



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

OFFICE OF
CHIEF COUNSEL

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The Honorable David R. Obey
U.S. House of Representatives
Washington, DC 20515

Attention:

Dear Mr. Obey:

This letter responds to your inquiry dated March 1, 2008, on behalf of your constituent, [REDACTED] stated that he "cashed out" some of his vacation pay from his Pay Time Off (PTO) account. However, he did not explain what he meant by "cashed out" or otherwise describe the transaction for us. He further stated that he had to pay the alternative minimum tax (AMT) and a ten-percent penalty on the "cash out" of his vacation pay, in addition to federal, state, and social security taxes. We contacted your office to obtain more information about [REDACTED] situation and the character of this "cash out." However, your office could not obtain more information about the transaction. Because we lack the information, we cannot address specifically the tax consequences of [REDACTED] transaction. However, we can provide you with the following general information about wages and the AMT.

Under section 61 of the Internal Revenue Code (Code), taxable income generally includes all income regardless of its source. All compensation received by an employee from an employer for services performed by the employee is considered taxable wages unless a specific exception applies. When wages are paid to the employee, the employer deducts Federal Income Tax Withholding (FITW) and the employee's share of the Federal Insurance Contributions Act (FICA) tax. Amounts an employer pays to an employee for leave or for time off are wages subject to the withholding of FITW and FICA.

The AMT requires taxpayers to add back to taxable income a portion of deductions or exclusions allowed under regular federal income tax or to adjust how they compute a deduction or exclusion. The AMT attempts to ensure that anyone who benefits from these tax advantages pays at least a minimum amount of tax. A taxpayer may have to

pay the AMT if taxable income for regular tax purposes plus any applicable adjustments and preference items are more than the AMT exemption amount. It is possible that 's transaction increased the amount of his yearly income above the exemption amount, thereby subjecting him to the AMT.

may want to explore whether he is entitled to the minimum tax credit available to taxpayers who have an AMT liability. This credit may offset his regular tax liability in future years. The amount of the offset is limited to the excess of the regular tax liability over the AMT liability for that year. Any unused minimum tax credit is available for use in future years. More information about the AMT can be found in the instructions to Form 6251, Alternative Minimum Tax – Individuals, and in the instructions to Form 8801, Credit for Prior Year Minimum Tax – Individuals, Estates, and Trusts.

I hope this information is helpful. If I can assist you further, please contact me or at .

This letter is intended for informational purposes only and does not constitute a ruling. Revenue Procedure 2008-1, §2.04, 2008-1 Internal Revenue Bulletin 6 (Jan. 7, 2008).

Sincerely,

George J. Blaine
Associate Chief Counsel
(Income Tax and Accounting)
By Donna Marie Young