



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

OFFICE OF THE CHIEF COUNSEL

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The Honorable Carl Levin
United States Senator
524 Ludington Street, Suite LL-103
Escanaba, MI 49829

Attention:

Dear Senator Levin:

I am responding to your letter, dated September 16, 2010, on behalf of _____ (Association), an exempt charitable organization under section 501(c)(3) of the Internal Revenue Code (Code). The Association received a grant from the _____ to assist families in obtaining respite care for family members with _____

The organization reimburses the family for a portion of the cost of obtaining respite care, but does not provide compensation to the family for their services in caring for the family member with _____.

_____ asks whether the Association's reimbursements for the cost of respite care are excludable from the recipients' gross income. If the reimbursements are excludable, the Association would not be required to file information returns reporting the payments as taxable income.

Section 61 of the Code provides that, unless otherwise excluded, gross income means all income from whatever source derived. Two exclusions may apply to the Association's reimbursements of amounts families pay to obtain respite care.

General Welfare Exclusion

Payments to individuals under governmental social benefit programs for the promotion of the general welfare and not for services rendered are not includible in the recipients' gross income. To qualify under the general welfare exclusion, payments must (i) be made from a governmental fund, (ii) be for the promotion of the general welfare (i.e.,

generally based on individual or family need), and (iii) not represent compensation for services. See, e.g., Revenue Ruling 2009-19, 2009-2 Cumulative Bulletin 111. See also, Rev. Rul. 74-153, 1974-1 C.B. 20 (State payments to adoptive parents for the support and maintenance of their adoptive child are general welfare payments not includible in the recipients' gross income); and Rev. Rul. 57-102, 1957-1 C.B. 26 (State benefit payments to blind persons are general welfare payments not includible in the recipients' gross income). From [redacted] description, the Association appears to have paid the reimbursements with governmental funds, based on individual or family need, and not as compensation for services.

Gift Exclusion

Section 102(a) of the Code provides an exclusion from gross income for gifts. In *Duberstein v. Commissioner*, 363 U.S. 278, 285 (1960), the Supreme Court explained that a gift proceeds from a "detached and disinterested generosity" and is made "out of affection, respect, admiration, charity or like impulses" not because of "any moral or legal" duty to make a payment. Rev. Rul. 99-44, 1999-2 C.B. 549, 550 states: "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." The Association appears to have paid the reimbursements from a detached and disinterested generosity to address families' needs for respite care, consistent with the Association's charitable purposes.

This letter is an information letter and does not constitute a private letter ruling. See section 2.04 of Rev. Proc. 2010-1, 2010-1 Internal Revenue Bulletin 1. In addition, please note that the Service generally will not rule on whether a transfer is a gift within the meaning of §102(a). See section 3.01(9) of Rev. Proc. 2010-3, 2010-1 I.R.B. 110.

I hope this information is helpful. If you have any questions, please contact
at [redacted].

Sincerely,

George J. Blaine
Associate Chief Counsel
(Income Tax & Accounting)