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From:

Sent: Tuesday, December 16, 2008 3:41:52 PM

To:

Cc:

Subject: Sale of Computers with customer information

This responds to your request for advice on several issues pertaining to the proposed seizure and sale of the assets of a security alarm company. Your request for advice centers on the proposed seizure and sale of the company's computers, and asks: 1) whether the IRS can sell the computers without removing the client information on them; and 2) whether such a sale can be considered one of perishable goods pursuant to IRC section 6336.

I coordinated _____ in formulating our response to your request for advice, as the request presented disclosure and privacy issues outside our purview. I concur with their opinion that because the alarm company's computers contain I.R.C. section 6103 protected taxpayer information, which includes private client information, the IRS cannot sell the computers with the client information on them. This opinion is supported by IRM 5.10.1.3.3.5, which indicates that information on computers seized by the IRS should not be sold, requiring the IRS to wipe clean all computers before selling them. (This opinion is also suggested by IRM 5.10.3.6.3 which, although not strictly applicable since it is limited in scope to records of attorneys, physicians, and accountants, addresses situations analogous to that presented here, and suggests that where private information is on a seized computer, it should not be sold as an asset of the taxpayer.)

Because the alarm company's computers cannot be sold with confidential taxpayer information on them, it is unnecessary for us to address whether the seizure and sale of the company's computer information qualifies as one of perishable goods.

I also coordinated with the _____ in considering your questions. _____ addressed whether the IRS can resell software on computers that have been seized. Essentially, _____ opinion is that the IRS's right to resell computer software depends on the terms of the license that the taxpayer acquired in the software; this assumes that the software has been wiped clean of any IRC section 6103 taxpayer information. Accordingly, the transferability of the software must be determined on a case-by-case basis following consultation with local Area Counsel.

Please let me know if we can assist you further.