



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF THE CHIEF COUNSEL

May 22, 2013

Number: **INFO 2013-0020**
Release Date: 6/28/2013

CC:ITA:B05
CONEX-122638-13

UIL: 61.00-00, 102.00-00

Dear _____ :

This letter responds to your request for information dated May 10, 2013 , regarding the income tax treatment of payments from the _____ (Fund) to assist individuals in need as a result of the _____.

_____ . You indicated that the Fund was set up in response to the outpouring of public support for victims and their families.

Based on the information provided, the payments would constitute gifts that are excludible from the recipients' gross income.

Gross income means all income from whatever source derived, except where otherwise provided by law (section 61(a) of the Internal Revenue Code (the Code)). Under section 102(a) of the Code, property received by gift is excludible from gross income. While section 102 does not define the term "gift," the Supreme Court has held that a gift is a transfer made out of "detached and disinterested generosity." *Duberstein v. Commissioner*, 363 U.S. 278, 285 (1960). In general, a payment that is not compensatory, is made without consideration therefor, and does not proceed from any moral or legal duty to the recipient is motivated by detached and disinterested generosity.

The Fund was funded with donations from the public. The payments from the Fund apparently will be made out of concern for the victims' and their families' needs and not out of any moral or legal duty to the victims that the Fund sponsors or any particular donor may have. In those circumstances, the payments will be excludible from the recipients' gross income as gifts.

This letter has called your attention to certain general principles of the law. It is intended for informational purposes only and does not constitute a ruling. See Rev. Proc. 2013-1, §2.04, 2013-1 IRB 7 (Jan. 2, 2013). If you have any additional questions, please contact me or _____ at _____.

Sincerely,

Andrew J. Keyso
Associate Chief Counsel
(Income Tax & Accounting)