

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:EEE:EB:HW
PLR-107905-24

Date:
December 09, 2024

Legend

Taxpayer =

Plan =

Dear :

This responds to your letter, dated January 24, 2024, supplemented by a letter dated December 6, 2024, requesting the following rulings:

- (1) That and are statutes in the nature of a workmen's compensation act and that the lump sum payment of for a non-catastrophic line of duty disability benefit paid pursuant to and the lump sum payment of for a catastrophic line of duty disability benefit paid pursuant to of the statutes are excludable from the gross income of the recipient under section 104(a)(1) of the Code, and that the annual benefit paid for a catastrophic line of duty disability benefit, as actuarially adjusted every four years, paid pursuant to of the statutes is excludable from the gross income of the recipient under section 104(a)(1) of the Code.
- (2) That of the statutes that provides for a lump sum payment on account of the death of a public safety officer killed in the line of duty and paid to the spouse or child of the public safety officer pursuant to attributable to such officer's service as a public safety officer is excludable from the gross income of the recipient under section 101(h) of the Code.

FACTS

Taxpayer is the administrator of the Plan established under the laws of the State of . The statutes constituting the Plan and governing the payment of retirement and disability benefits by Taxpayer are set forth in .

Taxpayer is the administrator of the tax qualified, defined benefit Plan to which both the members and the participating employers contribute. The Plan is a governmental plan administered and operated by the State of through Taxpayer. Participation in the Plan is mandatory for eligible state and school district employees and is available to other public employers and their employees on a contractual basis.

of the provides for a one-time payment of to a public safety officer who is determined by the retirement board to be permanently disabled as a result of bodily injury or disease sustained in the line of duty. Under , the retirement board must determine that the permanent disability occurred in the line of duty, the permanent disability was not caused by intentional misconduct of the public safety officer or by the public safety officer's intentional infliction of injury, and the public safety officer was not voluntarily intoxicated at the time of the event causing the disability. provides that the benefit payable under this section is "separate from and independent of any benefits payable to the public safety officer under this chapter."

of the provides for a one-time payment of to a public safety officer who is determined by the retirement board to be catastrophically injured. also provides for an ongoing annual benefit payment of not less than , adjusted every four years pursuant to an actuarial study to determine the change in average public safety officer benefits over the previous four years. In addition, provides that in the event a public safety officer who is receiving benefits under this section dies and leaves a surviving spouse to whom the member was married at the time of the catastrophic injury, the surviving spouse will receive the ongoing annual benefit payment (to which the public safety officer would have been entitled) for the duration of the spouse's life

defines a "catastrophic injury" as a "sudden, violent, life-threatening, duty-related injury sustained by an active member within the scope of the public safety officer's duties and within the department policy that is due to an externally caused event such as a motor vehicle collision, gunshot wound, aggravated battery, structural collapse, significant fall, or other external event or events that is not self-inflicted or the result of intoxication, provided, however, that no psychological injury, disorder, or condition shall be considered a catastrophic injury under this definition." Further, the injury must be of such severity that it causes the loss of ability to maintain certifications required by the state of , the member's department, or both. provides that the "benefits provided for in this section shall not be in addition to other benefits under this chapter."

provides for a death benefit payment of in the event a public safety officer dies as the direct and proximate result of a personal

injury sustained in the line of duty. The death benefit is payable to an officer's surviving spouse or, in the event there is no surviving spouse, divided among the officer's dependent children. The benefit is only paid after the retirement board determines that the death occurred in the line of duty

, the death was not caused by the intentional misconduct of the officer or by such officer's intentional infliction of injury, and the officer was not voluntarily intoxicated at the time of death. In addition, benefit payments will not be paid to a person whose actions were a substantial contributing factor to the death of the officer.

LAW

Section 61(a) of the Code provides that, except as otherwise provided by law, gross income means all income from whatever source derived, including compensation for services.

Section 72(a) of the Code provides that, except as otherwise provided, gross income includes any amount received as an annuity (whether for a period certain or during one or more lives) under an annuity, endowment, or life-insurance contract.

Section 101(h)(1) of the Code provides that gross income shall not include any amount paid as a survivor annuity on account of the death of a public safety officer (as such term is defined in Section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 as in effect immediately before the enactment of the National Defense Authorization Act for Fiscal Year 2013) killed in the line of duty—(A) if such annuity is provided under a governmental plan which meets the requirements of section 401(a), to the spouse (or former spouse) of the public safety officer or to a child of such officer; and (B) to the extent such annuity is attributable to such officer's service as a public safety officer.

