
Section 126.—Certain Cost Sharing Payments

26 CFR 16A.126-1: *Certain cost-sharing payments—In general (Temporary).*

Certain cost-sharing payments. The Wetlands Reserve Program, the Environmental Quality Incentives Program, and the Wildlife Habitat Incentives Program are substantially similar to the type of programs described in section 126(a)(1) through (8) of the Code so that cost-share payments made under such programs and in connection with small watersheds are within the scope of section 126(a)(9) and, thereby, cost-share payments received under the programs are eligible for exclusion from gross income to the extent permitted by section 126.

Rev. Rul. 97-55

ISSUE

Are the Wetlands Reserve Program, the Environmental Quality Incentives Program, and the Wildlife Habitat Incentives Program substantially similar to the type of programs described in § 126(a)(1) through (8) of the Internal Revenue Code so that cost-share payments made under such programs and in connection with small watersheds are within the scope of § 126(a)(9) and, thereby, cost-share payments received under the programs are eligible for exclusion from gross income to the extent permitted by § 126?

FACTS

The Wetlands Reserve Program (WRP), authorized by Title XII of the Food Security Act of 1985, Pub. L. No. 99-198, 99 Stat. 1504, reauthorized by the Federal Agriculture Improvement and Reform Act of 1996 (the 1996 Farm Act), Pub. L. No. 104-127, 110 Stat. 995, is a voluntary wetlands conservation program to restore and protect wetlands on private

property. Landowners who participate in the WRP may sell a conservation easement or enter into a restoration cost-share agreement with the Department of Agriculture to restore and protect wetlands. Under a restoration cost-share agreement, a landowner agrees to undertake approved conservation-related improvements on the property in return for a cost-share payment, generally between 75 and 100 percent of the costs for restoring the wetland. A conservation easement and a restoration cost-share agreement may be combined in one agreement with the Department of Agriculture but separate payments are made for the easement and for the cost-share agreement.

The 1996 Farm Act also establishes the Environmental Quality Incentives Program (EQIP) and the Wildlife Habitat Incentives Program (WHIP). EQIP and WHIP are administered by the Department of Agriculture. EQIP combines the functions of the Agricultural Conservation Program (ACP), the Great Plains Conservation Program (GPCP), the Water Quality Incentives Program (WQIP), and the Colorado River Basin Salinity Control Program (CRBSCP). ACP and GPCP are programs enumerated in § 126(a)(1) through (8) and the Commissioner determined in § 16A.126-1(d)(1)(D) that CRBSCP was within the scope of § 126(a)(9). WQIP was funded through and administered under ACP.

WHIP was established to help participants develop habitat for upland wildlife, wetland wildlife, threatened and endangered species, fish, and other types of wildlife. Under WHIP, landowners enter into wildlife habitat development cost-share contracts for a minimum of 10 years.

The Secretary of Agriculture has made the requisite determinations under § 126(b)(1)(A) that cost-share payments made under WRP, EQIP, and WHIP are primarily for purposes of conservation.

LAW AND ANALYSIS

Under § 126(a), gross income does not include the excludable portion of payments made to taxpayers by federal and state governments for a share of the cost of improvements to property under ce

tain conservation programs set forth in § 126(a)(1) through (8). Under § 126(a)(9), programs affecting small watersheds are eligible for § 126 treatment if they are administered by the Secretary of Agriculture and are determined by the Secretary of the Treasury or the Secretary's delegate to be substantially similar to the type of programs described in § 126(a)(1) through (8). Even if the Secretary of the Treasury determines that a particular program is within the scope of § 126(a)(9), not all cost-share payments under such program will qualify for the exclusion under § 126. In addition to the determination requirement, the specific project must be with respect to a small watershed and then only the "excludable portion" of any payment can qualify for exclusion. See §§ 126(b)(1), 16A.126-1(b)(5) and 16A.126-1(d)(3) for the definitions of "excludable portion" and "small watershed."

