



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

OFFICE OF
CHIEF COUNSEL

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MEMORANDUM FOR

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

SUBJECT: Information Reporting for Workmen's Compensation Payments

Index No. 6041.03-00

This responds to your technical assistance request of May 10, 1999, for technical language to be used in your response to a taxpayer inquiry received from the District Taxpayer Advocate's Office.

This response is based on the assumption that the payments the taxpayer has received from his former employer are in fact based on a service connected injury or injuries under workmen's compensation law and are, therefore, exempt from taxation under § 104(a)(1) of the Internal Revenue Code. Under that assumption, we recommend that language substantially similar to the following be included in the response to the taxpayer.

"Under § 6041(a) of the Internal Revenue Code, all persons engaged in a trade or business and making payment in the course of that trade or business to another person of rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, and income (other than certain payments not here relevant) of \$600 or more in any taxable year must render a true and accurate return under regulations prescribed by the Secretary setting forth the amount of those gains, profits, and income, and the name and address of the recipient of the payments. Under § 1.6041-1(a)(2) of the Income Tax Regulations, the return required by § 6041(a) must be made on Forms 1096 and 1099.

"Section 1.6041-1(b) provides that governmental agencies are subject to the reporting requirements of § 6041(a).

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“Section 1.6041-3 sets forth a listing of payments for which no return of information is required. In addition to those items, Code sections 101 through 138 describe items specifically excluded from gross income. One such item is found in § 104(a)(1), which states in general, “...gross income does not include amounts received under workmen’s compensation acts as compensation for personal injuries or sickness”. Thus, to the extent that payments received by you from a former employer were paid pursuant to a workmen’s compensation act as compensation for personal injuries or sickness, those payments generally are excluded from your gross income.

“Since these payments represent tax exempt income, the payor is not required to issue a Form 1099. However, there is no provision in the Code that prohibits the issuance of one. Since the payor in this case has done so, we recommend that you attach a copy of this letter to your Form 1040 to alert the Internal Revenue Service that payments reported by this particular former employer are neither taxable nor reportable. Also, you should keep a copy of this letter among your financial records in case you need to cite it in the future.”

We appreciate the opportunity to be of assistance in this matter. If we may be of further help, please contact [REDACTED] of this Office at 202-622-7848.