



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

October 31, 2006

OFFICE OF
CHIEF COUNSEL

CC:TEGE:EOEG:CELivingston
GENIN-150490-06

Number: **INFO 2006-0092**

Release Date: 12/29/2006

Index No. 134.00-00

Dear _____ :

The Chief Counsel forwarded me your letter of October 20 asking for reconsideration of our advice with respect to the federal tax treatment of benefits paid under the new Traumatic Servicemembers' Group Life Insurance program (TSGLI) authorized by 38 U.S.C. § 1980A. He asked me to respond. We appreciate your having provided us with a copy of the advice your agency received from the IRS in 1998 on a related matter as it showed us where there was an oversight in our analysis of the tax treatment of TSGLI benefits. After reconsideration, we have concluded that the TSGLI benefits are exempt from taxation.

This letter supersedes the letter sent to you by Employment Tax Branch 2 on September 12, 2006.

TSGLI was enacted as part of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005, Pub. L. No. 109-13, § 1032(a)(2), 119 Stat. 231, 257; H.R. Rep. No. 109-72, at 127 (2005) (Conf. Rep.). It is codified at 38 U.S.C. § 1980A. The legislation explicitly states that TSGLI operates as a rider on a Servicemembers Group Life Insurance (SGLI) policy. SGLI is a low cost group life insurance program available to servicemembers and administered by a private insurance company pursuant to 38 U.S.C. § 1966. Active duty servicemembers who have an SGLI policy in force and are traumatically injured under certain circumstances will receive TSGLI benefits through their SGLI policy.

Congress specifically provided that "any payment due or to become due under Servicemembers' Group Life Insurance. . . made to, or on account of, an insured or a beneficiary shall be exempt from taxation. . . ." 38 U.S.C. § 1970(g). As the authorities on the interpretation of the statutes governing SGLI and TSGLI, you have advised us

that 38 U.S.C. § 1970(g) applies to TSGLI because TSGLI operates as a rider on an SGLI policy.

Congress enacted section 134 of the Internal Revenue Code in 1986 to provide a framework for determining which military benefits are to be excluded from income for federal income tax purposes. Under section 134, “qualified military benefits” are excludable from gross income. Generally, a qualified military benefit is defined in section 134(b)(1) as any allowance or in-kind benefit (other than personal use of a vehicle) which (1) is received by any member or former member of the uniformed services of the United States or any dependent of such member by reason of such member’s status or service as a member of such uniformed service; and (2) was excludable from gross income on September 9, 1986, under any provision of law, regulation or administrative practice which was in effect on such date. However, section 134(b)(2)(B) provides that benefits beyond this definition can still be excludable from gross income under another section of the Internal Revenue Code.

Section 140(a)(3) of the Code directs that “[f]or exemption of benefits under laws administered by the Veterans’ Administration, see section 5301 of title 38, United States Code. Section 5301(a) provides that “[p]ayments of benefits due or to become due under any law administered by the Secretary. . . made to, or on account of, a beneficiary shall be exempt from taxation” It is our understanding that section 5301 does not apply to SGLI or TSGLI because those insurance programs are administered by a private insurance company rather than by the Federal government. Nevertheless, Congress enacted virtually identical language in 38 U.S.C. § 1970(g) to convey its intent that the exemption from taxation apply equally to SGLI. Congress subsequently enacted TSGLI and incorporated it into the law so as to bring TSGLI under 38 U.S.C. § 1970(g).

The legislative history of section 140 does not give any clear indication why section 1970(g) of Title 38 is not specifically listed in section 140 of the Code. Nevertheless, the similarity of language between section 1970(g) and section 5301(a), the clear Congressional intent that section 1970(g) in the context of SGLI and VGLI parallel section 5301(a) in the context of life insurance programs administered by the Federal government, and the specific structure of TSGLI as a rider on SGLI and as a benefit subject to 38 U.S.C. § 1970(g), leads us to conclude that TSGLI benefits are not subject to federal income taxation. To conclude otherwise would abrogate the effect of section 1970(g) as applied to TSGLI. General principles of statutory construction compel us to reconcile different statutory provisions so as to give meaning to all of them. In this case, we believe sections 134 and 140 of the Internal Revenue Code and sections 1970(g) and 5301(a) of Title 38 are best read together as providing for exemption of TSGLI benefits from federal income taxation.

Because we conclude that TSGLI benefits are not subject to federal income taxation, reporting of payment of such benefits is not required under the Internal Revenue Code.

If you have any further questions please contact me at () .

Sincerely,

Catherine E. Livingston
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Organizations/Employment
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Tax Exempt & Government Entities