



OFFICE OF
CHIEF COUNSEL

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

February 16, 2016

Number: **2016-0006**

Release Date: 3/25/2016

CONEX-102648-16

UIL: 104.02-00

The Honorable Bill Nelson
United States Senator
225 East Robinson Street, Suite 410
Orlando, FL 32801

Attention:

Dear Senator Nelson:

I apologize for the delay in responding to your inquiry dated December 18, 2015, on behalf of your constituent, [REDACTED] is a former deputy sheriff who was permanently disabled in a line-of-duty motorcycle accident in 2010. He has been receiving service-connected disability payments since 2013 when he retired. His employer told him that his service-connected disability payments should be tax-free for the duration of the payments, but he recently received a letter stating that his payments will be taxable starting at age 55. He wrote that his disability retirement payments should remain nontaxable and asked why the law changed.

Generally, an employee can exclude payments for on-the-job injuries or illness from his or her gross income as workers' compensation under section 104(a)(1) of the Internal Revenue Code. The exclusion of payments does not apply, however, to a retirement pension or annuity determined by an employee's age, length of service, or prior contributions, even if an occupational injury or sickness caused the employee to retire.

It is possible that [REDACTED] is receiving his service-connected disability benefits pursuant to a Florida statute that requires the payments to be converted to regular retirement at a specified age. Any benefits he receives after reaching that age would not qualify for exclusion from gross income if his benefits are then determined with

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reference to years of service, age, or prior contributions. These long-standing principles are not related to any recent change in federal law or IRS position.

I hope this information is helpful. If you need additional information, please contact me or _____ of my staff at _____.

Sincerely,

Victoria A. Judson
Associate Chief Counsel
(Tax Exempt and Government Entities)



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UIL: 104.02-00

The Honorable Dennis A. Ross
Member, U.S. House of Representatives
170 Fitzgerald Road, Suite 1
Lakeland, FL 33813

Attention:

Dear Representative Ross:

I apologize for the delay in responding to your inquiry dated December 7, 2015, on behalf of your constituent, . is a former deputy sheriff who was permanently disabled in a line-of-duty motorcycle accident in 2010. He has been receiving service-connected disability payments since 2013 when he retired. His employer told him that his service-connected disability payments should be tax-free for the duration of the payments, but he recently received a letter stating that his payments will be taxable starting at age 55. He wrote that his disability retirement payments should remain nontaxable and asked why the law changed.

Generally, an employee can exclude payments for on-the-job injuries or illness from his or her gross income as workers' compensation under section 104(a)(1) of the Internal Revenue Code. The exclusion of payments does not apply, however, to a retirement pension or annuity determined by an employee's age, length of service, or prior contributions, even if an occupational injury or sickness caused the employee to retire.

It is possible that is receiving his service-connected disability benefits pursuant to a Florida statute that requires the payments to be converted to regular retirement at a specified age. Any benefits he receives after reaching that age would not qualify for exclusion from gross income if his benefits are then determined with reference to years of service, age, or prior contributions. These long-standing principles are not related to any recent change in federal law or IRS position.

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