

section] shall apply to assignments after the date of the enactment of this Act [Nov. 10, 1988].”

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1002(b) of Pub. L. 99-514 provided that: “The amendment made by this section [amending this section] shall apply to assignments entered into after December 31, 1986, in taxable years ending after such date.”

EFFECTIVE DATE

Section 101(c) of Pub. L. 97-473 provided that: “The amendments made by this section [enacting this section and amending section 104 of this title] shall apply to taxable years ending after December 31, 1982.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 72 of this title.

§ 131. Certain foster care payments

(a) General rule

Gross income shall not include amounts received by a foster care provider during the taxable year as qualified foster care payments.

(b) Qualified foster care payment defined

For purposes of this section—

(1) In general

The term “qualified foster care payment” means any amount—

(A) which is paid by a State or political subdivision thereof or by a placement agency which is described in section 501(c)(3) and exempt from tax under section 501(a), and

(B) which is—

(i) paid to the foster care provider for caring for a qualified foster individual in the foster care provider’s home, or

(ii) a difficulty of care payment.

(2) Qualified foster individual

The term “qualified foster individual” means any individual who is living in a foster family home in which such individual was placed by—

(A) an agency of a State or political subdivision thereof, or

(B) in the case of an individual who has not attained age 19, an organization which is licensed by a State (or political subdivision thereof) as a placement agency and which is described in section 501(c)(3) and exempt from tax under section 501(a).

(3) Limitation based on number of individuals over the age of 18

In the case of any foster home in which there is a qualified foster care individual who has attained age 19, foster care payments (other than difficulty of care payments) for any period to which such payments relate shall not be excludable from gross income under subsection (a) to the extent such payments are made for more than 5 such qualified foster individuals.

(c) Difficulty of care payments

For purposes of this section—

(1) Difficulty of care payments

The term “difficulty of care payments” means payments to individuals which are not described in subsection (b)(1)(B)(i), and which—

(A) are compensation for providing the additional care of a qualified foster individual which is—

(i) required by reason of a physical, mental, or emotional handicap of such individual with respect to which the State has determined that there is a need for additional compensation, and

(ii) provided in the home of the foster care provider, and

(B) are designated by the payor as compensation described in subparagraph (A).

(2) Limitation based on number of individuals

In the case of any foster home, difficulty of care payments for any period to which such payments relate shall not be excludable from gross income under subsection (a) to the extent such payments are made for more than—

(A) 10 qualified foster individuals who have not attained age 19, and

(B) 5 qualified foster individuals not described in subparagraph (A).

(Added Pub. L. 97-473, title I, §102(a), Jan. 14, 1983, 96 Stat. 2606; amended Pub. L. 99-514, title XVII, §1707(a), Oct. 22, 1986, 100 Stat. 2781.)

PRIOR PROVISIONS

A prior section 131 was renumbered section 137 of this title.

AMENDMENTS

1986—Subsec. (a). Pub. L. 99-514 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “Gross income shall not include amounts received by a foster parent during the taxable year as qualified foster care payments.”

Subsec. (b). Pub. L. 99-514 amended subsec. (b) generally. Prior to amendment, par. (1) “In general” read as follows: “The term ‘qualified foster care payment’ means any amount—

“(A) which is paid by a State or political subdivision thereof or by a child-placing agency which is described in section 501(c)(3) and exempt from tax under section 501(a), and

“(B) which is—

“(i) paid to reimburse the foster parent for the expenses of caring for a qualified foster child in the foster parent’s home, or

“(ii) a difficulty of care payment.”

and par. (2) “Qualified foster child” read as follows: “The term ‘qualified foster child’ means any individual who—

“(A) has not attained age 19, and

“(B) is living in a foster family home in which such individual was placed by—

“(i) an agency of a State or political subdivision thereof, or

“(ii) an organization which is licensed by a State (or political subdivision thereof) as a child-placing agency and which is described in section 501(c)(3) and exempt from tax under section 501(a).”

