

US Code, Title 26, Internal Revenue Code
§ 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