Internal Revenue Service --  Rev. Rul. 74-74

1974-1 C.B. 18

Sec. 61
Sec. 213

IRS Headnote

Payments by Crime Victims Compensation Board. Awards made by the Crime Victims Compensation Board of the State of New York to victims of crime or to their surviving spouses or dependents are not includible in the gross income of the recipients. Medical expenses incurred by a recipient that are compensated for by such award are not deductible; further, an award for medical expenses previously deducted must be included in income in the taxable year of receipt to the extent that the expenses resulted in a tax benefit in the prior taxable year.

Full Text

Rev. Rul. 74-74

Advice has been requested whether awards made by the Crime Victims Compensation Board of the State of New York to victims of crime or their surviving dependents are includible in the gross incomes of the recipients for Federal income tax purposes.

The New York State Crime Victims Compensation Board was created pursuant to Article 22 of the Executive Law of the State of New York to provide financial assistance to victims of crime or their surviving dependents. McKinney's Consolidated Laws of New York Annotated, Book 18, Executive Law, Sections 620-635.

Persons eligible for such assistance are: (1) a victim of a crime; (2) a surviving spouse, parent, or child of a victim of a crime who died as a direct result of such crime; and (3) any other person dependent for his principal support upon a victim of a crime who dies as a direct result of such crime. Awards are made to such persons by the Board for their "out-of-pocket" expenses and loss of earnings or support resulting from the injury.

The statute provides that the term "crime" means an act committed in New York State which would, if committed by a mentally competent criminally responsible adult, who has no legal exemption or defense, constitute a crime as defined in and proscribed by the penal law, provided, however, that no act involving the operation of a motor vehicle which results in injury shall constitute a crime for the purposes of this article unless the injuries were intentionally inflicted through the use of a vehicle.

The term "victim" is defined as a person who suffers personal physical injury as a direct result of a crime.

No award is made unless the claimant has incurred a minimum "out-of-pocket" loss of one hundred dollars or has lost at least two continuous weeks' earnings or support. Out-of-pocket loss is defined as unreimbursed and unreimbursable expenses or indebtedness reasonably incurred for medical care or other services necessary as a result of the injury.

An award for loss of earnings or support is to be in an amount equal to the actual loss sustained. However, such award is not to exceed one hundred dollars for each week of lost earnings or support or an aggregate of fifteen thousand dollars.

Any award is to be reduced by payments received from other sources with respect to the injury. An award is to be denied to any claimant who would not suffer serious financial hardship as a result of the "out-of-pocket" expenses incurred or loss of earnings or support. In such determination all the financial resources of the claimant are to be considered.

A claimant may apply to the Board for review by the full Board of one Board member's determination of a claim. The State Attorney General or Comptroller may commence a proceeding in the Appellate Division of the Supreme Court of New York, Third Department, to review the Board's final decision if in his judgment the award is improper or excessive. There is no other judicial review with respect to a claim.

Section 61(a)(1) of the Internal Revenue Code of 1954 provides that, except as otherwise provided, gross income means all income from whatever source derived. However, disbursements from a general welfare fund in the interest of the general public which are not made for services rendered are not includible in gross income. See Rev. Rul. 63-136, 1963-2 C.B. 19, and rulings cited therein.

The awards made under Article 22 of the Executive Law of the State of New York by the Crime Victims Compensation Board to victims of crime or their surviving dependents are in the nature of welfare payments. Accordingly, such awards are not includible in the gross incomes of the recipients for Federal income tax purposes.

Section 213 of the Code allows as a deduction those amounts not compensated for by insurance or otherwise, which are paid during the taxable year for medical care of the taxpayer, his spouse, and dependents subject to certain limitations.

Accordingly, when an individual receives an award from the Crime Victims Compensation Board, any medical expenses incurred by him that are compensated for by such award are not deductible under section 213 of the Code.

If a taxpayer deducted a medical expense, and in a subsequent taxable year receives an award from the Crime Victims Compensation Board to compensate him for such medical expense, he does not recompute the tax for the taxable year in which the deduction was taken, but includes an amount of the award equal to the amount of the deduction in his gross income for the taxable year in which received, subject to the provisions of section 1.213-1(g) of the Income Tax Regulations relating to reimbursements for expenses paid in prior years.