

Bond Case Briefs

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IRS: Government Grants for Railroad's Crossing Improvements Are Tax Free.

In field attorney advice, the IRS concluded that grants a railroad received under Transportation Department regulations governing railroad crossing safety improvements did not constitute gross income to the railroad.

The railroad received one type of grant for constructing a grade crossing and installing train-activated warning devices. Those grants included a statement that the funds provided no net benefit to the railroad. A second type of grant was for installing active warning devices and required the railroad to pay no more than 10 percent of the construction costs. That portion, according to the grant, would represent the railroad's net benefit. The railroad argued the grants were not taxable income because it did not receive a net benefit as described under the Transportation Department regulations and that therefore it had no accession to wealth.

The IRS agreed with the railroad, finding that any benefit it received was incidental and not an accession to wealth. The IRS explained that the Transportation Department provisions governing railroad crossing safety improvements appear to be a cost-sharing arrangement between the federal government and the railroads and imply that Congress views the grants as having a public rather than a private purpose.