

(Added Pub. L. 111-148, title IX, §9021(a), Mar. 23, 2010, 124 Stat. 873.)

#### REFERENCES IN TEXT

Section 4(l) of the Indian Self-Determination and Education Assistance Act, referred to in subsec. (c)(2), is classified to section 5304(l) of Title 25, Indians.

#### CODIFICATION

Another section 139D, added Pub. L. 111-148, title X, §10108(f)(1), Mar. 23, 2010, 124 Stat. 913, related to free choice vouchers, prior to repeal by Pub. L. 112-10, div. B, title VIII, §1858(b)(2)(A), Apr. 15, 2011, 125 Stat. 168, effective as if included in the provisions of, and the amendments made by, the provisions of Pub. L. 111-148 to which it relates, see section 1858(d) of Pub. L. 112-10, set out as an Effective Date of 2011 Amendment note under section 36B of this title.

#### EFFECTIVE DATE

Pub. L. 111-148, title IX, §9021(c), Mar. 23, 2010, 124 Stat. 874, provided that: “The amendments made by this section [enacting this section] shall apply to benefits and coverage provided after the date of the enactment of this Act [Mar. 23, 2010].”

#### NO INFERENCE WITH RESPECT TO EXCLUSION FROM GROSS INCOME OF CERTAIN BENEFITS

Pub. L. 111-148, title IX, §9021(d), Mar. 23, 2010, 124 Stat. 874, provided that: “Nothing in the amendments made by this section [enacting this section] shall be construed to create an inference with respect to the exclusion from gross income of—

“(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 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 2014), 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.

(Added Pub. L. 113-168, §2(a), Sept. 26, 2014, 128 Stat. 1883; amended Pub. L. 115-141, div. U, title IV, §401(a)(42), (43), Mar. 23, 2018, 132 Stat. 1186.)

#### 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 2014, referred to in subsec. (c)(3), is section 3(a) of Pub. L. 113-168, which is set out as a note under this section.

#### AMENDMENTS

2018—Subsec. (c)(1). Pub. L. 115-141, §401(a)(42), substituted “(43 U.S.C. 1601 et seq.)” for “(43 U.S.C. 1601, et seq.)”.

Subsec. (c)(3). Pub. L. 115-141, §401(a)(43), substituted “Act of 2014” for “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 govern-

ments 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, as amended by Pub. L. 115-141, div. U, title IV, §401(a)(44), Mar. 23, 2018, 132 Stat. 1186, provided that:

“(a) ESTABLISHMENT.—The Secretary of the Treasury shall establish a Tribal Advisory Committee (hereinafter in this 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, as amended by Pub. L. 115-141, div. U, title IV, §401(a)(45), Mar. 23, 2018, 132 Stat. 1186, 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 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.”

### § 139F. Certain amounts received by wrongfully incarcerated individuals

#### (a) Exclusion from gross income

In the case of any wrongfully incarcerated individual, gross income shall not include any civil damages, restitution, or other monetary award (including compensatory or statutory damages and restitution imposed in a criminal matter) relating to the incarceration of such individual for the covered offense for which such individual was convicted.

#### (b) Wrongfully incarcerated individual

For purposes of this section, the term “wrongfully incarcerated individual” means an individual—

(1) who was convicted of a covered offense,

(2) who served all or part of a sentence of imprisonment relating to that covered offense, and

(3)(A) who was pardoned, granted clemency, or granted amnesty for that covered offense because that individual was innocent of that covered offense, or

(B)(i) for whom the judgment of conviction for that covered offense was reversed or vacated, and

(ii) for whom the indictment, information, or other accusatory instrument for that covered offense was dismissed or who was found not guilty at a new trial after the judgment of conviction for that covered offense was reversed or vacated.

#### (c) Covered offense

For purposes of this section, the term “covered offense” means any criminal offense under Federal or State law, and includes any criminal offense arising from the same course of conduct as that criminal offense.

(Added Pub. L. 114-113, div. Q, title III, §304(a), Dec. 18, 2015, 129 Stat. 3087.)

#### EFFECTIVE DATE

Pub. L. 114-113, div. Q, title III, §304(c), Dec. 18, 2015, 129 Stat. 3088, provided that: “The amendments made by this section [enacting this section] shall apply to taxable years beginning before, on, or after the date of the enactment of this Act [Dec. 18, 2015].”

#### WAIVER OF LIMITATIONS

Pub. L. 114-113, div. Q, title III, §304(d), Dec. 18, 2015, 129 Stat. 3088, as amended by Pub. L. 115-123, div. D, title II, §41103(a), Feb. 9, 2018, 132 Stat. 155, provided that: “If the credit or refund of any overpayment of tax resulting from the application of this Act [probably means this section, enacting this section and provisions set out as a note above] to a period before the date of enactment of this Act [Dec. 18, 2015] is prevented as of such date by the operation of any law or rule of law (including *res judicata*), such credit or refund may nevertheless be allowed or made if the claim therefor is filed before the close of the 3-year period beginning on the date of the enactment of this Act.”

[Pub. L. 115-123, div. D, title II, §41103(b), Feb. 9, 2018, 132 Stat. 155, provided that: “The amendment made by this section [amending section 304(d) of Pub. L. 114-113,