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

OFFICE OF
CHIEF COUNSEL

SEP 24 1999

MEMORANDUM FOR ACTING CHIEF, ACCOUNTING BRANCH
SUBMISSION PROCESSING OP:FS:S:A
Attention: Tony S. Martinez

FROM: George J. Blaine
Chief, Branch 1
Income Tax and Accounting Division CC:DOM:IT&A:1

SUBJECT: Abating Small Dollar Amounts - ANMF Cleanup

This responds to your memorandum faxed to us on July 19, 1999, requesting our opinion on five proposals to cleanup the Automated Non-Master File (ANMF).

PROPOSALS

In your memorandum, you propose to establish or increase tolerance limits in several situations that would allow you to: [redacted]

7(e)

ISSUES

1. Whether section 6404(c) allows the Service to establish tolerances and abate small tax balances below a certain amount?

2. Whether any section of the Code requires the Service to notify a taxpayer that the Service has made an adjustment to the taxpayer's account resulting from the abatement of a small tax balance?

3. Whether section 7524 requires the Service to send annual reminder notices to taxpayers where the Service does not intend to resume collection action and expiration of the statute of limitations on collection is imminent?

CONCLUSIONS

1. Yes. Section 6404(c) allows the Service to set tolerances and abate small tax balances for which the Service determines that the administration costs would not warrant collection of the amount due.

2. No. There is no Code section that requires the Service to notify taxpayers of the adjustments made to their accounts resulting from the abatement of small tax balances under section 6404(c). However, we believe that the better policy would be to continue to notify taxpayers of any adjustments made to their accounts.

3. Yes. Section 7524 requires the Service to send annual reminder notices for ANMF delinquent accounts even where the Service does not intend to resume collection action and expiration of the statute of limitations on collection is imminent.

LAW

Section 6404(c) of the Code provides that the Secretary is authorized to abate the unpaid portion of the assessment of any tax, or any liability in respect thereof, if the Secretary determines under uniform rules prescribed by the Secretary that the administration and collection costs involved would not warrant collection of the amount due.

Section 301.6404-1(d) of the Regulations on Procedure and Administration provides that the Commissioner may issue uniform instructions to district directors authorizing them, to the extent permitted in such instructions, to abate amounts the collection of which is not warranted because of the administration and collection costs.

Section 7524 of the Internal Revenue Code provides that the Secretary must send a written notice, not less often than annually, to each taxpayer who has a tax delinquent account of the amount of the tax delinquency as of the date of the notice.

DISCUSSION

Abatement of Small Balances under a Tolerance Limit

Under section 6404(c) of the Code and Section 301.6404-1(d) of the Regulations on Procedure and Administration, it is within the discretion of the Service to set tolerances regarding collection of assessed small tax balances where the administration and collection costs greatly exceed the amount due. Section 6404(c) reflects a general intent that funds not be expended in an imprudent manner. Therefore, your proposals promote this general intent if you determine that [redacted] the administration costs would not warrant the collection of the amounts due. (See the attached memorandum dated March 10, 1992.) DP

Notice of Adjustments to a Taxpayer's Account

No section of the Code specifically requires the Service to notify taxpayers of amounts abated under section 6404(c). [redacted] DP

Annual Reminder Notice Requirement

Under section 7524, the Service is required to send annual reminder notices to taxpayers with delinquent accounts. Even where the Service does not intend to resume collection action and expiration of the statute of limitations on collection is imminent, the Service is required to send an annual reminder notice because the account continues to reflect a tax liability which is technically collectible. However, if the Service abates a small tax balance under section 6404(c), the Service would not be required to send an annual reminder notice because there would no longer be a tax delinquent account. (See the attached memorandum dated April 7, 1999.)

If you need further information concerning this memorandum, please contact Sara P. Shepherd at (202) 622-4910.

Attachments (3)