



OFFICE OF
CHIEF COUNSEL

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

February 29, 2016

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Release Date: 3/25/2016

CONEX-104728-16

UIL: 104.02-00

The Honorable Bill Posey
Member, U.S. House of Representatives
2725 Judge Fran Jamieson Way, Building C
Melbourne, FL 32940

Attention:

Dear Representative Posey:

I am responding to your inquiry dated January 19, 2016, on behalf of your constituent, _____ is a permanently disabled retired veteran, receiving in-line-of-duty disability payments since she retired. The Florida Department of Management Services told her that her service-connected disability payments would be tax-free for the duration of the payments, but she recently received a letter from that office stating that her payments will be taxable starting at age 62. She requested her disability retirement payments to remain nontaxable and asked why the law changed.

As you requested, I responded directly to _____ with information and enclosed a copy of the letter for your records.

If you need additional information, please contact me or _____ of my staff at _____

Sincerely,

Christine E. Ellison
Chief, Health and Welfare Branch
Office of Associate Chief Counsel
(Tax Exempt and Government Entities)

Enclosure



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Dear _____ :

I am responding to your inquiry dated January 19, 2016, to Representative Bill Posey. You asked that your disability retirement payments 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 the law determines 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 you are receiving your service-connected disability benefits according to a Florida statute that requires converting the payments to regular retirement at a specified age. Any benefits you receive after reaching that age would not qualify for exclusion from gross income if your 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.

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

Sincerely,

Christine E. Ellison
Chief, Health and Welfare Branch
Office of Associate Chief Counsel
(Tax Exempt and Government Entities)

cc: The Honorable Bill Posey
Attention: