



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
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OFFICE OF
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MEMORANDUM FOR CHIEF, EXAMINATION DIVISION
NORTH-SOUTH CAROLINA DISTRICT

FROM: Lewis J. Fernandez
Deputy Assistant Chief Counsel (Income Tax & Accounting)

SUBJECT: Information Reporting Requirements / Personal Injury Attorneys

This responds to your memorandum dated March 5, 1999, concerning certain information reporting requirements for personal injury attorneys.

Generally personal injury attorneys receive payments in settlement of personal injury actions they bring on behalf of their clients. These attorneys are legally obligated to pay out just and bona fide claims for certain medical expenses incurred by clients before disbursing the settlement payment to the client. The payments you are concerned about are these payments to cover clients' general medical bills, and not payments to, e.g., expert witnesses hired by the attorney.

Section 6041 of the Internal Revenue Code and the regulations thereunder require information reporting with respect to payments of \$600 or more made in the course of the trade or business.

The initial inquiry is whether the attorney is the **payor** for purposes of § 6041 or whether the attorney is merely a **paying agent**. Rev. Rul. 93-70, 1993-2 C.B. 294, indicates that a person who disburses funds on behalf of another person is a payor rather than a paying agent if that person performs management and oversight functions with respect to the payments. If the person is the payor, then that person will be subject to the information reporting requirements under § 6041. See also Rev. Rul. 77-53, 1977-1 C.B. 368, and Rev. Rul. 59-328, 1959-2 C.B. 379. On the other hand, if the person is merely a paying agent, the person for whom the payments are made is considered the payor for purposes of § 6041.

Situation 1 of Rev. Rul. 70-608, 1970-2 C.B. 286, clarifies Rev. Rul. 69-595, 1969 C.B. 242, which provides rules regarding information reporting requirements with respect to payments for medical care made by insurance companies and other organizations providing medical coverage programs.

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Because of the nature of the issues you are considering, it appears that Rev. Rul. 93-70, Rev. Rul. 77-53, and Rev. Rul. 59-328 provide more appropriate guidance for you than Rev. Rul. 70-608. Thus, an attorney is subject to the information reporting requirements of § 6041 if he or she exercises significant oversight and management functions over payments to cover a client's medical bills from a settlement award. However, if the attorney does not exercise significant management and control functions over the payment, then the attorney is not subject to the § 6041 requirements with respect to that payment. Whether an attorney exercises significant oversight and management functions with respect to such a payment is based on all the facts and circumstances (e.g., the amount of discretion the attorney has in determining whether a service provider's claim is just and bona fide and in determining whether to deny or pay that claim).

This memorandum is for your general information and is advisory only. It is not intended to be conclusive as to the tax consequences for any specific taxpayer. If we can be of further assistance, please contact CC:DOM:IT&A:2 at (202) 622-4920.