

with respect to the spouse as the account holder of such Medicare Advantage MSA.

**(e) Reports**

In the case of a Medicare Advantage MSA, the report under section 220(h)—

(1) shall include the fair market value of the assets in such Medicare Advantage MSA as of the close of each calendar year, and

(2) shall be furnished to the account holder—

(A) not later than January 31 of the calendar year following the calendar year to which such reports relate, and

(B) in such manner as the Secretary prescribes in such regulations.

**(f) Coordination with limitation on number of taxpayers having Archer MSAs**

Subsection (i) of section 220 shall not apply to an individual with respect to a Medicare Advantage MSA, and Medicare Advantage MSAs shall not be taken into account in determining whether the numerical limitations under section 220(j) are exceeded.

(Added Pub. L. 105-33, title IV, § 4006(a), Aug. 5, 1997, 111 Stat. 332; amended Pub. L. 106-554, § 1(a)(7) [title II, § 202(a)(3), (b)(6), (10)], Dec. 21, 2000, 114 Stat. 2763, 2763A-628, 2763A-629; Pub. L. 108-311, title IV, § 408(a)(5)(A)-(F), Oct. 4, 2004, 118 Stat. 1191.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (a) and (b)(2)(A), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part C of title XVIII of the Act is classified generally to part C (§1395w-21 et seq.) of subchapter XVIII of chapter 7 of Title 42, The Public Health and Welfare. Section 1859 of the Act is classified to section 1395w-28 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 138 was renumbered section 140 of this title.

AMENDMENTS

2004—Pub. L. 108-311, § 408(a)(5)(A)-(D), substituted “Medicare Advantage” for “Medicare+Choice” wherever appearing in section catchline, headings, and text.

Subsec. (c)(2)(C)(i). Pub. L. 108-311, § 408(a)(5)(E), substituted “Medicare Advantage MSAs” for “Medicare+Choice MSAs”.

Subsec. (f). Pub. L. 108-311, § 408(a)(5)(F), substituted “Medicare Advantage MSAs” for “Medicare+Choice MSA’s”.

2000—Subsec. (b). Pub. L. 106-554, § 1(a)(7) [title II, § 202(b)(10)], substituted “an Archer MSA” for “a Archer MSA” in introductory provisions.

Pub. L. 106-554, § 1(a)(7) [title II, § 202(a)(3)], substituted “Archer MSA” for “medical savings account” in introductory provisions.

Subsec. (f). Pub. L. 106-554, § 1(a)(7) [title II, § 202(b)(6)], substituted “Archer MSAs” for “medical savings accounts” in heading.

EFFECTIVE DATE

Pub. L. 105-33, title IV, § 4006(c), Aug. 5, 1997, 111 Stat. 334, provided that: “The amendments made by this section [enacting this section, amending sections 220 and 4973 of this title, and renumbering former section 138 of this title as section 139 of this title] shall apply to taxable years beginning after December 31, 1998.”

**§ 139. Disaster relief payments**

**(a) General rule**

Gross income shall not include any amount received by an individual as a qualified disaster relief payment.

**(b) Qualified disaster relief payment defined**

For purposes of this section, the term “qualified disaster relief payment” means any amount paid to or for the benefit of an individual—

(1) to reimburse or pay reasonable and necessary personal, family, living, or funeral expenses incurred as a result of a qualified disaster,

(2) to reimburse or pay reasonable and necessary expenses incurred for the repair or rehabilitation of a personal residence or repair or replacement of its contents to the extent that the need for such repair, rehabilitation, or replacement is attributable to a qualified disaster,

(3) by a person engaged in the furnishing or sale of transportation as a common carrier by reason of the death or personal physical injuries incurred as a result of a qualified disaster, or

(4) if such amount is paid by a Federal, State, or local government, or agency or instrumentality thereof, in connection with a qualified disaster in order to promote the general welfare,

but only to the extent any expense compensated by such payment is not otherwise compensated for by insurance or otherwise.

**(c) Qualified disaster defined**

For purposes of this section, the term “qualified disaster” means—

(1) a disaster which results from a terroristic or military action (as defined in section 692(c)(2)),

(2) federally<sup>1</sup> declared disaster (as defined by section 165(h)(3)(C)(i)),<sup>2</sup>

(3) a disaster which results from an accident involving a common carrier, or from any other event, which is determined by the Secretary to be of a catastrophic nature, or

(4) with respect to amounts described in subsection (b)(4), a disaster which is determined by an applicable Federal, State, or local authority (as determined by the Secretary) to warrant assistance from the Federal, State, or local government or agency or instrumentality thereof.

**(d) Coordination with employment taxes**

For purposes of chapter 2 and subtitle C, qualified disaster relief payments and qualified disaster mitigation payments shall not be treated as net earnings from self-employment, wages, or compensation subject to tax.

**(e) No relief for certain individuals**

Subsections (a), (f), and (g) shall not apply with respect to any individual identified by the Attorney General to have been a participant or conspirator in a terroristic action (as so defined), or a representative of such individual.

<sup>1</sup> So in original. Probably should be preceded by “a”.

<sup>2</sup> See References in Text note below.

