(a) of the Tribal General Welfare Exclusion Act of 2014, Pub. L. 113-168, §3(a), Sept. 26, 2014, 128 Stat. 1884, which is set out as a note under this section. There is no Tribal General Welfare Exclusion Act of 2013.

EFFECTIVE DATE

Pub. L. 113-168, §2(d), Sept. 26, 2014, 128 Stat. 1884, provided that:

“(1) IN GENERAL.—The amendments made by this section [enacting this section] shall apply to taxable years for which the period of limitation on refund or credit under section 6511 of the Internal Revenue Code of 1986 has not expired.

“(2) ONE-YEAR WAIVER OF STATUTE OF LIMITATIONS.—If the period of limitation on a credit or refund resulting from the amendments made by subsection (a) [enacting this section] expires before the end of the 1-year period beginning on the date of the enactment of this Act [Sept. 26, 2014], refund or credit of such overpayment (to the extent attributable to such amendments) may, nevertheless, be made or allowed if claim therefor is filed before the close of such 1-year period.”

STATUTORY CONSTRUCTION

Pub. L. 113-168, §2(c), Sept. 26, 2014, 128 Stat. 1884, provided that: “Ambiguities in section 139E of such Code [Internal Revenue Code of 1986], as added by this Act, shall be resolved in favor of Indian tribal governments and deference shall be given to Indian tribal governments for the programs administered and authorized by the tribe to benefit the general welfare of the tribal community.”

TRIBAL ADVISORY COMMITTEE

Pub. L. 113-168, §3, Sept. 26, 2014, 128 Stat. 1884, provided that:

“(a) ESTABLISHMENT.—The Secretary of the Treasury shall establish a Tribal Advisory Committee (hereinafter in this subsection [probably should be “section”] referred to as the ‘Committee’).

“(b) DUTIES.—

“(1) IMPLEMENTATION.—The Committee shall advise the Secretary on matters relating to the taxation of Indians.

“(2) EDUCATION AND TRAINING.—The Secretary shall, in consultation with the Committee, establish and require—

“(A) training and education for internal revenue field agents who administer and enforce internal revenue laws with respect to Indian tribes on Federal Indian law and the Federal Government’s unique legal treaty and trust relationship with Indian tribal governments, and

“(B) training of such internal revenue field agents, and provision of training and technical assistance to tribal financial officers, about implementation of this Act [enacting this section and provisions set out as notes under this section] and the amendments made thereby.

“(c) MEMBERSHIP.—

“(1) IN GENERAL.—The Committee shall be composed of 7 members appointed as follows:

“(A) Three members appointed by the Secretary of the Treasury.

“(B) One member appointed by the Chairman, and one member appointed by the Ranking Member, of

the Committee on Ways and Means of the House of Representatives.

“(C) One member appointed by the Chairman, and one member appointed by the Ranking Member, of the Committee on Finance of the Senate.

“(2) TERM.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), each member’s term shall be 4 years.

“(B) INITIAL STAGGERING.—The first appointments made by the Secretary under paragraph (1)(A) shall be for a term of 2 years.”

OTHER RELIEF FOR INDIAN TRIBES

Pub. L. 113–168, §4, Sept. 26, 2014, 128 Stat. 1885, provided that:

“(a) TEMPORARY SUSPENSION OF EXAMINATIONS.—The Secretary of the Treasury shall suspend all audits and examinations of Indian tribal governments and members of Indian tribes (or any spouse or dependent of such a member), to the extent such an audit or examination relates to the exclusion of a payment or benefit from an Indian tribal government under the general welfare exclusion, until the education and training prescribed by section 3(b)(2) of this Act [section 3(b)(2) of Pub. L. 113–168, set out as a note above] is completed. The running of any period of limitations under section 6501 of the Internal Revenue Code of 1986 with respect to Indian tribal governments and members of Indian tribes shall be suspended during the period during which audits and examinations are suspended under the preceding sentence.

“(b) WAIVER OF PENALTIES AND INTEREST.—The Secretary of the Treasury may waive any interest and penalties imposed under such Code on any Indian tribal government or member of an Indian tribe (or any spouse or dependent of such a member) to the extent such interest and penalties relate to excluding a payment or benefit from gross income under the general welfare exclusion.

“(c) DEFINITIONS.—For purposes of this subsection [probably should be “section”]—

“(1) INDIAN TRIBAL GOVERNMENT.—The term ‘Indian tribal government’ shall have the meaning given such term by section 139E of such Code, as added by this Act.

“(2) INDIAN TRIBE.—The term ‘Indian tribe’ shall have the meaning given such term by section 45A(c)(6) of such Code.”

§ 140. Cross references to other Acts

(a) For exemption of—

(1) Allowances and expenditures to meet losses sustained by persons serving the United States abroad, due to appreciation of foreign currencies, see section 5943 of title 5, United States Code.

(2) Amounts credited to the Maritime Administration under section 9(b)(6) of the Merchant Ship Sales Act of 1946, see section 9(c)(1) of that Act (50 U.S.C. App. 1742).¹

(3) Benefits under laws administered by the Veterans’ Administration, see section 5301 of title 38, United States Code.

(4) Earnings of ship contractors deposited in special reserve funds, see section 53507 of title 46, United States Code.

