

INTERNAL REVENUE SERVICE

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August 17, 1999

MEMORANDUM FOR ASSISTANT REGIONAL COUNSEL (CT),  
MIDSTATES REGION

FROM: Barry J. Finkelstein  
Assistant Chief Counsel (Criminal Tax)

SUBJECT: Resubmission of Case involving

Pursuant to CCDM Part (31)4(15)0(4), we have reviewed your resubmission of the case against (hereinafter referred to as ) for filing false income tax returns for the years through in violation of I.R.C. § 7206(1). On June 9, 1999, this case was referred to the Department of Justice for prosecution; and on July 2, 1999, the Tax Division declined prosecution. Our review of your resubmission was based on the memorandum you submitted, along with the exhibits, the Tax Division review notes, the Department's Petite Policy, and subsequent discussions with you, District Counsel, the Tax Division, and the office of the Assistant Commissioner (Criminal Investigation). After careful consideration, we conclude the case should not be resubmitted to the Department of Justice at this time.

In November 1998, was by the State of for felony theft (embezzlement) of funds from her employer, a state agency. And, despite the Tax Division's belief that the case against is meritorious, based upon their application of the Department's Petite Policy, they declined to authorize prosecution at this time, but invited the Service to resubmit the case at the conclusion of the State proceedings should the federal interest not be adequately addressed.

We discussed the possible resubmission with the Tax Division. They saw no reason for reconsideration. They were not moved even if the case included met the criteria of the Expedited Plea Program as outlined in Tax Division Directive No. 111. They still believed it was best to await the outcome of the State's proceeding before deciding whether a federal prosecution should lie. We discussed this result with the office of the Assistant Commissioner (Criminal Investigation). Neither they, nor this office believes the Tax Division's position is inappropriate. Accordingly, we are returning your files to you.

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Any questions concerning this matter may be directed to Marta Yanes of the Criminal Tax Division on (202) 622-4470.

Attachments