

Number: **201127010**  
Release Date: 7/8/2011  
Index Number: 104.00-00

Department of the Treasury  
Washington, DC 20224

Third Party Communication: None  
Date of Communication: Not Applicable

Person To Contact: \_\_\_\_\_, ID No. \_\_\_\_\_

Telephone Number:

Refer Reply To:  
CC:TEGE:EB:HW  
PLR-149519-10

Date:  
March 31, 2011

### Legend

Taxpayer =

Statute A =

Statute B =

Plan =

Dear \_\_\_\_\_ :

This responds to your letter dated November 24, 2010, requesting a ruling concerning the income tax consequences under section 104(a)(1) of the Internal Revenue Code (the Code), of disability benefits paid under Plan.

Taxpayer adopted Plan under Statute A and Statute B to provide certain benefits for employees who sustain a job-related injury, illness or occupational disease arising out of the course and within the scope of employment. According to the information submitted, an employee injured on duty will receive 75% of the employee's salary at time of injury for the first six-month period. The six-month period may be extended for an additional six months upon Taxpayer's receipt of supplementary medical documentation. The employee will receive 65% of salary for the second six-month period.

Section 104(a)(1) of the Code 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... .”

Section 1.104-1(b) of the Income Tax Regulations states that section 104(a)(1) excludes from gross income amounts that are 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 employees for personal injuries or sickness incurred in the course of employment. Section 104(a)(1) also applies to compensation which is paid under a workmen's compensation act to the survivor or survivors of a deceased employee. However, section 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 an occupational injury or sickness.

Accordingly, based on the representations made, and authorities cited above, we conclude that benefits paid to an employee under Plan are paid pursuant to a statute in the nature of workmen's compensation and amounts paid under Plan are excludable from the employee's gross income under section 104(a)(1) of the Code.

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

Sincerely,

Harry Beker  
Chief, Health and Welfare Branch  
Office of Division Counsel/Associate Chief  
Counsel (Tax Exempt & Government Entities)