

Certain Medicaid Waiver Payments May Be Excludable From Income



On January 3, 2014, the IRS issued [Notice 2014-7](#) addressing the income tax treatment of certain payments to an individual care provider under a state Home and Community-Based Services Waiver (Medicaid waiver) program. The notice provides that the IRS will treat “qualified Medicaid waiver payments” as difficulty of care payments excludable from gross income under § 131 of the Internal Revenue Code. For purposes of the notice, qualified Medicaid waiver payments are payments by a state, a political subdivision of a state, or a certified Medicaid provider under a Medicaid waiver program to an individual care provider for nonmedical support services provided under a plan of care to an individual (whether related or unrelated) living in the individual care provider’s home.

The notice applies for income tax purposes only. The notice does not address when qualified Medicaid waiver payments are subject to Federal Insurance Contributions Act (FICA) tax (i.e., social security and Medicare taxes). The IRS is considering additional Q&A’s addressing the application of FICA to qualified Medicaid waiver payments excludable from income under the notice.

The following questions and answers address the filing requirements for payments you have received.

Q-1. I received payments described in Notice 2014-7 in 2013. May I exclude these payments from gross income on my 2013 federal income tax return?

A-1. If you received payments described in the notice in 2013, you may choose to exclude those payments from gross income on your 2013 Form 1040, U.S. Individual Income Tax Return. You may file electronically or on paper. If you received a Form 1099-MISC, Miscellaneous Income, or Form W-2, Wage and Tax Statement, reporting these payments as income, the IRS may contact you for you to explain why the payments were not included as gross income on your tax return. You can then explain that the payments are excludable from gross income under Notice 2014-7.

Q -2. I received payments described in Notice 2014-7 in 2013, and I received a Form 1099-MISC reporting these payments in box 3, Other income. If I choose to apply the notice to payments received in 2013, how should I report these payments on my Form 1040?

A-2. Generally, an amount reported to you in box 3 of Form 1099-MISC is reported on line 21, Other income, of Form 1040. If you choose to apply the notice to payments received in 2013, you should not include the amount of those payments on line 21. If you file a paper return, enter “Notice 2014-7” on the dotted line next to line 21 of Form 1040. No additional entry is needed on the Form 1040 if you file electronically.

Q -3. I received payments described in Notice 2014-7 in 2013, and I received a Form 1099-MISC reporting these payments in box 7, Non-employee compensation. If I choose to apply the notice to payments received in 2013, how should I report these payments on my Form 1040?

A-3. Generally, an amount reported to you in box 7 of Form 1099-MISC is reported on Schedule C (Form 1040), Profit or Loss from Business. If you choose to apply the notice to payments received in 2013, you should report the amount of those payments as income on Schedule C and also report the excludable amount as a Schedule C expense. Follow the instructions for line 31, Net profit or (loss). If you file a paper return, enter “Notice 2014-7” on the dotted line next to line 12, Business income or (loss), of Form 1040. No additional entry is needed on the Form 1040 if you file electronically.

Q-4. I received payments described in Notice 2014-7 in 2013, and I received a Form W-2, Wage and Tax Statement, with the amount of the payments reported in box 1, Wages, tips, other compensation. If I choose to apply the notice to payments received in 2013, how should I report these payments on my Form 1040?

A-4. Generally, an amount reported to you in box 1 of Form W-2 is reported on line 7, Wages, salaries, tips, etc., of Form 1040. If you choose to apply the notice to payments received in 2013, you should include the full amount of those payments on line 7. On line 21, enter the excludable portion of the payments as a negative amount that will reduce your adjusted gross income. If you file a paper return, enter "Notice 2014-7" on the dotted line next to line 21 of Form 1040. No additional entry is needed on the Form 1040 if you file electronically.

Q-5. If I received payments described in Notice 2014-7 in an earlier year, may I file an amended return to exclude the payments from gross income that I reported as income in the earlier year?

A-5. Yes. You may file a Form 1040X, Amended U.S. Individual Income Tax Return, if you received payments described in the notice in an earlier year if the time for claiming a credit or refund is open under § 6511 of the Internal Revenue Code. See "When to File" in the instructions to Form 1040X for more information. In Part III of Form 1040X, you should explain that the payments are excludable under Notice 2014-7. Excluding payments described in the notice in an earlier year may affect deductions or credits that you claimed for the earlier year, as well as other tax items for the earlier year.

Q-6. I received payments described in Notice 2014-7 in 2011 and 2012 and did not include those amounts in gross income on my Form 1040. The IRS contacted me about those payments and I agreed to include those amounts in income and have entered into an installment agreement to pay the tax liability. May I now file amended returns for those prior years and get a refund of the amounts I have paid?

A-6. Yes. You may file a Form 1040X, Amended U.S. Individual Income Tax Return, if you received payments described in the notice in 2011 and/or 2012. In Part III of Form 1040X, you should explain that the payments are excludable under Notice 2014-7. Excluding payments described in the notice in an earlier year may affect deductions or credits that you claimed for the earlier year, as well as other tax items for the earlier year.

Q-7. I am a payor who made payments to care providers in 2013 that are described in Notice 2014-7. I reported those payments on Forms 1099-MISC or Forms W-2. If a care provider who received payments described in the notice in 2013 informs me that he or she chooses to exclude the payments from gross income in 2013, should I correct the Form 1099-MISC or Form W-2 that reported the payments?

A-7. Yes. If the payments are described in the notice and the payee informs you that he or she chooses to apply the notice to payments received in 2013, you should file a corrected Form 1099-MISC or Form W-2c and provide a copy of the corrected statement to the payee. If you reported the payments on Form 1099-MISC, see the General Instructions for Certain Information Returns regarding corrections. If you reported the payments on Form W-2, see the General Instructions for Forms W-2 and W-3.