



OFFICE OF  
CHIEF COUNSEL

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
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The Honorable Joe Courtney  
Member, U.S. House of Representatives  
55 Main Street, Suite 250  
Norwich, CT 06360

Attention:

Dear Representative Courtney:

I am responding to your inquiry dated April 12, 2018, on behalf of your constituent, [REDACTED], asked for information about the taxability of payments received as a result of injuries sustained during his service as a police officer (disability payments). Specifically, he explained that before 2017, his disability payments were classified as non-taxable on his annual Form 1009-R, Distributions From Pensions, Annuities, Retirement or Profit Sharing Plans, IRAs, Insurance Contracts, etc. However, his [REDACTED] Form 1099-R indicates 50 percent of his disability payments are taxable. [REDACTED] asked us to explain why his taxes changed.

Section 104(a)(1) of the Internal Revenue Code (Code) and the related regulations provide that amounts received by an employee under a statute in the nature of a workmen's compensation act due to personal injuries or sickness incurred in the course of employment are excluded from the employee's income. However, if any portion of the amounts received by the employee is based on the employee's age or service (or prior contributions), then that portion is included in the employee's income (even if the employee's retirement resulted from personal injury or sickness).

If any portion of your constituent's disability payments received in [REDACTED] was based on his age, service, or prior contributions, then that portion of his payments is included in his income even if his retirement resulted from personal injury or sickness.

Section 104(a)(1) states that:

Except in the case of amounts attributable to (and not in excess of) deductions allowed under section 213 (relating to medical, etc., expenses) for any prior taxable year, gross income does not include –

(1) amounts received under workmen's compensation acts as compensation for personal injuries or sickness;

In general, this means that amounts received by an employee under a statute in the nature of a workmen's compensation act due to personal injuries or sickness incurred in the course of employment are excluded from the employee's income.

Section 1.104-1(b) of the Income Tax Regulations states, in relevant part, that:

[S]ection 104(a)(1) does not apply to a retirement pension or annuity to the extent that it is determined by reference to the employee's age or length of service, or the employee's prior contributions, even though the employee's retirement is occasioned by personal injury or sickness.

In general, this means that if any portion of an amount received by an employee is based on the employee's age or service (or prior contributions), then that portion is included in the employee's income (even if the employee's retirement was on account of personal injury or sickness).

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

Sincerely,

Denise Trujillo  
Chief, Health and Welfare Branch  
Office of Associate Chief Counsel  
(Tax Exempt and Government Entities)