Subsec. (c). Pub. L. 99-514, in amending subsec. (c) generally, in par. (1)(A), substituted references to “qualified foster individual”, “such individual”, and “foster care provider” for references to “qualified foster child”, “such child”, and “foster parent”, respectively, and in par. (2) substituted “more than (A) 10 qualified foster individuals who have not attained age 19, and (B) 5 qualified foster individuals not described in subparagraph (A)” for “more than 10 qualified foster children”.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1707(b) of Pub. L. 99-514 provided that: “The amendment made by this section [amending this sec-

tion] shall apply to taxable years beginning after December 31, 1985.”

EFFECTIVE DATE

Section 102(c) of Pub. L. 97-473 provided that: “The amendments made by this section [enacting this section] shall apply to taxable years beginning after December 31, 1978.”

§ 132. Certain fringe benefits

(a) Exclusion from gross income

Gross income shall not include any fringe benefit which qualifies as a—

- (1) no-additional-cost service,
- (2) qualified employee discount,
- (3) working condition fringe,
- (4) de minimis fringe,
- (5) qualified transportation fringe, or
- (6) qualified moving expense reimbursement.

(b) No-additional-cost service defined

For purposes of this section, the term “no-additional-cost service” means any service provided by an employer to an employee for use by such employee if—

- (1) such service is offered for sale to customers in the ordinary course of the line of business of the employer in which the employee is performing services, and
- (2) the employer incurs no substantial additional cost (including forgone revenue) in providing such service to the employee (determined without regard to any amount paid by the employee for such service).

(c) Qualified employee discount defined

For purposes of this section—

(1) Qualified employee discount

The term “qualified employee discount” means any employee discount with respect to qualified property or services to the extent such discount does not exceed—

- (A) in the case of property, the gross profit percentage of the price at which the property is being offered by the employer to customers, or
- (B) in the case of services, 20 percent of the price at which the services are being offered by the employer to customers.

(2) Gross profit percentage

(A) In general

The term “gross profit percentage” means the percent which—

- (i) the excess of the aggregate sales price of property sold by the employer to customers over the aggregate cost of such property to the employer, is of
- (ii) the aggregate sale price of such property.

(B) Determination of gross profit percentage

Gross profit percentage shall be determined on the basis of—

- (i) all property offered to customers in the ordinary course of the line of business of the employer in which the employee is performing services (or a reasonable classification of property selected by the employer), and
- (ii) the employer’s experience during a representative period.

(3) Employee discount defined

The term “employee discount” means the amount by which—

- (A) the price at which the property or services are provided by the employer to an employee for use by such employee, is less than
- (B) the price at which such property or services are being offered by the employer to customers.

(4) Qualified property or services

The term “qualified property or services” means any property (other than real property and other than personal property of a kind held for investment) or services which are offered for sale to customers in the ordinary course of the line of business of the employer in which the employee is performing¹ services.

(d) Working condition fringe defined

For purposes of this section, the term “working condition fringe” means any property or services provided to an employee of the employer to the extent that, if the employee paid for such property or services, such payment would be allowable as a deduction under section 162 or 167.

(e) De minimis fringe defined

For purposes of this section—

(1) In general

The term “de minimis fringe” means any property or service the value of which is (after taking into account the frequency with which similar fringes are provided by the employer to the employer’s employees) so small as to make accounting for it unreasonable or administratively impracticable.

(2) Treatment of certain eating facilities

The operation by an employer of any eating facility for employees shall be treated as a de minimis fringe if—

- (A) such facility is located on or near the business premises of the employer, and
- (B) revenue derived from such facility normally equals or exceeds the direct operating costs of such facility.

The preceding sentence shall apply with respect to any highly compensated employee only if access to the facility is available on substantially the same terms to each member of a group of employees which is defined under a reasonable classification set up by the employer which does not discriminate in favor of highly compensated employees.

(f) Qualified transportation fringe

(1) In general

For purposes of this section, the term “qualified transportation fringe” means any of the following provided by an employer to an employee:

- (A) Transportation in a commuter highway vehicle if such transportation is in connection with travel between the employee’s residence and place of employment.
- (B) Any transit pass.
- (C) Qualified parking.

¹ So in original. Probably should be “performing”.