Notices

Federal Register

Vol. 60, No. 20

Tuesday, January 31, 1995

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Stewardship Incentive Program; Determination of Primary Purpose of Program Payments for Consideration as Excludable from Income Under Section 126 of the Internal Revenue Code

AGENCY: Office of the Secretary, USDA. **ACTION:** Notice of determination.

SUMMARY: The Secretary of Agriculture has determined that certain Federal cost-share payments made to individuals under the Stewardship Incentive Program (SIP) are made primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, and providing a habitat for wildlife. This determination is made in accordance with Section 126(b) of the Internal Revenue Code and permits recipients of these cost-share payments to exclude them from gross income for Federal income tax purposes to the extent allowed by the Internal Revenue Service.

FOR FURTHER INFORMATION CONTACT: Director, Cooperative Forestry Staff, Forest Service, USDA, P.O. Box 96090, Washington, D.C. 20090–6090, (202) 205–1389.

SUPPLEMENTARY INFORMATION: Section 126 of the Internal Revenue Code of 1954, as amended by the Revenue Act of 1978 and the Technical Corrections Act of 1979, 26 U.S.C. 126, provides that certain cost-sharing payments made to persons under certain small watershed programs administered by the Secretary of Agriculture which are determined by the Secretary of the Treasury or his delegate to be substantially similar to the type of programs described in Section 126(a) (1) through (8) may be excluded from the recipients's gross income for Federal income tax purposes if certain determinations are made. One

such determination if a determination by the Secretary of Agriculture that payments are made "primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife." To make a "primary purpose" determination, the Secretary evaluates a cost-share conservation program based on criteria set forth at 7 CFR Part 14. Following a determination by the Secretary of Agriculture, the Secretary of the Treasury must then determine that payments made under these conservation programs do not substantially increase the annual income derived from the property benefited by the payments.

The Stewardship Incentive Program is a cost-sharing conservation program administered by the Department of Agriculture under the authority of Title XII of the Food, Agriculture, Conservation and Trade Act of 1990, Pub. L. No. 101–624, 104 Stat. 3359, 3521 (codified at 16 U.S.C. 2103b). The Commissioner of the Internal Revenue Service issued Revenue Ruling 94-27 on April 11, 1994, which sets forth his determination that the Stewardship Incentive Program is substantially similar to the type of program described in Section 126(a)(1) through (8), so that Section 126 improvements made in connection with small watershed and under the Stewardship Incentive Program are within the scope of Section 126(a)(9).

The Stewardship Incentive Program provides cost-share assistance to private nonindustrial landowners to implement approved forestry practices on their forest land. The conservation objectives of the program are referred to specifically in House Conference Report No. 101–916 which provides the practices must include (1) management of forests for conservation purposes; (2) substainable timber production; (3) protection and management of wetlands; (4) management of native vegetation; (5) agroforestry; (6) forest management for energy conservation purposes; (7) management for fish and wildlife; (8) management for recreation; and (9) other activities approved by the Secretary.

This program is administered by the Forest Service, Department of Agriculture, through state forestry agencies nationwide. Each state forester,

in consultation with the State Forest Stewardship Committee, determines cost-share levels, practice priorities, and minimum acreage requirements. The Consolidation Farm Service Agency, Department of Agriculture, provides administrative assistance by accepting applications and arranging for disbursement of payments. Technical responsibilities for SIP practices may be assigned to other agencies and resource professionals through memoranda for understanding and cooperative agreements. The program regulations are set forth at 36 CFR part 230, State and Private Forestry Assistance; Stewardship Incentive Program, Interim Rule.

The overall goal of the Stewardship Incentive Program is to enhance forest management on private lands through a long term commitment to stewardship. Under this program, eligible landowners may receive up to 75 percent costsharing to install approved practices to: establish and manage forests for conservation and timber production; protect forested wetlands and riparian areas; improve water quality and soil productivity; enhance fish and wildlife habitat: and establish windbreaks. The cost-share payments may not exceed \$10,000 per owner per fiscal year. Eligible landowners must agree to follow a Forest Stewardship Management Plan developed by a professional resource manager in accordance with the landowner's goals. Landowners are required to maintain and protect SIP funded practices for a minimum of 10 years.

Program objectives are achieved through the development and implementation of a forest stewardship management plan approved by a professional resource manager for an eligible landowner. To obtain approval, the plan must include forest management practices that ensure both forest productivity and environmental protection of the lands to be treated under the management plan. Program objectives are further achieved through the installation of approved multiresource management activities aimed at enhancing management of nonindustrial private forest lands for economic, environmental and social benefits.

Having carefully examined the authorizing legislation, regulations, and operating procedures for the Stewardship Incentive Program using