



OFFICE OF
CHIEF COUNSEL

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
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INTERNAL REVENUE SERVICE SIGNIFICANT SERVICE CENTER ADVICE

MEMORANDUM FOR BROOKLYN DISTRICT COUNSEL

FROM: Assistant Chief Counsel
(Administrative Provisions & Judicial Practice)

SUBJECT: Levies on Fully Paid Accounts

This Significant Service Center Advice responds to your undated memorandum and subsequent communications. This document is not to be cited as precedent.

ISSUE

Does the refund statute of limitations apply to payments received under a continuous wage levy that was not released after the liability underlying the levy was fully paid?

CONCLUSION

The refund statute of limitations does apply, and amounts collected after the liability is satisfied can be refunded only if not barred by the statute.

FACTS

The Service issues a continuous wage levy to a taxpayer's employer for unpaid balances due. The employer sends periodic payments. These payments continue even after the underlying tax liability is paid, because the levy is not released.

LAW AND ANALYSIS

Under I.R.C. § 6511(a), a taxpayer who files a claim for refund or credit of tax generally must do so no later than three years after filing the return required because of the tax or two years after paying the tax. Amounts collected by levy and amounts collected otherwise are subject to the same statutory limitations on credit or refund. These limitations are set out in I.R.C. § 6511(b). Although there are exceptions to the rules of I.R.C. § 6511(a) and (b) (see, for example, I.R.C. § 6511(h)), levy payments are not treated specially. No equitable exception applies to these payments. See United States v. Brockamp, 519 U.S. 347 (1997).

Accordingly, even if an amount is collected as a result of a continuous levy that should have been released because the underlying tax liability was paid, that amount cannot be refunded or credited once the period of limitations lapses. That the levy should have been, but was not, released does not override the mandates of I.R.C. § 6511.

Please call if you have further questions.

By: _____
SARA M. COE
Chief, Branch 3