**(f) Exclusion of certain additional payments**

Gross income shall not include any amount received as payment under section 406 of the Air Transportation Safety and System Stabilization Act.

**(g) Qualified disaster mitigation payments****(1) In general**

Gross income shall not include any amount received as a qualified disaster mitigation payment.

**(2) Qualified disaster mitigation payment defined**

For purposes of this section, the term “qualified disaster mitigation payment” means any amount which is paid pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as in effect on the date of the enactment of this subsection) or the National Flood Insurance Act (as in effect on such date) to or for the benefit of the owner of any property for hazard mitigation with respect to such property. Such term shall not include any amount received for the sale or disposition of any property.

**(3) No increase in basis**

Notwithstanding any other provision of this subtitle, no increase in the basis or adjusted basis of any property shall result from any amount excluded under this subsection with respect to such property.

**(h) Denial of double benefit**

Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed (to the person for whose benefit a qualified disaster relief payment or qualified disaster mitigation payment is made) for, or by reason of, any expenditure to the extent of the amount excluded under this section with respect to such expenditure.

(Added Pub. L. 107-134, title I, §111(a), Jan. 23, 2002, 115 Stat. 2432; amended Pub. L. 109-7, §1(a), Apr. 15, 2005, 119 Stat. 21; Pub. L. 110-343, div. C, title VII, §706(a)(2)(D)(iv), Oct. 3, 2008, 122 Stat. 3922.)

## REFERENCES IN TEXT

Par. (3) of section 165(h), referred to in subsec. (c)(2), was repealed by Pub. L. 113-295, div. A, title II, §221(a)(27)(A), Dec. 19, 2014, 128 Stat. 4040. However, the term “federally declared disaster” is defined elsewhere in that section.

Section 406 of the Air Transportation Safety and System Stabilization Act, referred to in subsec. (f), is section 406 of Pub. L. 107-42, which is set out as a note under section 40101 of Title 49, Transportation.

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (g)(2), is Pub. L. 93-288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to chapter 68 (§5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

The date of the enactment of this subsection, referred to in subsec. (g)(2), is the date of enactment of Pub. L. 109-7, which was approved Apr. 15, 2005.

The National Flood Insurance Act, referred to in subsec. (g)(2), probably means the National Flood Insurance Act of 1968, title XIII of Pub. L. 90-448, Aug. 1, 1968, 82 Stat. 572, as amended, which is classified principally

to chapter 50 (§4001 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of Title 42 and Tables.

## PRIOR PROVISIONS

A prior section 139 was renumbered section 140 of this title.

## AMENDMENTS

2008—Subsec. (c)(2). Pub. L. 110-343 amended par. (2) generally. Prior to amendment, par. (2) read as follows: “a Presidentially declared disaster (as defined in section 1033(h)(3)),”.

2005—Subsec. (d). Pub. L. 109-7, §1(a)(2)(A), substituted “qualified disaster relief payments and qualified disaster mitigation payments” for “a qualified disaster relief payment”.

Subsec. (e). Pub. L. 109-7, §1(a)(2)(B), substituted “, (f), and (g)” for “and (f)”.

Subsecs. (g), (h). Pub. L. 109-7, §1(a)(1), added subsecs. (g) and (h).

## EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-343 applicable to disasters declared in taxable years beginning after Dec. 31, 2007, see section 706(d)(1) of Pub. L. 110-343, set out as a note under section 56 of this title.

## EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109-7, §1(c)(1), Apr. 15, 2005, 119 Stat. 22, provided that: “The amendments made by subsection (a) [amending this section] shall apply to amounts received before, on, or after the date of the enactment of this Act [Apr. 15, 2005].”

## EFFECTIVE DATE

Pub. L. 107-134, title I, §111(c), Jan. 23, 2002, 115 Stat. 2433, provided that: “The amendments made by this section [enacting this section and renumbering former section 139 as section 140 of this title] shall apply to taxable years ending on or after September 11, 2001.”

**§ 139A. Federal subsidies for prescription drug plans**

Gross income shall not include any special subsidy payment received under section 1860D-22 of the Social Security Act.

(Added Pub. L. 108-173, title XII, §1202(a), Dec. 8, 2003, 117 Stat. 2480; amended Pub. L. 111-148, title IX, §9012(a), Mar. 23, 2010, 124 Stat. 868.)

## REFERENCES IN TEXT

Section 1860D-22 of the Social Security Act, referred to in text, is classified to section 1395w-132 of Title 42, The Public Health and Welfare.

## AMENDMENTS

2010—Pub. L. 111-148 struck out second sentence which read as follows: “This section shall not be taken into account for purposes of determining whether any deduction is allowable with respect to any cost taken into account in determining such payment.”

## EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-148, title IX, §9012(b), Mar. 23, 2010, 124 Stat. 868, as amended by Pub. L. 111-152, title I, §1407, Mar. 30, 2010, 124 Stat. 1067, provided that: “The amendment made by this section [amending this section] shall apply to taxable years beginning after December 31, 2012.”

## EFFECTIVE DATE

Section applicable to taxable years ending after Dec. 8, 2003, see section 1202(d) of Pub. L. 108-173, set out as an Effective Date of 2003 Amendment note under section 56 of this title.