



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

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MEMORANDUM FOR JODY TANCER

Assistant District Counsel CC:NER:BRK

Attn: Patricia Riegger

FROM:

Richard G. Goldman

Special Counsel CC:DOM:FS:PROC

SUBJECT:

Request for Significant Service Center Advice, Signatures on
Statutory Notice

This responds to your request for Significant Service Center Advice which arose as a result of a telephone call on October 12, 1999, from Anita Perdue, Program Analyst, IMF/BMF Reconciliation Section for National Office, to District Counsel, Brooklyn, seeking advice concerning whether notices of deficiency issued by John Doe, Director, AnyCity, Customer Service Center, are valid if designated for signature as John Doe, Director, Customer Service Center, without the location specified, where the name of the particular service center issuing the notice appears on the first page of the notice. In turn, District Counsel, Brooklyn, consulted the Field Service Procedural Branch, and coordinated a oral response for Ms. Perdue to be disseminated to the service centers.

Disclosure Statement

Unless specifically marked "Acknowledged Significant Advice, May Be Disseminated" above, this memorandum is not to be circulated or disseminated except as provided in CCDM (35)2(13)3:4(d) and (35)2(13)4:(1)(e). This document may contain confidential information subject to the attorney-client and deliberative process privileges. Therefore, this document shall not be disclosed beyond the office or individual(s) who originated the question discussed herein and are working the matter with the requisite "need to know." In no event shall it be disclosed to taxpayers or their representatives.

Issue

1. Whether notices of deficiency issued by John Doe, Director, AnyCity, Customer Service Center, are valid if designated for signature as John Doe, Director, Customer Service Center, without the location specified, where the name of the

particular service center issuing the notice appears on the first page of the notice indicating which Customer Service Center issued the notice?

Conclusion

Notices of deficiency issued by John Doe, Director, AnyCity, Customer Service Center, are valid if designated for signature as John Doe, Director, Customer Service Center, without the location specified.

Discussion

The Brookhaven Customer Service Center Examination Branch received a transmittal stating that as of October 1, 1999, the director's signature on notices of deficiency must reflect the proper director with the proper title, i.e., Director, Customer Service Center or Director, Service Processing Center. However, notices generated on or after October 1, 1999, were still being generated with Carol Landy's name as the Director of Brookhaven Service Center, as before. On October 4, 1999, Brooklyn District Counsel informally advised that service centers should issue the notices as directed by the transmittal.

Brooklyn District Counsel was subsequently notified that the notices were now being generated with a title for Ms. Landy as Director, Customer Service, as opposed to Director, Customer Service Center. Brooklyn District Counsel informally responded that the notices should be issued using the proper title of Director, Customer Service Center, so that there would be no confusion that Ms. Landy was the Service Center Director, and not merely a director of a unit or branch.

Brooklyn District Counsel received the above-referenced call from Ms. Perdue who wanted to know whether notices indicating Director, Customer Service Center, were valid as opposed to Director, AnyCity, Customer Service Center. The name of the specific service center is contained elsewhere in the notice. Brooklyn District Counsel informally advised her that such notices were valid. However, upon her request for official advice to be disseminated to all service centers, Brooklyn District Counsel informed her that the procedures for requests for significant service center advice would have to be followed. Brooklyn District Counsel then called and spoke to the Procedural Branch of the Field Service Division. It was confirmed that notices by "Director, Customer Service Center" were valid.

The mailing of a valid notice of deficiency is generally a prerequisite to formal assessment and collection of a deficiency. The notice of deficiency should be mailed by registered or certified mail to the taxpayer's last known address. The Internal Revenue Code does not specify any particular form required for notices of deficiency. A notice of deficiency needs to inform the taxpayer of the issues with respect to the Commissioner's determinations and that the Commissioner means to

assess the taxpayer. Tavano v. Commissioner, 986 F.2d 1389, 1390 (11th Cir. 1993) (where the court of appeals found a notice of deficiency to be valid despite the fact that it was not signed). The Service must first determine that there is a deficiency which requires the Service to consider information relating to the taxpayer about whom the determination is being made. Scar v. Commissioner, 814 F.2d 1363 (9th Cir. 1987) (invalid notice of deficiency where notice contained an explanation for the denial of deductions pertaining to a tax shelter completely unrelated to the taxpayers' return, lacked adjustments based on the taxpayers' return and indicated that the taxpayers' return was unavailable at the time of the determination).

Sections 1102(b), 3463 and 3705(a) of the Internal Revenue Service Restructuring and Reform Act of 1998, added the following requirements, respectively: (1) the taxpayer must be notified in the notice of right to contact the local office of the taxpayer advocate and notified of the location and telephone number of the appropriate office to contact; (2) the notice shall include the last date for filing a petition with the Tax Court; and (3) the notice, if manually generated, shall include in a prominent manner the name, telephone number and unique identifying number of the Service employee the taxpayer may contact with respect to that notice or if the notice is generated otherwise, it shall include in a prominent manner a telephone number that the taxpayer may contact with respect to that notice.

There is simply no legal requirement that a notice of deficiency reflect the correct title of the Director or where the notice was issued. However, the notice should be issued by the properly delegated official and the Service should still endeavor to issue notices that are as accurate as possible and contain proper titles.

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Procedural Branch