Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Kenney Shipley, Executive Director
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Injury Compensation Association
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PLR-113065-15

Date:

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Legend

Taxpayer	=	Florida Birth-Related Neurological Injury Compensation Association EIN 59-2897893
State	=	Florida
Statute	=	Section 766.302(10), Florida Statutes
Plan	=	Florida Birth-Related Neurological Injury Compensation Plan

Dear Mr. Shipley:

This is in reply to the letter dated April 10, 2015, submitted on your behalf, concerning a ruling request that certain payments provided by Taxpayer to parents or legal guardians of children who have sustained a birth-related neurological injury are excluded from the recipient parent's or legal guardian's gross income under section 104(a)(3) of the Internal Revenue Code (the "Code").

FACTS

Taxpayer was created by the State legislature for the sole purpose of administering the Plan. State established the Plan to provide no-fault benefits for birth-related neurological injuries in accordance with the Plan. Benefits provided under the Plan are made irrespective of fault and are the exclusive remedy for birth-related neurological injury claims. Taxpayer administers the Plan based on the individual needs of the injured child who has been rendered permanently and substantially mentally and

physically impaired. Benefits awarded may include a one-time cash payment or death benefit to parents, medically necessary therapy and equipment for the injured child, house modification and upgrade, a specially-equipped vehicle, transportation costs, attendant and nursing care, medically necessary drugs and other medically necessary expenses of the child not otherwise reimbursed by insurance.

Taxpayer's ruling request is solely related to payments made to parents or legal guardians of the injured child under the Statute. This ruling does not address other benefits under the Plan. The Statute provides payments for care normally rendered by trained professional attendants which is beyond the scope of child care duties, but which is provided by family members. Family members who provide nonprofessional care may not be compensated for care that falls within the scope of child care duties and other services normally and gratuitously provided by family members. Family care under the Statute is performed only at the direction and control of a physician when such care is medically necessary.

Family member is defined as a father, mother, or legal guardian.

LAW AND ANALYSIS

Section 104(a)(3) of the Code provides that except in the case of amounts attributable to (and not in excess of) deductions allowed under section 213 of the Code for any prior taxable year, gross income does not include amounts received through accident or health insurance (or through an arrangement having the effect of accident or health insurance) for personal injuries or sickness (other than amounts received by an employee, to the extent such amounts are attributable to contributions by the employer which were not includible in the gross income of the employee, or are paid by the employer).

Section 1.104-1(d) of the Income Tax Regulations provides that section 104(a)(3) excludes from gross income amounts received through accident or health insurance for personal injuries or sickness (other than amounts received by an employee, to the extent that such amounts (1) are attributable to contributions of the employer which were not includible in the gross income of the employee, or (2) are paid by the employer). Similar treatment is also accorded to amounts received under accident or health plans and amounts received from sickness or disability funds.

Rev. Rul. 73-154, 1973-1 C.B. 50, considered a taxpayer who was injured in an accident and, as a result of his injuries, received disability payments under the automobile owner's no-fault insurance policy. The state statute required that disability insurance benefits be provided without regard to fault under motor vehicle policies that provide bodily injury and property damage liability insurance for motor vehicles registered in that state. The ruling held that disability benefits received under a no-fault insurance contract are amounts received through accident or health insurance for

personal injury or sickness within the meaning of section 104(a)(3) of the Code and are not includible in the gross income of the recipients for federal income tax purposes.

Based on the information submitted and authorities cited above, we conclude that the no-fault payments made by Taxpayer to parents or legal guardians pursuant to the Statute are excludable from the recipient parent's or legal guardian's gross income under section 104(a)(3) of the Code. Taxpayer is not required to issue information returns or other tax forms to the parents or legal guardians for these payments.

No opinion is expressed as to the federal tax consequences of the transaction under any other section of the Code, Statute or Plan other than those specifically stated above.

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 Associate Chief Counsel
(Tax Exempt and Government Entities)

cc: Fred F. Harris, Jr., Esq.
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