

INTERNAL REVENUE SERVICE

Number: **INFO 2003-0241**

Release Date: 12/31/2003

UIL 3121.01-00

CONEX 150107-03

September 29, 2003

[REDACTED]

Attention: [REDACTED]

Dear [REDACTED]:

This letter is in response to your inquiry (copy enclosed) dated August 18, 2003, on behalf of your constituent, [REDACTED], a retired professor [REDACTED] believes that he is entitled to a refund of the FICA taxes that his former employer, [REDACTED] had taken out of his retirement incentive payment and paid to the IRS. He states that the IRS granted refunds in previous years on claims that [REDACTED] filed on behalf of its retiring faculty members. He further states that because the U.S. Court of Appeals for the Eighth Circuit ruled in favor of a taxpayer with similar claims in the *North Dakota State University* case, that the IRS is discriminating in not honoring that ruling in states outside of the Eighth Circuit.

Due to disclosure and privacy laws, we are prohibited from providing specific tax or taxpayer information regarding a taxpayer's case to anyone other than the taxpayer or the taxpayer's authorized representative. However, to assist you, we can provide some general information, which I hope you find useful.

The IRS can deny a taxpayer's refund claim for a particular tax year when it had previously accepted a similar refund claim by that same taxpayer for an earlier tax year for numerous reasons. These reasons include that:

- The taxpayer failed to file the later claims within the required period of limitations applicable to those claims;
- A change in the law adverse to the taxpayer occurred;
- The IRS made an erroneous refund on the claim submitted for the earlier tax year.

In all cases, when the IRS does deny a refund claim, it will provide written notice to explain the taxpayer's appeal rights and the procedures to protest the IRS' denial of the refund claim.

██████████ also mentioned the ruling in the *North Dakota State University* case and the failure of the IRS to apply that decision to support any refund claims that ██████████ may have filed. For this case, the IRS issued an Action on Decision (AOD) on December 31, 2001, to help taxpayers understand the IRS' position on this judicial decision.

The AOD explains that the IRS disagrees with the Eighth Circuit's decision. The AOD further states that the IRS recognizes the precedential effect of the decision to cases appealable to the Eighth Circuit and, therefore, that it will follow the decision on cases that have the exact facts within that circuit. However, the AOD also states that the IRS will continue to litigate its position that the decision is erroneous in cases having different facts in the Eighth Circuit and in all cases in other circuits. ██████████ indicated that he ██████████ within the jurisdiction of the Eighth Circuit. I have enclosed a copy of this Action on Decision that you can forward to ██████████.

I hope this information is helpful. Please call me at ██████████

██████████
if you have any questions.

Sincerely,

Sarah Hall Ingram
Division Counsel/Associate Chief Counsel
(Tax Exempt and Government Entities)

Enclosures (2)