

(1) any qualified State and local tax benefit, and

(2) any qualified payment.

(b) Denial of double benefits

In the case of any member of a qualified volunteer emergency response organization—

(1) the deduction under 164 shall be determined with regard to any qualified State and local tax benefit, and

(2) expenses paid or incurred by the taxpayer in connection with the performance of services as such a member shall be taken into account under section 170 only to the extent such expenses exceed the amount of any qualified payment excluded from gross income under subsection (a).

(c) Definitions

For purposes of this section—

(1) Qualified State and local tax benefit

The term “qualified state and local tax benefit” means any reduction or rebate of a tax described in paragraph (1), (2), or (3) of section 164(a) provided by a State or political division thereof on account of services performed as a member of a qualified volunteer emergency response organization.

(2) Qualified payment

(A) In general

The term “qualified payment” means any payment (whether reimbursement or otherwise) provided by a State or political division thereof on account of the performance of services as a member of a qualified volunteer emergency response organization.

(B) Applicable dollar limitation

The amount determined under subparagraph (A) for any taxable year shall not exceed \$50 multiplied by the number of months during such year that the taxpayer performs such services.

(3) Qualified volunteer emergency response organization

The term “qualified volunteer emergency response organization” means any volunteer organization—

(A) which is organized and operated to provide firefighting or emergency medical services for persons in the State or political subdivision, as the case may be, and

(B) which is required (by written agreement) by the State or political subdivision to furnish firefighting or emergency medical services in such State or political subdivision.

(Added Pub. L. 110-142, §5(a), Dec. 20, 2007, 121 Stat. 1805; amended Pub. L. 116-94, div. O, title III, §301(a), (b), Dec. 20, 2019, 133 Stat. 3175; Pub. L. 116-260, div. EE, title I, §103(a), Dec. 27, 2020, 134 Stat. 3040.)

AMENDMENTS

2020—Subsec. (d). Pub. L. 116-260 struck out subsec. (d). Text read as follows: “This section shall not apply with respect to taxable years beginning—

“(1) after December 31, 2010, and before January 1, 2020, or

“(2) after December 31, 2020.”

2019—Subsec. (c)(2). Pub. L. 116-94, §301(a), substituted “\$50” for “\$30”.

Subsec. (d). Pub. L. 116-94, §301(b), substituted “beginning—” for “beginning after December 31, 2010.” and added pars. (1) and (2).

EFFECTIVE DATE OF 2020 AMENDMENT

Pub. L. 116-260, div. EE, title I, §103(b), Dec. 27, 2020, 134 Stat. 3040, provided that: “The amendment made by this section [amending this section] shall apply to taxable years beginning after December 31, 2020.”

EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116-94, div. O, title III, §301(d), Dec. 20, 2019, 133 Stat. 3175, provided that: “The amendments made by this section [amending this section and section 3121 of this title] shall apply to taxable years beginning after December 31, 2019.”

EFFECTIVE DATE

Pub. L. 110-142, §5(c), Dec. 20, 2007, 121 Stat. 1806, provided that: “The amendments made by this section [enacting this section] shall apply to taxable years beginning after December 31, 2007.”

[§ 139C. Repealed. Pub. L. 115-141, div. U, title IV, § 401(d)(7)(C), Mar. 23, 2018, 132 Stat. 1212]

Section, added Pub. L. 111-5, div. B, title III, §3001(a)(15)(A), Feb. 17, 2009, 123 Stat. 465; amended Pub. L. 111-144, §3(b)(5)(B), Mar. 2, 2010, 124 Stat. 44, related to COBRA premium assistance.

SAVINGS PROVISION

For provisions that nothing in repeal by Pub. L. 115-141 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Mar. 23, 2018, for purposes of determining liability for tax for periods ending after Mar. 23, 2018, see section 401(e) of Pub. L. 115-141, set out as a note under section 23 of this title.

§ 139D. Indian health care benefits

(a) General rule

Except as otherwise provided in this section, gross income does not include the value of any qualified Indian health care benefit.

(b) Qualified Indian health care benefit

For purposes of this section, the term “qualified Indian health care benefit” means—

(1) any health service or benefit provided or purchased, directly or indirectly, by the Indian Health Service through a grant to or a contract or compact with an Indian tribe or tribal organization, or through a third-party program funded by the Indian Health Service,

(2) medical care provided or purchased by, or amounts to reimburse for such medical care provided by, an Indian tribe or tribal organization for, or to, a member of an Indian tribe, including a spouse or dependent of such a member,

(3) coverage under accident or health insurance (or an arrangement having the effect of accident or health insurance), or an accident or health plan, provided by an Indian tribe or tribal organization for medical care to a member of an Indian tribe, include a spouse or dependent of such a member, and

(4) any other medical care provided by an Indian tribe or tribal organization that supplements, replaces, or substitutes for a program or service relating to medical care provided by

the Federal government to Indian tribes or members of such a tribe.

(c) Definitions

For purposes of this section—

(1) Indian tribe

The term “Indian tribe” has the meaning given such term by section 45A(c)(6).

(2) Tribal organization

The term “tribal organization” has the meaning given such term by section 4(l) of the Indian Self-Determination and Education Assistance Act.

(3) Medical care

The term “medical care” has the same meaning as when used in section 213.

(4) Accident or health insurance; accident or health plan

The terms “accident or health insurance” and “accident or health plan” have the same meaning as when used in section 105.

(5) 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) thereof.

(d) Denial of double benefit

Subsection (a) shall not apply to the amount of any qualified Indian health care benefit which is not includible in gross income of the beneficiary of such benefit under any other provision of this chapter, or to the amount of any such benefit for which a deduction is allowed to such beneficiary under any other provision of this chapter.

(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