



OFFICE OF
CHIEF COUNSEL

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

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The Honorable Tammy Baldwin
Member, U.S. House of Representatives
10 East Doty Street, Suite 405
Madison, WI 53703

Dear Congresswoman Baldwin:

I am responding to your letter dated December 5, 2008, on behalf of your constituent, [REDACTED], asked about the legality of making unsolicited contact with investors who hold securities in [REDACTED]. The purpose of the contact was to encourage these investors to hire [REDACTED] to assist them in filing amended tax returns claiming a deduction for losses the investors may have incurred on the securities. [REDACTED] is in bankruptcy, but the courts have not rendered a final adjudication.

Generally, individual investors may claim a deduction for losses on worthless or stolen securities. The availability, nature, and timing of this deduction depends on the facts and circumstances that reduced the securities to negligible or no value, or on a determination that a theft of these securities occurred under applicable state law. The fact that [REDACTED] is in bankruptcy proceedings is not, by itself, a determination that its securities are worthless for federal tax purposes; nor is it a determination that the securities were stolen for state law purposes. A court decision is not required to establish worthlessness or a state law theft.

[REDACTED]'s letter does not provide enough information to determine whether [REDACTED] is violating any ethical or legal standards by its solicitation of customers. However, as a general rule, a qualified tax preparer may appropriately advertise for clients.

I hope this information is helpful. If we can assist you further, please contact me or
at () .

Sincerely,

Christopher F. Kane
Branch Chief, Branch 3
(Income Tax & Accounting)