

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

INFO 2005-0045

Index Number: 62.02-02

Person To Contact:

Elliot Rogers, ID No. 50-11827

Telephone Number:

(202) 622-6040

Refer Reply To:

CC:TEGE:EOEG:ET1- PLR-116478-04

Date:

5/19/04

Dear _____ :

This letter is in response to your February 24, 2004, ruling request concerning the tax treatment of various expense reimbursements under section 62(c) and (a)(2)(A) of the Internal Revenue Code. After reviewing the information submitted, Mr. Rogers, a member of my office, contacted your taxpayer representative, _____, on April 28, 2004, and advised him that we will not be able to issue a ruling in this matter for the following reasons.

The Internal Revenue Service has discretionary authority to issue letter rulings when appropriate in the interest of sound tax administration. See Rev. Proc. 2004-3, sec. 2.01; Rev. Proc. 2004-1, sec. 6.02.

Additionally, section 5 of Revenue Procedure 2004-3, 2004-1 I.R.B. 114, provides several areas under extensive study in which rulings or determination letters will not be issued until the Service resolves the issue through publication of a revenue ruling, revenue procedure, regulations or otherwise. One of these areas of extensive study involves reimbursement arrangements. Section 5.01 provides that whether amounts related to a salary reduction and paid under a purported reimbursement or other expense allowance arrangement will be treated as paid under an "accountable plan" in accordance with section 1.62-2(c)(2) of the Income Tax Regulations. After careful consideration, we have determined that your request comes within this area of extensive study.

Accordingly, we decline to rule on your request, and will refund the user fee submitted with your request. (We have submitted a user fee refund request to our Communications, Records, and User Fee Unit (CRU Unit). The CRU unit separately processes this refund.) We regret any inconvenience our inability to rule in this matter may cause.

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If you have any further questions please feel free to contact Mr. Rogers or me at (202) 622-6040.

Sincerely,

Joseph W. Spires
Assistant Branch Chief
Employment Tax Branch 1
Office of Division Counsel/
Associate Chief Counsel
(Tax Exempt & Government Entities)

cc: