



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

OFFICE OF THE CHIEF COUNSEL

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The Honorable Adam Kinzinger
Member, U.S. House of Representatives
2701 Black Road, Suite 201
Joliet, IL 60435

Attention:

Dear Congressman Kinzinger:

I am responding to your letter dated October 28, 2011, on behalf of a constituent who is a former prisoner of war of the 1991 Gulf War. Your constituent, along with other prisoners of war, sued Iraq and ultimately received a payment in settlement of the suit. The constituent asked whether the payment is includible in gross income.

Gross income includes all income from whatever source derived, except as otherwise provided by law (section 61 of the Internal Revenue Code (Code)). However, section 104(a)(2) generally excludes from gross income the amount of any damages received (whether by suit or agreement) on account of personal physical injuries or physical sickness.

We do not know the terms of the settlement agreement involving your constituent. The underlying lawsuit, however, indicates that the prisoners of war were physically tortured, severely beaten, starved, and deprived of medical care. Thus, it would appear that any payment that your constituent received on account of such treatment would be excluded from gross income under section 104(a)(2), even though the United States made the payment rather than Iraq.

I hope that this information is helpful. If you have any questions, please contact
or me at

Sincerely,

Michael J. Montemurro
Chief, Branch 4
Office of Associate Chief Counsel
(Income Tax & Accounting)