



OFFICE OF  
CHIEF COUNSEL

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
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INTERNAL REVENUE SERVICE NATIONAL OFFICE SERVICE CENTER ADVICE

MEMORANDUM FOR KENTUCKY-TENNESSEE DISTRICT COUNSEL  
CC:SER:KYT:NAS

FROM: Deputy Assistant Chief Counsel (Income Tax & Accounting)  
CC:DOM:IT&A

SUBJECT: Payment of Informant Rewards to Law Enforcement  
Agencies

This responds to your request dated March 10, 2000, for Significant Service Center Advice regarding an issue raised by the Examination Division in the Kentucky-Tennessee District. Our response will affect the Memphis and Cincinnati Service Centers.

ISSUE

Whether a state or local law enforcement agency in the State of Tennessee may qualify to receive an informant reward under section 7623 of the Internal Revenue Code.

CONCLUSION

There is no absolute prohibition against the payment of an informant reward to a state or local law enforcement agency in the State of Tennessee. However, such a reward is not payable to the agency in a particular case in which the agency may be entitled to an expense reimbursement under section 7624. In such a case, section 7624 is the controlling statute.

BACKGROUND

The Service receives requests for informant rewards both from individuals employed by local and state law enforcement agencies and from the agencies

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themselves. These requests are based on information provided to the Service that was obtained in the performance of official law enforcement duties.

Section 7623 of the Internal Revenue Code (Code) and the regulations thereunder authorize the Internal Revenue Service (Service) to pay rewards to informants as deemed necessary for detecting underpayments of tax and other violations of the internal revenue laws in cases where such expenses are not otherwise provided for by law.

Section 301.7623-1(b) of the Regulations on Procedure and Administration provides that any person, other than certain current or former federal employees, is eligible to file a claim for a reward under section 7623. This section does not limit the payment of informant awards to individuals as any "person" may file a claim. Further, section 2.2 of IRM 104.4, Information and Informants' Rewards Handbook, provides that "[a]ny person, as defined in IRC Section 7701(a)(1), may file a claim for reward" under section 7623 and that "[c]laims filed by a corporation, partnership, etc., must be signed by an officer or employee who has the authority to legally bind the entity." Section 7701(a)(1) of the Code states that the term "person" means and includes an individual, a trust, estate, partnership, association, company, or corporation. Numerous legal authorities indicate that the term "person," as defined in section 7701(a)(1), is sufficiently broad to include a governmental body. See, e.g., Ohio v. Helvering, 292 U.S. 360 (1934); Rev. Rul. 85-194, 1985-2 C.B. 301.

Section 2.16 of IRM 104.4 addresses the eligibility of police officers to receive rewards under section 7623. Section 2.16 provides that a police officer is eligible to receive a reward unless there is a statute or ordinance excluding the police officer from acceptance of a reward. Tennessee Code Annotated §39-16-104, Soliciting Unlawful Compensation, provides that a class E felony occurs when a public servant requests a pecuniary benefit for the performance of an official action that he/she was required to perform for no compensation or at a level of compensation lower than that requested. The Attorney General for the State of Tennessee agrees with District Counsel's determination that the Tennessee statute excludes police officers from acceptance of rewards. Thus, police officers do not qualify for informant rewards under section 7623 because payment of the rewards is prohibited by IRM 104.4, section 2.16.

Under section 7624 of the Code, if a state or local law enforcement agency provides information to the Service that substantially contributes to the recovery of federal taxes imposed with respect to illegal drug or related money laundering activities, the agency may be reimbursed by the Service for expenses incurred in the investigation. IRM 104.4, chapter 3, discusses the requirements for obtaining a reimbursement of expenses under section 7624.

DISCUSSION

As indicated above, Tennessee Code Annotated §39-16-104 excludes law enforcement officers from consideration for rewards under section 7623, but law enforcement agencies are not similarly excluded from consideration. Moreover, IRM 104.4 provides that a reward may be paid to a legal entity such as a corporation or partnership, and there is nothing in section 7623 or the regulations thereunder that precludes payment of an informant reward to a law enforcement agency. As indicated above, the term “person” as used in section 301.7623-1(b) may be broadly defined to include a governmental body such as a law enforcement agency.

However, it has been suggested that because law enforcement agencies may be entitled to a reimbursement of expenses under section 7624, such agencies cannot receive informant rewards under section 7623. We reject this approach. Neither the legislative history nor the regulations for section 7624 support the proposition that section 7624 provides the exclusive authority for a payment to law enforcement agencies. Thus, a law enforcement agency may qualify for an informant reward under section 7623. Provided section 7624 does not apply in a particular case, e.g., because no agency investigation has occurred or because there is an agency investigation into a matter not involving illegal drug activity, the agency may qualify for an informant reward under section 7623 based on information provided by agency personnel to the Service.

We conclude, however, that a reward cannot be paid to a law enforcement agency under section 7623 if payment to the agency is “otherwise provided by law.” Thus, in a particular case in which the agency may be entitled to a reimbursement of expenses under section 7624, the Service cannot pay an informant reward under section 7623. In such a case, the section 7624 expense reimbursement is the sole payment that can be made as section 7624 is the controlling statute.

We trust this advice addresses your concerns satisfactorily. If you have any questions, please contact Judith Lintz, an attorney on my staff, at 202-622-4940.

LEWIS J. FERNANDEZ  
Deputy Assistant Chief Counsel  
(Income Tax & Accounting)

By \_\_\_\_\_  
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Branch 4