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October 2, 2009

Dear _____ :

This is in response to your letter of August 17, 2009, concerning "qualified tuition reductions" described in section 117(d) of the Internal Revenue Code (Code). Specifically, you asked about the term "education below the graduate level." We are pleased to address your concerns.

Generally, amounts paid to or for the benefit of employees are presumptively compensatory in nature, and ordinarily includible in gross income as "wages." However, section 117(d)(1) of the Code provides a special rule in the case of a "qualified tuition reduction."

Section 117(d)(1) of the Code provides that gross income shall *not* include any "qualified tuition reduction." Section 117(d)(2) defines a qualified tuition reduction as the amount of any reduction in tuition provided to an employee of a section 170(b)(1)(A)(ii) educational organization (a school) for the education (below the graduate level) at such an educational organization, of (A) such employee, or (B) any person treated as an employee (or whose use is treated as an employee use) under the rules of section 132(h) of the Code. Section 132(h) refers, generally, to spouses and dependent children of employees.

For purposes of this tax exclusion, "education below the graduate level" generally refers to any course which is not part of a course of study conducted at an

educational organization requiring a bachelor of arts degree or bachelor of science degree or the equivalent for admission into the program, and which leads to a graduating degree. A course which is part of a course of study leading to a graduate level degree is not considered 'education below the graduate level,' even if the course is not taken in order to fulfill requirements for a graduate level degree, unless it is taken for credit toward a degree below the graduate level.

In the case of educational organizations conducting joint BA/JD, BA/MD, or similar joint-degree programs, the individual courses of study must be analyzed to determine the permissibly excludable education; those courses taken in satisfaction of the BA or BS degree requirements are considered 'education below the graduate level,' even if, for example, they are taken in a fifth or sixth year of study. Similarly, a graduate level course taken in the freshman year solely in satisfaction of the JD or MD degree requirement, would not constitute 'education below the graduate level.'

These remarks refer solely to the federal income tax treatment of certain tuition reductions under section 117(d) of the Code.

As you may know, the Internal Revenue Service issues both private letter rulings and general information letters to assist taxpayers in the preparation of their returns. The procedures for requesting private letter rulings are set forth in Rev. Proc. 2009-1, 2009-1 I.R.B. 1. This is a general information letter.

We thank you for your interest and concern in this matter, and hope that the general information provided is helpful.

Sincerely yours,

Associate Chief Counsel
(Income Tax & Accounting)

/s/ William A. Jackson

By _____
William A. Jackson
Chief, Branch 5

Enclosure:
Copy of this letter