

refund made by the IRS on the refund 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 appeal rights and procedures that are available for a taxpayer to protest the denial of its claim for refund. If the taxpayer does not agree with the IRS' denial of its claim for refund, the taxpayer can elect to assert its rights and follow the procedures available to the taxpayer to protest the IRS' denial of its claim for refund.

Additionally, the ruling that [REDACTED] refers to is an IRS general information letter. This general information letter cites to an Action on Decision (AOD) that was issued on December 31, 2001, in order to help taxpayers understand the IRS' position with regard to faculty early retirement payments.

The AOD sets forth that the IRS disagrees with the Eighth Circuit's decision in *North Dakota State University* in which the court held that early retirement payments made by a university to its tenured faculty members for the members' relinquishment of their tenure rights were not wages and, therefore, not subject to FICA taxes. 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 with respect to 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. [REDACTED] indicates in the materials provided that he [REDACTED] within the jurisdiction of the Eighth Circuit. We have enclosed a copy of this Action on Decision that you can forward to him.

I hope this information is helpful. Please call me at [REDACTED],
if you have any questions.

Sincerely,

Catherine E. Livingston
Assistant Chief Counsel
(Exempt Organizations/Employment
Tax/Government Entities)

Enclosures (2)