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The Honorable Harry Mitchell
Member, U.S. House of Representatives
7201 East Camelback Road, Suite 335
Scottsdale, AZ 85251

Attention:

Dear Congressman Mitchell:

This letter is in response to your inquiry dated March 6, 2008, on behalf of your constituent, . asked if certain compensation constitutes nontaxable combat zone compensation.

We understand that served in Iraq and is currently undergoing medical treatment for his injuries at the . Whether his compensation is excludable combat zone compensation depends on whether his injuries were incurred as a result of his service in a combat zone, and whether he is being treated for those injuries on an inpatient or an outpatient basis.

Compensation an enlisted member of the United States Armed Forces (USAF) receives is excluded from gross income for any month during any part of which the member either served in a combat zone, or was hospitalized as a result of wounds, disease, or injury incurred while serving in a combat zone [Section 112 of the Internal Revenue Code (the Code)]. For this purpose, an individual is hospitalized only until the date the individual is discharged from the hospital [Regulation section 1.112-1(c)(2) of the Income Tax Regulations (the Regulations)]. Therefore, compensation earned while serving outside a combat zone after discharge from the hospital or during outpatient services is not eligible for the exclusion.

If a member of the USAF is hospitalized while serving in a combat zone, we presume that the wound, disease, or injury causing the hospitalization was incurred while serving

in a combat zone, unless there is clear evidence to the contrary [Regulation section 1.112-1(c)(1)]. In certain cases, however, a member of the USAF may have incurred a wound, disease, or other injury while serving in a combat zone even though the individual was not hospitalized for it while so serving. If an enlisted member of the USAF is hospitalized for any part of a month as a result of injuries sustained in a combat zone, such as Iraq, then that individual is entitled to exclude any compensation received for that entire month from gross income [Regulation section 1.112-1(b)(3)]. However, compensation received for service for any month that begins more than 2 years after the date specified in an Executive Order as the date of the termination of combatant activities in the combat zone cannot be excluded under section 112 regardless of whether the individual receiving the compensation is hospitalized for any part of the month [Regulation section 1.112-1(a)(2)].

I hope this information is helpful. If you have further questions, please call me at
or of my staff at .

Sincerely,

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