



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

OFFICE OF
CHIEF COUNSEL

August 24, 2000

CC:PA:CBS:Br1
GL-700795-00

Number: **200038003**
Release Date: 9/22/2000

UILC 6330.00-00
9999.98-00

MEMORANDUM FOR NORTH CENTRAL DISTRICT COUNSEL

FROM: Alan C. Levine
Chief, Branch 1 (Collection, Bankruptcy & Summonses)
CC:PA:CBS:Br1

SUBJECT: Processing Offers in Compromise During or After
Collection Due Process Proceedings

The purpose of this memorandum is to indicate a change in a position previously set forth in a June 16, 2000, memorandum for your office on the above-cited topic. The June 16, 2000, memorandum was written in response to your office's request for assistance in formulating procedures for the Collection Division for working offer in compromise cases during the time in which the Office of Appeals ("Appeals") has jurisdiction over a Collection Due Process ("CDP") proceeding. The June 16, 2000, memorandum was recently released as public Chief Counsel Advice and was published in the July 24, 2000 Tax Notes Today (reference number 2000 TNT 142-64).

On page 2 of the June 16, 2000, memorandum, the third paragraph provides as follows:

Similarly, if Appeals has issued its determination, but retains jurisdiction over that determination pursuant to section 6330(d)(2), a proposed offer made to a Revenue Officer should be referred to Appeals. Appeals may reconsider its original determination at that time.

I.R.C. § 6330(d) provides that within 30 days of an Appeals determination in a CDP hearing, a taxpayer may seek judicial review of that determination. Pursuant to section 6330(d)(2), Appeals retains jurisdiction with respect to any determination made under section 6330, including any subsequent hearings requested by the person who requested the original hearing on issues regarding collection actions taken or proposed with respect to such determination, and (after the person has exhausted all administrative remedies) a change in circumstances with respect to such person which affects such determination. The cited paragraph from the June 16, 2000, memorandum pertains to the extent of this "retained jurisdiction" by Appeals.

The cited paragraph incorrectly suggests that the “retained jurisdiction” of Appeals requires coordination with Appeals of offers in compromise made subsequent to a CDP determination. Rather, the retained jurisdiction of Appeals may be invoked by a taxpayer for the purposes described in section 6330(d)(2)—i.e., for a hearing on (1) issues regarding collection actions taken or proposed to be taken with respect to the CDP determination, or, after the taxpayer exhausts administrative remedies, (2) reconsideration of Appeals’ original determination because of a change in circumstances. See also Temp. Treas. Reg. §301.6330-1T(h)(1). A Revenue Officer who receives a proposed offer after Appeals has issued a CDP determination may evaluate that offer under the regular offer procedures and is not required to refer the offer to Appeals. Similarly, the Revenue Officer may consider and act on other collection alternatives proposed subsequent to a CDP determination without referring the matter to Appeals. Only if the taxpayer invokes the retained jurisdiction of Appeals should the matter be referred to that function.

This memorandum supersedes the cited paragraph in the June 16, 2000, memorandum. The discussion in the remainder of the June 16, 2000 memorandum remains unchanged.

If you have any further questions, please call 202-622-3610.