Section 101(h)(2) of the Code provides that section 101(h)(1) of the Code shall not apply with respect to the death of any public safety officer if, as determined in accordance with the provisions of the Omnibus Crime Control and Safe Streets Act of 1968—(A) the death was caused by the intentional misconduct of the officer or by such officer's intention to bring about such officer's death; (B) the officer was voluntarily intoxicated (as defined in section 1204 of such Act) at the time of death; (C) the officer was performing such officer's duties in a grossly negligent manner at the time of death; or (D) the payment is to an individual whose actions were a substantial contributing factor to the death of the officer.

Section 104(a)(1) of the Code provides that gross income does not include amounts received under workmen's compensation acts as compensation for personal injuries or sickness.

Treas. Reg. § 1.104-1(b) provides that section 104(a)(1) of the Code excludes from gross income amounts received by an employee under a workmen's compensation act or under a statute in the nature of a workmen's compensation act that provides compensation to the employee for personal injury or sickness incurred in the course of employment. Treas. Reg. § 1.104-1(b) also provides this exclusion to compensation paid under a workmen's compensation act to the survivor or survivors of a deceased employee. Treas. Reg. § 1.104-1(b) states that this exclusion does not apply to the amount received either 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 an occupational injury or sickness, or to the extent that it is in excess of the amount provided in the applicable workmen's compensation act or acts.

Rev. Rul. 80-14, 1980-1 C.B. 33, concluded that a statute that provides disability benefits to a class restricted to employees with service-incurred disabilities is a statute in the nature of a workmen's compensation act and the benefits are excludable from gross income under section 104(a)(1) of the Code.

In Rev. Rul. 80-44, 1980-1 C.B. 34, a statute in the nature of a workmen's compensation act provided for an allowance of the greater of (A) 60 percent of the individual's average final compensation, or (B) the amount to which the individual would be entitled under the normal, years of service, retirement plan. The ruling concluded that the benefits under the statute were excludable under section 104(a)(1) of the Code to the extent that they did not exceed 60 percent of the final average compensation. Any excess over 60 percent of final average compensation was attributable to length of service, and therefore, not excludable from gross income. Rev. Rul. 80-44 also holds that benefits of the surviving spouse which are a continuation of the employee's benefits are excludable under section 104(a)(1) of the Code in the same percentage as the employee's benefits were excludable.

Rev. Rul. 80-84, 1980-1 C.B. 35, concluded that benefits paid to employees' survivors may qualify as paid under a statute in the nature of a workmen's compensation act where those benefits are a mere continuation of employees' section 104(a)(1) benefits. The ruling also stated that a statute authorizing benefits for employees' survivors may qualify as a statute in the nature of a workmen's compensation act if it requires as a prerequisite to payment a determination that the cause of the employee's death was service-related. The ruling concluded that survivor benefits are excludable from gross income under section 104(a)(1) if the recipient can establish that the benefits are received under the service-connected death provisions.

Rev. Rul. 85-104, 1985-2 C.B. 52, considered a statute under which the participants, who were disabled due to work-related injury or sickness, receive the greater of a fixed percentage of base salary or an amount computed on the basis of years of service. The ruling concluded that an amount up to the percentage of base salary specified by the statute would be excludable from the participant's gross income under section 104(a)(1) of the Code, but that any excess, computed on the basis of length of service, would not

be excludable under section 104(a)(1). The ruling also concluded that if the benefits are computed by a formula that does not refer to the employee's age, length of service, or prior contributions and are provided to a class that is restricted to employees with service-incurred injuries, then the benefits are payment for those injuries, and the statute under which the benefits are paid qualifies as a statute in the nature of a workmen's compensation act.

ANALYSIS AND CONCLUSION

_____ provides for a one-time payment of _____ to a public safety officer who is determined by the retirement board to be permanently disabled as a result of bodily injury or disease sustained in the line of duty. Under _____, the retirement board must determine that the permanent disability occurred in the line of duty and was not caused by intentional misconduct, intentional infliction of injury, or voluntary intoxication.

The payment under _____ is not determined on the basis of age, length of service, or prior employee contributions, and the lump sum payment is provided to a class that is restricted to employees with service-connected injuries who are determined to be permanently disabled. Therefore, _____ is a statute in the nature of a workmen's compensation act and the lump sum payment is excluded from the recipient's gross income under section 104(a)(1) to the extent that the lump sum payment paid by Taxpayer to the recipient exceeds the value of any retirement benefit immediately payable to the public safety officer under the Plan.

