



OFFICE OF
CHIEF COUNSEL

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

CASE:GLS-18452-98
CC:F&M:GLS-GLS-1745-98
PCL:HHAGEN

MEMORANDUM FOR KEN LITTLE, DEPUTY REGIONAL COUNSEL
(NORTHEAST REGION) CC:NER

FROM: Donald M. Suica
Chief, Public Contract Law Branch (General Legal Services)

SUBJECT: [REDACTED]

You have requested a synopsis of the laws, policies, and procedures with regard to the informant reward program. Specifically, [REDACTED] has approached the Taxpayer Advocate regarding an "idea" which he says will bring in millions of dollars under current tax laws. [REDACTED] requests payment for his idea. If [REDACTED] idea involves turning in taxpayers who are not paying taxes, the informant reward program could provide a method for providing him compensation. This memorandum will provide a synopsis of the guidelines regarding the informant program. Copies of relevant laws, regulations, and policies are attached for your reference. pmkaj

Legislation, Regulations, and Agency Rules

•IRC § 7623 is the source of authority to pay rewards to informants. The statute, applicable to rewards paid after January 29, 1997, provides as follows:

IRC § 7623 Expenses of Detection of Underpayments and Fraud, etc.

The Secretary, under regulations prescribed by the Secretary, is authorized to pay such sums, as he deems necessary for --

- (1) detecting underpayments of tax, and
- (2) detecting and bringing to trial and punishment persons guilty of violating the internal revenue laws or conniving at the same,

in cases where such expenses are not otherwise provided for by law. Any amount payable under the preceding sentence shall be paid from the proceeds of amounts (other than interest) collected by reason of the information provided, and any amount so collected shall be available for such payments.

PMTA : 00330

CASE-GLS-1745-98

- **26 CFR § 301.7623-1** provides the regulatory implementation of the authority granted by IRC § 7623. The regulation provides, in pertinent part:

§ 301.7623-1. Rewards for information relating to violations of Internal Revenue Laws.

(a) In general. In cases where rewards are not otherwise provided for by law, a district or service center director may approve a reward, in a suitable amount, for information that leads to the detection of underpayments of tax, or the detection and bringing to trial and punishment of persons guilty of violating the internal revenue laws or conniving at the same. The rewards provided for by section 7623 and this section will be paid from the proceeds of amounts (other than interest) collected by reason of the information provided. For purposes of section 7623 and this section, proceeds of amounts (other than interest) collected by reason of the information provided include both additional amounts collected because of the information provided and amounts collected prior to receipt of the information if the information leads to the denial of a claim for refund that otherwise would have been paid.

(b) Eligibility to file claim for reward (1) In general. Any person, other than certain present or former federal employees described in paragraph (b)(2) of this section, that submits, in the manner described in paragraph (d) of this section, information relating to the violation of an internal revenue law is eligible to file a claim for reward under section 7623 and this section.

(c) Amount and payment of reward. All relevant factors, including the value of the information furnished in relation to the facts developed by the investigation of the violation, will be taken into account by a district or service center director in determining whether a reward will be paid, and, if so, the amount of the reward. The amount of the reward will represent what the district or service center director deems to be adequate compensation in the particular case, generally not to exceed fifteen percent (other than interest) collected by reason of the information. Payment of a reward will be made as promptly as the circumstances of the case permit, but not until the taxes, penalties, or fines involved have been collected. However, if the informant waives any claim for reward with respect to the uncollected portion of the taxes, penalties, or fines involved, the claim may be immediately processed. Partial reward payments, without waiver of the uncollected portion of the taxes, penalties, or fines involved, may be made when a criminal fine has been collected prior to completion of the civil aspects of a case, and also when there are multiple tax years involved and the deficiency for one or more of the years has been paid in full. No person is authorized under these regulations to make any offer or promise, or otherwise to bind a district or service center director with respect to the payment of any reward or the amount of the reward.

- **Policy Statement P-4-86** imposes additional guidelines and restrictions which can be waived by the Chief Compliance Officer.

CASE-GLS-1745-98

The policy Statement distinguishes among information that causes an investigation and results in recovery, information that causes an investigation and was of value in determining tax liabilities though not specific or was a direct factor in recovery, and information that causes an investigation but was of no value in determining tax liabilities. Each situation has a formula for determining the amount of the reward. In all cases the maximum reward is limited to \$2 million dollars. The Policy Statement must be waived in order to enter an informant agreement that calls for rates in excess of the formula or the maximum stated in the Policy Statement.

- **The Internal Revenue Manual, IRM 4569** contains further guidelines and restrictions; however, the IRM provisions apply solely to Form 211 rewards for which there is no separate special written agreement. Management and Analysis (OP:EX:MA) is currently in the process of finalizing revisions to the IRM.

- **GLS Model Informant Agreement-** GLS has prepared a model informant agreement which is used as a guide when attorneys are working with on an informant case. Issues which should always be considered when reviewing an agreement include:

- **Specificity-** It is necessary to be specific about, who is the informant, who is the conniving taxpayer, what information the informant will provide, and what the informant will do in addition to disclosing information (i.e. wear a surveillance device, testify when called upon)

- **Amount and method of payment** - Unless the Policy Statement is waived, the rate and maximum must be within the limits imposed by the Policy Statement.

- **Anonymity-** A provision to maintain the anonymity of the informant is customary. If such a provision is included, the agreement must require disclosure of the informant's identity to the Service; and, it must be stated that at some point it may be necessary to reveal the identity of the informant.

- **Waiver-** Since the informant agreement is in lieu of other rewards for the same information, the agreement must include a waiver of a Form 211 claim or any other claim for reward.

- **Immunity-** It is customary to include a provision that the agreement is not a grant of immunity from prosecution.

- **Nonemployment Status of Informant** - It is customary to include a provision that the informant is an independent contractor for whom the Government assumes no tort or unemployment compensation liability.

If we can be of further assistance, please contact Holly L. Hagen at (202)401-4062.

Attachment