



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF
CHIEF COUNSEL

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Dear

This is in response to your letter dated November 16, 2005, asking whether payments made by a tax-exempt organization, pursuant to its purpose statement, to help needy individuals pay for the cost of an adoption are included in the individuals' gross income or subject to information reporting. We are pleased to provide you with the following general information.

Section 61(a) provides that, except as otherwise provided by law, gross income means all income from whatever source derived.

Section 102(a) provides that the value of property acquired by gift is excluded from gross income. Under § 102(a), a gift "must proceed from a 'detached and disinterested generosity,' ... 'out of affection, respect, admiration, charity or like impulses.'" *Commissioner v. Duberstein*, 363 U.S. 278, 285 (1960), 1960-2 C.B. 428, 431.

Situation 2 of Rev. Rul. 2003-12, 2003-1 C.B. 283, considered whether a grant received by an individual under a § 501(c)(3) charitable organization's program to pay or reimburse certain expenses incurred as a result of a disaster was includable in the individual's gross income. Rev. Rul. 2003-12 cites Rev. Rul. 99-44, 1999-2 C.B. 549, for the proposition that "in general, a payment made by a charity to an individual that responds to the individual's needs, and does not proceed from any moral or legal duty, is motivated by detached and disinterested generosity." In Situation 2 of Rev. Rul. 2003-12, the grants made by the charitable organization are designed to help distressed individuals with unreimbursed medical, temporary housing, or transportation expenses they incur as a result of a flood. Under these facts, Rev. Rul. 2003-12 concludes that payments made by the § 501(c)(3) charitable organization are made out of detached and disinterested generosity rather than to fulfill any moral or legal duty and, thus, are excluded from the gross income of the recipients under § 102. Rev. Rul. 2003-12 also concludes that the amounts excluded from gross income under the ruling are not subject to information reporting under § 6041.

Thus, payments analogous to those described in your letter have been held to be gifts and, therefore, not includible in the recipient's gross income or subject to information reporting if the payments are made directly to the needy individuals .

This letter has called your attention to certain general principles of the law. It is intended for informational purposes only and does not constitute a ruling. See Rev. Proc. 2006-1, §2.04, 2006-1 I.R.B. 7. If you have any additional questions, please contact _____, of this office at _____ .

Sincerely,

Michael J. Montemurro
Branch Chief
Office of Associate Chief Counsel
(Income Tax & Accounting)