



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224  
April 7, 2000

OFFICE OF  
CHIEF COUNSEL

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The Honorable Max Baucus  
United States Senate  
Washington, D.C. 20510

Attention: Ms. Leilani Wardle

Dear Senator Baucus:

This letter is in response to your inquiry dated March 7, 2000, to Commissioner Rossotti on behalf of your constituent, [REDACTED]. [REDACTED] asked about the Internal Revenue Service's (IRS) handling of refund claims based upon Wuebker v. Commissioner, 110 T.C. No. 31 (1998). In Wuebker, the Tax Court held that Department of Agriculture Conservation Reserve Program (CRP) payments were not subject to self-employment tax.

The IRS appealed the Wuebker decision in the Sixth Circuit court of appeals. Generally when refund claims are filed based upon substantially identical facts as those in a case in which the IRS has filed an appeal, it is the IRS' policy to hold these claims in "suspense" pending final resolution of the case in the courts. We believe this policy results in the most efficient handling of refund claims for both the IRS and taxpayers.

The Sixth Circuit recently reversed the Tax Court in Wuebker v. Commissioner, 85 AFTR 2d Par. 2000-496 (March 3, 2000) (copy enclosed). The Wuebkers have 45 days from March 3, 2000 to petition for rehearing by the Sixth Circuit or 90 days from that date to petition the Supreme Court to review the case. When the final resolution of the Wuebker case is known, the IRS will complete its processing of the Wuebker refund claims.

This letter will be available for public inspection after names, addresses, and other identifying information have been deleted under the Freedom of Information Act.

I hope this information will be helpful in responding to your constituent. If we can be of further assistance in this matter, please contact me at 622-6010 or John Richards (ID # 50-08837) of this office. Mr. Richards can be reached at (202) 622-6040.

Sincerely,

MARY OPPENHEIMER  
Assistant Chief Counsel  
Office of the Associate  
Chief Counsel  
(Employee Benefits and  
Exempt Organizations)