

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, or to the extent that it is in excess of the amount provided in the applicable workmen's compensation act or acts.

The fact that the amount received as a disability retirement pension is computed with regard to the employee's salary prior to retirement does not disqualify the payment from being in the nature of workmen's compensation. See, Rev. Rul. 85-104, 1985-2 C.B. 52; Rev. Rul. 75-500, 1975-2 C.B. 44; and Rev. Rul. 68-10, 1968-1 C.B. 50.

The Statute limits benefits to employees who suffer service-connected disability. The benefits are not determined on the basis of age, length of service, or prior contributions. Thus, the Statute is a statute in the nature of a workmen's compensation act.

Accordingly, based on the representations made and authorities cited above, we conclude that amounts paid by the Fund under the Statute are excludable from the recipient's gross income under section 104(a)(1) of the Code.

No opinion is expressed as to the federal tax consequences of the transaction under any other section of the Code or Statute 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.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

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