

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:ITA:4 – GENIN-167472-02

Date:

December 20, 2002

Dear [REDACTED]:

This letter responds to your letter to President Bush dated August 26, 2002, asking that the provisions of Notice 2001-69, 2001-2 C.B. 491, which involve the tax treatment of amounts paid under employer leave-based donation programs, be made permanent. We have also responded separately to Senator John D. Rockefeller IV regarding your inquiry to him on this issue.

Notice 2001-69 provided interim guidance that the Treasury Department and the IRS believed was appropriate in the aftermath of the September 11, 2001, terrorist attacks. Although contrary to well-established legal principles, Notice 2001-69 provided special relief for uniquely tragic circumstances.

The Treasury Department and the IRS have studied the issue, and believe that employees who participate in leave-based donation programs may have taxable income under longstanding assignment of income principles. Also, the employees may be eligible for a charitable contribution deduction depending on each individual's tax situation. Accordingly, consistent with tax principles that are well-established in the law and administrative guidance, the Treasury Department and the IRS issued Notice 2003-1, 2003-2 I.R.B. (January 13, 2003), which declined to extend the tax relief provided in Notice 2001-69 to payments made after December 31, 2002.

I hope this information is helpful. If you have any further questions, please call [REDACTED], Identification Number [REDACTED] at [REDACTED]

Sincerely,

Robert A. Berkovsky
Branch Chief
Office of Associate Chief Counsel
(Income Tax & Accounting)