Current Status of Issue

The Government Settlements Tier I issue has been moved from an active to monitoring status. Coordinated Issue Papers for Department of Justice (DOJ) Settlements and EPA Supplemental Environmental Projects are now available. The issue will also continue to be supported through the LMSB Healthcare Technical Advisors and the Environmental Technical Advisor.

Contacts

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Tier 1

IRS LARGE BUSINESS AND INTERNATIONAL DIVISION

Tier I (monitoring status)

Government Settlements

Quick Reference Guide

December, 2008

Issue Owner Executive (IOE)

Sergio Arellano, Director

Retailers, Food, Pharmaceuticals and Healthcare

Tier I: Government Settlements

Issue Description

Whether or not a settlement between a government entity and a defendant under any law in which a penalty can be assessed is deductible in its entirety as a Sec 162 (a) deduction, or is some portion a non-deductible penalty under Sec 162 (f).

Administrative Codes

UIL Codes:

IMS will be used to track the issue by UIL code:

162.21-17 False Claims Act Settlements with DOJ – Health Care Fraud

162.21-18 False Claims Act Settlements with DOJ – Environmental Fraud

162.21-19 False Claims Act Settlements with DOJ – Aerospace Defense Contractors

162.21-20 DOJ – Fraud Settlements not under False Claims Act

162.21-21 Settlements with Security and Exchange Commission

162.21-22 Environmental Settlements with Environmental Protection Agency

Tracking Code: 1931

Project Code: 0193

ITA Codes:

R250 -162 (f) Settlements under False Claim Act

R251- False Claims Act Settlements with DOJ – Health Care Fraud

R252 - False Claims Act Settlements with DOJ – Environmental Fraud

R253 - False Claims Act Settlements with DOJ – Aerospace Defense Contractors

R254 - DOJ – Fraud Settlements not under False Claims Act

R255 - Settlements with Security and Exchange Commission

R256 - Environmental Settlements with Environmental Protection Agency

Industry Director Directives (IDDs)

IDD #1 for DOJ and EPA SEP Settlements was issued 05/30/07:

http://www.irs.gov/pub/irs-utl/redactedfinaliddgovernmentsettlementinitiative__2_.pdf

(Also see Audit Guidelines that are the attachments to this IDD)

IDD #2 on Rules of Engagement issued 09/14/07:

http://www.irs.gov/businesses/article/0,,id=174273,00.html

IDD #3 on Change in Status issued 11/13/08:

http://www.irs.gov/businesses/corporations/article/0,,id=187395,00.html

Mandatory IDRs

There are no mandatory IDRs.

Appeals Settlement Guidelines (ASGs)

Currently there are no ASGs for this issue.

Issue Specialization Team (IST)

There is no IST for this issue.

Administrative & Technical Guidance

Audit Guidelines for DOJ and EPA SEP Settlements were issued 05/30/07 (attachments to IDD #1):

Audit Guidelines on Government Settlements:
http://www.irs.gov/businesses/article/0,,id=171041,00.html

Audit Guidelines on Environmental Settlements:
http://www.irs.gov/businesses/article/0,,id=171049,00.html

Coordinated Issue Paper on Supplemental Environmental Projects (SEPs) issued 07/3/08:

http://www.irs.gov/businesses/article/0,,id=184480,00.html

Coordinated Issue Paper on False Claims Act Settlements with DOJ issued 09/5/08:

http://www.irs.gov/businesses/article/0,,id=186486,00.html

Executing IMT Strategy for Tier I Issues

Audit Teams Should:

- ❑ Establish the Tier I Issue on IMS using the UIL code per the ID Directive.
- ❑ Research the issue on the Tier I website.
- ❑ Communicate with the IMT early to determine the strategy and any special requirements for the issue.
- ❑ Consider the issue in the audit planning and risk assessment in accordance with the IMT strategy.
- ❑ Utilize the audit tools and techniques provided by the IMT to develop the issue.
- ❑ Resolve the issue using all resolution tools in alignment with the IMT strategy.