HOLDING

The Commissioner has determined that WRP, EQP, and WHP are substantially similar to the type of programs described in § 126(a)(1) through (8) so that cost-share payments made under such programs and in connection with small watersheds are within the scope of § 126(a)(9) and, therefore, cost-share payments received under the programs are eligible for exclusion from gross income to the extent permitted by § 126. See § 16A.126-1 to determine what portion, if any, of the cost-share payments are excludable from gross income under § 126.

DRAFTING INFORMATION

The principal authors of this revenue ruling are Leslie Finlow and Lisa Shuman of the Office of Assistant Chief Counsel (Passthroughs and Special Industries). For further information regarding this revenue ruling contact Ms. Shuman at (202) 622-3120 (not a toll-free call).

Section 132.—Certain Fringe Benefits

The Service provides inflation adjustments to the limitation on the exclusion of income for a qualified transportation fringe for taxable years beginning in 1998. See Rev. Proc. 97-57, page 20.

Section 135.—Income From United States Savings Bonds Used To Pay Higher Education Tuition and Fees

The Service provides an inflation adjustment to the limitation on the exclusion of income from United States savings bonds for taxpayers who pay qualified higher education expenses for taxable years beginning in 1998. See Rev. Proc. 97-57, page 20.

Section 151.—Allowance of Deductions for Personal Exemptions

26 CFR 1.151-4: Amount of deduction for each exemption under section 151.

The Service provides inflation adjustments to the personal exemption and to the threshold amounts of adjusted gross income above which the exemption amount phases out for taxable years beginning in 1998. See Rev. Proc. 97-57, page 20.

Section 162.—Trade or Business Expenses

26 CFR 1.162-17: Reporting and substantiation of certain business expenses of employees.

Rules are set forth for substantiating the amount of a deduction or expense for business use of an automobile that most nearly represents current costs. See Rev. Proc. 97-58, page 24.

Rules are set forth for substantiating the amount of a deduction or expense for lodging, meals, and incidental expenses or meal and incidental expenses incurred while traveling away from home that most nearly represents current costs. See Rev. Proc. 97-59, page 31.

Section 167.—Depreciation

26 CFR 1.167(a)-1: Depreciation in general.

The cost of recoverable line pack gas or cushion gas is not depreciable, and the cost of nonrecoverable line pack gas or cushion gas is depreciable. See Rev. Rul. 97-54, on this page.

Section 170.—Charitable, Etc., Contributions and Gifts

26 CFR 1.170-1: Charitable, etc., contributions and gifts; allowance of deductions.

The Service provides inflation adjustments to the "insubstantial benefit" guidelines for calendar year 1998. Under the guidelines, a charitable contribution is fully deductible even though the contributor receives

"insubstantial benefits" from the charity. See Rev. Proc. 97-57, page 20.

26 CFR 1.170A-1: Charitable, etc., contributions and gifts; allowance of deduction.

Rules are set forth for substantiating the amount of a deduction or expense for charitable use of an automobile. See Rev. Proc. 97-58, page 24.

Section 213.—Medical, Dental, Etc., Expenses

The Service provides an inflation adjustment to the limitation on the amount of eligible long-term care premiums includable in the term "medical care" for taxable years beginning in 1998. See Rev. Proc. 97-57, page 20.

26 CFR 1.213-1: Medical, dental, etc., expenses.

Rules are set forth for substantiating the amount of a deduction or expense for use of an automobile to obtain medical services. See Rev. Proc. 97-58, page 24.

Section 217.—Moving Expenses

26 CFR 1.217-2: Moving expenses.

Rules are set forth for substantiating the amount of a deduction or expense for use of an automobile as part of a move. See Rev. Proc. 97-58, page 24.

Section 263.—Capital Expenditures

26 CFR 1.263(a)-1: Capital expenditures; in general.

The cost of recoverable and nonrecoverable line pack gas or cushion gas is a capital expenditure. See Rev. Rul. 97-54, on this page.

26 CFR 1.263(a)-1: Capital expenditures; in general. (Also sections 167, 168, 471; 1.167(a)-1, 1.471-1.)

Line pack gas; cushion gas. The cost of recoverable line pack gas or cushion gas is a capital expenditure and is not depreciable. The cost of nonrecoverable line pack gas or cushion gas is a capital expenditure and is depreciable.