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

OFFICE OF
CHIEF COUNSEL

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UIL 61.00-00

The Honorable Robert P. Casey, Jr.
United States Senator
22 South Third Street, Suite 6-A
Harrisburg, PA 17101

Attention:

Dear Senator Casey:

This letter responds to your inquiry dated October 29, 2009, on behalf of your constituent, . writes book reviews published by a blog in New Zealand. He asked if he must include the value of the free books that he receives from publishers in his gross income and, if so, what valuation he should use.

Gross income is income from whatever source derived, unless other provisions of the law specifically exclude it (Section 61(a) of the Internal Revenue Code). Gross income includes income realized in any form, whether in money, property, or services (Section 1.61-1(a) of the Income Tax Regulations).

When a taxpayer receives “unsolicited” property, the fair market value of the property generally is includible in gross income when the taxpayer demonstrates acceptance by exercising complete dominion and control over the property. For example, the Tax Court held that a book reviewer employed by a newspaper who received unsolicited, free books from publishers must include the value of the books in his gross income in the year the taxpayer demonstrates dominion and control over the books by donating them to charity and taking a charitable contribution deduction. See Haverly v. United States, 513 F.2d 224 (7th Cir. 1975); see also Rev. Rul. 70-498, 1970-2 C.B. 6.

However, when a taxpayer shows a definite intent not to exercise complete dominion and control over property, that property is not includible in the taxpayer’s gross income. Refusing to accept the property and returning the property are ways of showing the intent not to exercise dominion and control. Therefore, the Service has held that an individual who refuses to accept an all-expense paid vacation trip he won as a prize in a contest does not have to include the fair market value of the trip in income. See Rev. Rul. 57-374, 1957-2 C.B. 69. The Service also has held that a baseball fan who catches a home run ball and immediately returns it does not have income. See News Release 98-56 (IR-98-56).

This letter provides general information on the tax law consequences of the receipt of unsolicited property. This letter does not address the requirements or guidelines of any other federal agency, including the Social Security Administration and the Federal Trade Commission, on this subject.

I hope this information is helpful in responding to . If we can assist you further, please contact at .

Sincerely,

William A. Jackson
Chief, Branch 5
Office of Chief Counsel
(Income Tax & Accounting)