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Sent: Thursday, September 04, 2008 3:43 PM

To:

Cc:

Subject: Rev. Rul. 2007-69 (Roosevelt Wallace v. Commissioner)

Hi

Thanks for enquiring about this case. As you know, in April, 2007, the Tax Court determined that payments made to participants in the DVAs Compensated Work Therapy (CWT) Programs, and substantially similar programs, were 'veteran's benefits' described in 38 USC sec. 3101 (now sec 5301), and thus excludible from gross income under what is now IRC section 140(a)(3). In our RR, we stated that the benefits were 'qualified military benefits' exempt from tax under IRC section 134.

Section 134(b)(1)(B) describes 'qualified military benefits,' among other things, as being benefits that were "excludable from gross income on September 9, 1986." Thus, both the IRS and TC now agree that these benefits were properly excludable from gross income at least that far back, and that RR 65-18 got it wrong. Accordingly, no attempt should be made to assess or collect any taxes on these CWT amounts for periods subsequent to 1986. The fact that taxpayers can only receive refunds on taxes paid on CWT income under the usual period of limitations rules, is irrelevant to this matter. (In fact, the usual period is suspended for individuals physically or mentally unable to manage their financial affairs, which would appear to potentially apply to a significant number of CWT Program participants).

FYI: If the Taxpayer were to pay the amount of tax allegedly owed on the T/Y CWT payments in, say, 2008, the T/P could immediately apply for a refund of the amount paid (i.e., claim w/in 2-yrs of payment), and under Wallace and RR 2007-69, the T/P would be entitled to a refund; thus, collection makes no sense.

Any questions, I'm at