

Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

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Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:ITA:B04

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Date:

July 28, 2004

Dear

This letter is a response to your letter concerning various issues related to the serial bankruptcies of an individual and his businesses. I apologize for the delay in responding to your letter.

You recommended the establishment of a central national tax lien data base for the recording of all federal and state tax liens. You also made other legislative recommendations. Although this office appreciates your interest in protecting the public and your description of the issues related to serial bankruptcies, the Congress must enact any legislation.

In response to your concern about section 1.61-12(b) of the Income Tax Regulations, however, please note that the Senate Report for the Bankruptcy Tax Act of 1980, states that the rules concerning the income tax treatment of debt discharge in bankruptcy are intended to defer, but eventually collect within a reasonable period, tax on ordinary income realized from debt discharge. Thus, a bankrupt or insolvent taxpayer must apply the debt discharge amount to reduce the taxpayer's net operating losses and certain other tax attributes, unless the taxpayer elects to apply the amount first to reduce basis in depreciable assets. S. Rep. No. 1035, 96th Cong., 2d Sess. 10-11 (1980), 1980-2 C.B. 625.

Thank you for your interest in resolving the problems you describe and for informing this office of those problems.

Sincerely,

Robert A. Berkovsky
Branch Chief
Office of Associate Chief Counsel
(Income Tax & Accounting)