



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

OFFICE OF  
CHIEF COUNSEL

June 16, 2005

Number: **INFO 2005-0123**

Release Date: 9/30/05

UIL: 61.00-00, 61.15-00, 61.22-00, 7434.00-00

CC:ITA:B04

GENIN-130088-05

Dear \_\_\_\_\_ :

This letter responds to your request for assistance in determining whether a car dealership had a legal basis to issue a Form 1099-INT to its customer after the customer refused to renegotiate a purchase agreement. Your letter was dated May 16, 2005.

From your representation of the facts, a consumer purchased a new vehicle from a local franchise dealership. The financing was arranged by the dealership and the consumer was told he qualified for 0% financing. A purchase order, stating 0% financing, was completed and reviewed by both the consumer and the dealership representative. Upon completion of the transfer of registration, the consumer drove home with the new vehicle.

The following day the dealership called the consumer to say that there had been a mistake and the consumer was required to return to the dealership to sign a new contract with a higher interest rate. When the consumer insisted on adhering to the terms of the existing contract, the dealership's representative indicated that he voided the registration on the vehicle. In subsequent conversations, the dealership indicated that the consumer cost them nearly \$3,000 in interest and threatened to repossess the vehicle. Upon receiving a complaint from the consumer, the Connecticut Department of Motor Vehicles investigated the matter, resulting in a reinstatement of the vehicle registration and a written warning to the dealer. Subsequently, the consumer received a Form 1099-INT listing his social security number and stating interest income from the dealership of \$2,997.60. You asked whether the dealership has a legal basis to issue the Form 1099-INT reporting interest income to the consumer.

Under § 61 of the Internal Revenue Code, gross income means all income from whatever source derived, including cancellation of indebtedness income (§ 61(a)(12)). Under these facts, however, a consumer would not have cancellation of indebtedness

income because there is a contract stating 0% interest. Because a consumer would not have any income, a dealership should not issue a Form 1099-INT in these circumstances.

We note that under § 7434, a person may bring a civil action against a person who willfully files a false information return with respect to payments purportedly made to that person. Upon a finding of liability, the defendant is liable for damages in an amount equal to the greater of (i) \$5,000 or (ii) actual damages, court costs, and reasonable attorneys' fees. Any person bringing such action should provide a copy of the complaint to the Internal Revenue Service upon filing such claim with the court.

We hope this information is helpful. This letter has called your attention to certain general principles of the law. It is intended for informational purposes only and does not constitute a ruling. See Section 2.04 of Rev. Proc. 2005-1, 2005-1 I.R.B. 1, 7. If you have any additional questions, please contact Shareen S. Pflanz, of our office, at

Sincerely,

Michael J. Montemurro  
Acting Branch Chief  
(Income Tax & Accounting)