



OFFICE OF
CHIEF COUNSEL

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

January 8, 2009

CC:TEGE:EOEG:ET2
GENIN-151027-08

UIL: 139.00-00

Dear

This letter responds to your question regarding whether Notice 2006-10, 2006-1 C.B. 386, applies to special allowances paid by the _____ to employees and their dependents to reimburse expenses incurred while evacuating from the Hurricane Ike disaster area.

Notice 2006-10 (copy attached) provides guidance on the federal income and employment tax treatment of special allowances, described in 5 U.S.C § 5523(b) and 5 C.F.R. §§ 550.403(c) and 550.405(b)(2), paid by federal executive agencies to employees to reimburse certain expenses the employees and their dependents incurred while evacuating from the Hurricane Katrina core disaster area and staying in a safe haven.

Notice 2006-10 held, in general, that the special allowances described in the Notice are excludable from the gross income and wages of the employee to the extent that the expenses compensated by the special allowances are not otherwise compensated for by insurance or otherwise. In addition, federal executive agencies are not required to report the special allowances on Form W-2, Wage and Tax Statement, or to deduct and withhold taxes from these amounts, nor will the Internal Revenue Service (Service) require either a federal executive agency or its employee to include the special allowances in wages for employment tax purposes.

Notice 2006-10 described how the Service applies the Code to special allowances paid by Federal executive agencies pursuant to 5 U.S.C. § 5523(b) in the wake of a specific "qualified disaster" as defined in § 139(c) of the Internal Revenue Code. Absent a change in the law, we expect the Service to take this position with respect to special allowances paid pursuant to this same statutory authority following other qualified disasters as defined in § 139(c).

This letter has called your attention to certain general principles of the law. It is intended for informational purposes only and does not constitute a ruling. See Rev. Proc. 2009-1, §2.04, 2009-1 I.R.B. 7 (Jan. 5, 2009). If you have any additional questions, please contact our office at .

Sincerely,

Catherine E. Livingston
Deputy Division Counsel/Deputy Associate Chief
Counsel, (Exempt Organizations/Employment
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(Tax Exempt & Government Entities)