



OFFICE OF  
CHIEF COUNSEL

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
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The Honorable Daniel Webster  
Member, U.S. House of Representatives  
300 W. Plant Street  
Winter Garden, FL 34787

Attention:

Dear Representative Webster:

I am responding to your inquiry dated March 8, 2016, on behalf of your constituent, \_\_\_\_\_ is a former member of the \_\_\_\_\_ Florida Police Department, who has been receiving service-connected disability payments since when 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 from them 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.

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

Sincerely,

Christine Ellison  
Acting Branch Chief,  
Health and Welfare Branch  
(Tax Exempt and Government Entities)