Internal Revenue Service

Department of the Treasury

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Person to Contact: 199909046

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Date:
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Legend

Taxpayer's Name:

Taxpayer's Address:

Taxpayer's Identification Number:

Dear

This responds to your ruling request submitted on behalf of the taxpayer, Z.

RULINGS REQUESTED:

1. That Z is required to file information returns under § 6041 of the Internal Revenue Code for trip awards it makes to noncorporate dealers if the value of a trip awarded is $600 or more in any taxable year.

2. That Z is not required to file information returns under § 6041 with respect to individuals designated by dealers to take the trips.

FACTS:

Z is a domestic corporation that manufactures products which it sells to independent dealers. The dealers, which are proprietorships, partnerships, and corporations, in turn sell the products to the general public.

Each year, Z sponsors an incentive award program to encourage dealers to purchase the products manufactured by Z.

The incentive awards are trips that include transportation, accommodations, and all other expenses. The fair market value of each trip awarded is $600 or more.

There are two categories within the incentive program. One category is for dealers that agree to stock only Z's products and maintain an inventory of at least $250,000 of the products at all times during the year. The other category is for non-exclusive dealers as well as those exclusive dealers that fail to meet the minimum inventory requirement.

Trips are awarded to a certain number of top dealers, based on the wholesale purchase of products by the dealer and bears no relationship to the retail sale of the products by the dealer. A dealer that receives an award is entitled to designate two individuals to take the trip.

Only dealers are entitled to win trip awards, and only dealers may designate the individuals who will take the trips. The only requirement imposed by Z on a dealer is that at least one of the individuals who takes the trip must be a principal, officer, or key employee of the dealer. The other individual may be a spouse or companion.

Z provides an award-winning dealer with a form on which the dealer designates the names of the individuals who will take the trip. After the dealer makes the designation, all further arrangements for transportation, accommodations, and payment of other expenses are made by Z.

LAW AND ANALYSIS:

Section 6041(a) of the Internal Revenue Code provides that persons engaged in a trade or business and making payment in the course of that trade or business to another person of rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, and income (other than payments to which certain other Code provisions apply) of $600 or more in any taxable year must make a return of such payment. The return must set forth the amount of the payment and the name and address of the recipient.

Section 1.6041-1(d)(3) of the Income Tax Regulations states that amounts paid as prizes and awards that are required to be included in gross income under § 74 and § 1.74-1 when paid in the course of a trade or business are required to be reported under § 6041. Under § 1.6041-1(e), if any payment required to be reported is made in property other than money, the fair market value of the property at the time of payment is the amount to be

included on the return. In general, § 1.6041-3(c) exempts payments to corporations from the reporting requirements of § 6041, subject to exceptions that are not relevant here.

Section 1.6041-1(f) provides that an amount is deemed to have been paid when it is credited or set apart to a person without any substantial limitation or restriction as to the time or manner of payment or condition upon which payment is to be made, and is made available so that it may be drawn upon at anytime, and its receipt brought within the payee's control and disposition.

Section 74(a) provides, in general, that gross income includes amounts received as prizes and awards. Section 1.74-1(a)(1) states that prizes and awards that are includible in gross income include (but are not limited to) awards in contests of all types, as well as prizes and awards from an employer to an employee in recognition of some achievement in connection with his employment. Under § 1.74-1(a)(2), if the prize or award is not made in money but is made in goods or services, the fair market value of the goods or services is the amount to be included in income.

Under the facts presented, Z awards prizes of trips to dealers for successfully meeting criteria established by Z. The individuals who take the trips cannot compete in Z's incentive program. Only dealers can meet the criteria and be awarded prizes, and they are the recipients of the trips awarded by Z. Thus, the trip is a "prize or award" includible in the recipient dealer's gross income under § 74, and it constitutes a payment of fixed or determinable income under § 6041. However, dealers that are corporations that receive trip awards are not the kind of corporations payments to which are subject to the information reporting requirements of § 6041.

Of course, dealers, whether they are proprietorships, partnerships, or corporations, are subject to information reporting requirements when they designate the individuals who will take the trips.

CONCLUSIONS:

1. Z is required to file information returns under § 6041 for the trips it awards to noncorporate dealers if the fair market value of a trip awarded is $600 or more in any taxable year.

2. Z is not required to file information returns with

respect to the individuals designated by the dealers to take the trip.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. This ruling is directed only to the taxpayer requesting it. Section 6110(k) provides that it may not be used or cited as precedent.

A copy of this letter must be attached to any income tax return to which it is relevant.

Sincerely,

Assistant Chief Counsel
(Income Tax & Accounting)

By_____
Robert A. Berkovsky
Chief, Branch 2