_____ provides for a one-time payment of _____ to a public safety officer who is determined by the retirement board to be catastrophically injured. In addition, _____ provides for an ongoing annual benefit payment of not less than _____ (adjusted pursuant to an actuarial study) which is payable to a surviving spouse for the life of the surviving spouse in the event that the public safety officer dies. Under _____, the retirement board must determine that the catastrophic injury was sustained by an active member within the scope of the public safety officer's duties and within the department policy that is due to certain externally caused events and meets other statutory requirements.

The lump sum payment under _____ is not determined on the basis of age, length of service, or prior employee contributions, and the lump sum payment is provided to a class that is restricted to employees with service-connected injuries that are determined by the Taxpayer to be permanently disabled. In addition, the ongoing annual benefit is not determined on the basis of age, length of service, or prior employee contributions, and the ongoing annual benefit is provided to a class that is restricted to employees with service-connected injuries who are determined to be catastrophically injured. Further, _____ provides that the "benefits provided for in this section shall not be in addition to other benefits under this chapter." Therefore, _____ is a statute in the nature of a workmen's compensation act and the one-time lump sum payment and ongoing annual benefit are excluded from

the recipient's gross income under section 104(a)(1) to the extent that the value of the lump sum payment and ongoing annual benefit paid by Taxpayer to the recipient exceeds the value of any retirement benefit immediately payable to the public safety officer under the Plan. In addition, in the event a public safety officer who is receiving benefits under _____ dies, the payments to a surviving spouse under _____ are excluded from the gross income of the surviving spouse.

_____ provides for a death benefit payment of _____ in the event a public safety officer dies as the direct and proximate result of a personal injury sustained in the line of duty. The death benefit is payable to an officer's surviving spouse or, in the event there is no surviving spouse, divided among the officer's dependent children.

The death benefit provided under _____ is limited to public safety officers as defined in Section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 as in effect immediately before the enactment of the National Defense Authorization Act for Fiscal Year 2013. Section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 defines a public safety officer as "an individual serving a public agency in an official capacity, with or without compensation, as a law enforcement officer, as a firefighter, or as a chaplain." _____ defines public safety officer as an active member of Plan who is either designated as police officer, firefighter, or paid firefighter under the _____. Plan is a governmental plan which meets the requirements of section 401(a) of the Code and the death benefit is only payable to surviving spouse of the public safety officer or to dependent children of such officer.

The death benefit is limited to spouses and children of public safety officers who are killed in the line of duty. The benefit is paid only after the retirement board determines that the death occurred in the line of duty

_____, the death was not caused by the intentional misconduct of the officer or by such officer's intentional infliction of injury, and the officer was not voluntarily intoxicated at the time of death. Benefit payments will not be paid to a person whose actions were a substantial contributing factor to the death of the officer.

The death benefit payable to the spouse or dependent child of a public safety officer under _____ that provides for the payment of a lump sum on account of the death of a public safety officer killed in the line of duty and attributable to such officer's service as a public safety officer is excludable from the gross income of the spouse or dependent child under section 101(h)(1) of the Code, provided that Taxpayer determines the officer was not performing such officer's duties in a grossly negligent manner at the time of death consistent with section 101(h)(2)(C).

The rulings contained in this letter are based upon information and representations submitted by Taxpayer and accompanied by a penalties of perjury statement executed by an appropriate party, as specified in Rev. Proc. 2024-1, 2024-1 I.R.B. 1, section

7.01(16)(b). This office has not verified any of the material submitted in support of the request for a ruling, and such material is subject to verification upon examination. The Associate Office will revoke or modify a letter ruling and apply the revocation retroactively if there has been a misstatement or omission of controlling facts; the facts at the time of the transaction are materially different from the controlling facts on which the ruling was based; or, in the case of a transaction involving a continuing action or series of actions, the controlling facts change during the course of the transaction. See section 11.05 of Rev. Proc. 2024-1.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

No opinion is expressed concerning the Federal tax consequences under any other provision of the Code other than those specifically stated herein.

This ruling is directed only to the party requesting it. Sections 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

Denise Trujillo
Chief, Health & Welfare Branch
Office of Associate Chief Counsel
(Employee Benefits, Exempt Organizations,
and Employment Taxes)

cc: