



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

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

Attention:

Dear Senator Nelson:

I am responding to your inquiry dated February 3, 2016, on behalf of your constituent, _____ is a former employee of the Florida Department of Corrections who was disabled in the line of duty. He has been receiving service-connected disability payments since 2004, the year he retired. The Florida Department of Management Services told him that his service-connected disability payments would 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 62. He wrote that his disability retirement payments should remain nontaxable and asked why the status of his payments has 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.

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
(Tax Exempt and Government Entities)