

(D) such periodic payments are excludable from the gross income of the recipient under paragraph (1) or (2) of section 104(a).

The determination for purposes of this chapter of when the recipient is treated as having received any payment with respect to which there has been a qualified assignment shall be made without regard to any provision of such assignment which grants the recipient rights as a creditor greater than those of a general creditor.

(d) Qualified funding asset

For purposes of this section, the term “qualified funding asset” means any annuity contract issued by a company licensed to do business as an insurance company under the laws of any State, or any obligation of the United States, if—

(1) such annuity contract or obligation is used by the assignee to fund periodic payments under any qualified assignment,

(2) the periods of the payments under the annuity contract or obligation are reasonably related to the periodic payments under the qualified assignment, and the amount of any such payment under the contract or obligation does not exceed the periodic payment to which it relates,

(3) such annuity contract or obligation is designated by the taxpayer (in such manner as the Secretary shall by regulations prescribe) as being taken into account under this section with respect to such qualified assignment, and

(4) such annuity contract or obligation is purchased by the taxpayer not more than 60 days before the date of the qualified assignment and not later than 60 days after the date of such assignment.

(Added Pub. L. 97-473, title I, §101(b)(1), Jan. 14, 1983, 96 Stat. 2605; amended Pub. L. 99-514, title X, §1002(a), Oct. 22, 1986, 100 Stat. 2388; Pub. L. 100-647, title VI, §6079(b)(1), Nov. 10, 1988, 102 Stat. 3709; Pub. L. 105-34, title IX, §962(a), Aug. 5, 1997, 111 Stat. 891.)

PRIOR PROVISIONS

A prior section 130 was renumbered section 140 of this title.

AMENDMENTS

1997—Subsec. (c). Pub. L. 105-34, §962(a)(1), inserted “, or as compensation under any workmen’s compensation act,” after “(whether by suit or agreement)” in introductory provisions.

Subsec. (c)(1). Pub. L. 105-34, §962(a)(2), inserted “or the workmen’s compensation claim,” after “agreement.”

Subsec. (c)(2)(D). Pub. L. 105-34, §962(a)(3), substituted “paragraph (1) or (2) of section 104(a)” for “section 104(a)(2)”.

1988—Subsec. (c). Pub. L. 100-647, in par. (2), redesignated subpars. (D) and (E) as (C) and (D), respectively, struck out former subpar. (C) which provided that the assignee does not provide to the recipient of such payments rights against the assignee which are greater than those of a general creditor, and as concluding provisions, inserted at end “The determination for purposes of this chapter of when the recipient is treated as having received any payment with respect to which there has been a qualified assignment shall be made without regard to any provision of such assignment which grants the recipient rights as a creditor greater than those of a general creditor.”

1986—Subsec. (c). Pub. L. 99-514 inserted “(in a case involving physical injury or physical sickness)”.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 962(b) of Pub. L. 105-34 provided that: “The amendments made by subsection (a) [amending this section] shall apply to claims under workmen’s compensation acts filed after the date of the enactment of this Act [Aug. 5, 1997].”

EFFECTIVE DATE OF 1988 AMENDMENT

Section 6079(b)(2) of Pub. L. 100-647 provided that: “The amendment made by paragraph (1) [amending this 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.”

§ 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 payment made pursuant to a foster care program of a State or political subdivision thereof—

(A) which is paid by—

(i) a State or political subdivision thereof, or

(ii) a qualified foster care placement agency, 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) a qualified foster care placement agency.

(3) Qualified foster care placement agency

The term “qualified foster care placement agency” means any placement agency which is licensed or certified by—

(A) a State or political subdivision thereof, or

(B) an entity designated by a State or political subdivision thereof,

for the foster care program of such State or political subdivision to make foster care payments to providers of foster care.

(4) 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; Pub. L. 107-147, title IV, §404(a)-(c), Mar. 9, 2002, 116 Stat. 41.)

PRIOR PROVISIONS

A prior section 131 was renumbered section 140 of this title.

AMENDMENTS

2002—Subsec. (b)(1). Pub. L. 107-147, §404(a), amended provisions preceding subpar. (B) generally. Prior to amendment, text of such provisions 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 placement agency which is described in section 501(c)(3) and exempt from tax under section 501(a), and”.

Subsec. (b)(2)(B). Pub. L. 107-147, §404(b), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “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).”

Subsec. (b)(3), (4). Pub. L. 107-147, §404(c), added par. (3) and redesignated former par. (3) as (4).

1986—Subsec. (a). Pub. L. 99-514 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as fol-

lows: “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 2002 AMENDMENT

Pub. L. 107-147, title IV, §404(d), Mar. 9, 2002, 116 Stat. 42, provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 2001.”

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1707(b) of Pub. L. 99-514 provided that: “The amendment made by this section [amending this section] 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,
- (6) qualified moving expense reimbursement,
- (7) qualified retirement planning services, or
- (8) qualified military base realignment and closure fringe.

(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—