(5) Income derived from Federal Reserve banks, including capital stock and surplus, see section 7 of the Federal Reserve Act (12 U.S.C. 531).

(6) Special pensions of persons on Army and Navy medal of honor roll, see 38 U.S.C. 1562(a)–(c).

(b) For extension of military income tax-exemption benefits to commissioned officers of Public Health Service in certain circumstances, see section 212 of the Public Health Service Act (42 U.S.C. 213).

(Aug. 16, 1954, ch. 736, 68A Stat. 39, §121; Aug. 1, 1956, ch. 837, title V, §501(t), 70 Stat. 885; Pub. L.

85–56, title XXII, §2201(25), June 17, 1957, 71 Stat. 160; Pub. L. 85–857, §13(t), Sept. 2, 1958, 72 Stat. 1266; renumbered §122, Pub. L. 88–272, title II, §206(a), Feb. 26, 1964, 78 Stat. 38; renumbered §123, Pub. L. 89–365, §1(a)(1), Mar. 8, 1966, 80 Stat. 32; renumbered §124, Pub. L. 91–172, title IX, §901(a), Dec. 30, 1969, 83 Stat. 709; amended Pub. L. 94–455, title XIX, §1901(a)(21), Oct. 4, 1976, 90 Stat. 1766; renumbered §125, Pub. L. 95–618, title II, §242(a), Nov. 9, 1978, 92 Stat. 3193; renumbered §126, renumbered §127, renumbered §128, Pub. L. 95–600, title I, §§134(a), 164(a), title V, 543(a), Nov. 6, 1978, 92 Stat. 2783, 2811, 2888; amended Pub. L. 96–222, title I, §101(a)(3), Apr. 1, 1980, 94 Stat. 195; Pub. L. 96–589, §6(i)(1), Dec. 24, 1980, 94 Stat. 3410; renumbered §129, renumbered §130, Pub. L. 97–34, title I, §124(e)(1), title III, §301(a), Aug. 13, 1981, 95 Stat. 198, 267; renumbered §131, renumbered §132, Pub. L. 97–473, title I, §§101(b)(1), 102(a), Jan. 14, 1983, 96 Stat. 2605, 2606; renumbered §133, renumbered §134 and amended Pub. L. 98–369, div. A, title V, §§531(a)(1), 543(a), div. B, title VI, §2661(o)(2), July 18, 1984, 98 Stat. 877, 891, 1159; renumbered §135, Pub. L. 99–514, title XI, §1168(a), Oct. 22, 1986, 100 Stat. 2512; renumbered §136, Pub. L. 100–647, title VI, §6009(a), Nov. 10, 1988, 102 Stat. 3688; Pub. L. 102–40, title IV, §402(d)(2), May 7, 1991, 105 Stat. 239; Pub. L. 102–83, §5(c)(2), Aug. 6, 1991, 105 Stat. 406; renumbered §137, Pub. L. 102–486, title XIX, §1912(a), Oct. 24, 1992, 106 Stat. 3014; renumbered §138, Pub. L. 104–188, title I, §1807(b), Aug. 20, 1996, 110 Stat. 1901; renumbered §139, Pub. L. 105–33, title IV, §4006(a), Aug. 5, 1997, 111 Stat. 331; renumbered §140, Pub. L. 107–134, title I, §111(a), Jan. 23, 2002, 115 Stat. 2432; Pub. L. 109–304, §17(e)(2), Oct. 6, 2006, 120 Stat. 1708.)

REFERENCES IN TEXT

Section 9 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1742), referred to in subsec. (a)(2), was repealed by Pub. L. 94–412, title V, §501(g), Sept. 14, 1976, 90 Stat. 1258.

AMENDMENTS

2006—Subsec. (a)(4). Pub. L. 109–304 substituted “section 53507 of title 46, United States Code” for “section 607(d) of the Merchant Marine Act, 1936 (46 U.S.C. 1177)”.

2002—Pub. L. 107–134 renumbered section 139 of this title as this section.

1997—Pub. L. 105–33 renumbered section 138 of this title as this section.

1996—Pub. L. 104–188 renumbered section 137 of this title as this section.

1992—Pub. L. 102–486 renumbered section 136 of this title as this section.

1991—Subsec. (a)(3). Pub. L. 102–40 substituted “5301” for “3101”.

Subsec. (a)(6). Pub. L. 102–83 substituted “1562(a)–(c)” for “562(a)–(c)”.

1988—Pub. L. 100–647 renumbered section 135 of this title as this section.

1986—Pub. L. 99–514 renumbered section 134 of this title as this section.

1984—Pub. L. 98–369, §§531(a)(1), 543(a), successively renumbered sections 132 and 133 of this title as this section.

Subsec. (a)(6) to (8). Pub. L. 98–369, §2661(o)(2), struck out par. (6) relating to railroad retirement annuities and pensions, struck out par. (7) relating to railroad unemployment benefits, and redesignated par. (8) as (6).

1983—Pub. L. 97–473 successively renumbered sections 130 and 131 of this title as this section.

1981—Pub. L. 97–34 successively renumbered sections 128 and 129 of this title as this section.

¹ See References in Text note below.