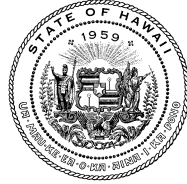


NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR



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DEPARTMENT OF TAXATION
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FREDERICK D. PABLO
DIRECTOR OF TAXATION

RANDOLF L. M. BALDEMOR
DEPUTY DIRECTOR

May 31, 2012

LETTER RULING 2012-07

[Redacted Text]
[Redacted Text]
[Redacted Text]

Re: Internal Revenue Code Section 104 – Exclusion of Workmen’s Compensation Benefits

Dear [Redacted Text]:

By letter dated October 24, 2011, [Redacted Text] (the “Taxpayer”), through you, requested a ruling from the State of Hawaii Department of Taxation (the “Department”) on whether benefits received pursuant to section 701 of the Public Safety Officer’s Benefits Act of 1976 for the death of [Redacted Text] are deemed to be workmen’s compensation and therefore excludable from Hawaii adjusted gross income under section 104(a) of the Internal Revenue Code.

FACTS REPRESENTED BY THE TAXPAYER

On December 15, 2009, the Public Safety Officer’s Benefits Office (the “PSOB Office”) made a claim determination that the death of the Taxpayer’s [Redacted Text], was covered under 42 U.S.C. 3796, et seq., the Public Safety Officer’s Benefit Act (the “PSOB ACT”). A copy of the determination letter has been provided for the Department’s reference. Specifically, the PSOB Office determined [Redacted Text].

The Taxpayer was awarded [Redacted Text].

LAW AND ANALYSIS

Internal Revenue Code (“IRC”) section 104 is incorporated into the Hawaii Revised Statutes (“HRS”) under section 235-2.3, HRS.

IRC section 104(a) states, “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 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. Treas. Reg. Section 1.104-1(b).

Letter Ruling 2012-07

[Redacted Text]

[Redacted Text]

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IRS Revenue Ruling 77-235 (1977) holds that payment received pursuant to section 701 of the PSOB Act of 1976 is an amount received under a statute in the nature of a workmen's compensation act and as such is excludable from gross income under section 104(a) of the Internal Revenue Code.

According to the Determination Letter dated December 15, 2009, the PSOB Office determined that the death of [Redacted Text] is covered under the PSOB Act, pursuant to the presumption established by 42 U.S.C. §3796(k).

Therefore, the PSOB benefit paid to the Taxpayer is in the nature of workmen's compensation. The PSOB benefit paid to the Taxpayer in the amount of [Redacted Text] is excludable from Hawaii adjusted gross income under IRC section 104 and shall not be subject to Hawaii income tax under HRS Chapter 235.

The rulings contained in this letter are based upon information and representations submitted by the Taxpayers and accompanied by penalty of perjury statements executed by appropriate parties. While this office has not verified any of the material submitted in support of the request for ruling, it is subject to verification on examination.

Except for the specific ruling above, we express or imply no opinion concerning the tax consequences of the facts of this case under any other provision.

The Taxpayer has reviewed the redacted version of this ruling and agreed that it will be available for public inspection and copying.

If you have any further questions regarding this matter, please call me at [Redacted Text].

Sincerely,

TED S. SHIRAISHI
Administrative Rules Specialist