

INTERNAL REVENUE SERVICE

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OCT 26, 2000

Dear [REDACTED]

I am responding to your letter of September 14, 2000, to the Commissioner of Internal Revenue. You ask the IRS to consider [REDACTED] request to abate its outstanding tax liability in return for the destruction of 27,300 pounds of ozone-depleting chemicals. You said [REDACTED] is the subject of an examination and discussions with the IRS on [REDACTED] liabilities are ongoing. As such, [REDACTED] case-specific issues need to be resolved in the context of the examination at the IRS office.

In [REDACTED], the court determined [REDACTED] sale of Halon-1211 in 1994 was taxable. The court held the exception to tax under § 4682(d)(1) of the Internal Revenue Code (the Code) for ozone-depleting chemicals, diverted or recovered in the United States as part of a recycling process, did not apply to [REDACTED] because they did not recover Halon-1211 in this country.

The IRS does not have authority to abate [REDACTED] liability in return for the destruction of a taxable ozone-depleting chemical. The Code authorizes the Secretary of the Treasury to abate the unpaid portion of any assessed liability that is:

- An excessive amount;
- Assessed after the expiration of the applicable period of limitations; or,
- Assessed erroneously or illegally. [Section 6404(a)].

The assessment against [REDACTED] agrees with the court decision referenced above.

You previously contacted us on the same issue on March 5, 1999, and we responded on March 30, 1999. I hope this additional information is helpful to you in responding to [REDACTED]. I am sending a similar letter to Senator DeWine and Congressman Gillmor. If you need any additional information, please contact me at (202) 622-3000 or [REDACTED].

Sincerely,

Paul F. Kugler
Associate Chief Counsel
(Passthroughs and Special Industries)