



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

OFFICE OF THE CHIEF COUNSEL

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The Honorable John Kerry  
United States Senator  
One Bowdoin Square  
10th Floor  
Boston, Massachusetts 02114

Attention:

Dear Senator Kerry:

I am responding to your letter dated April 13, 2010, on behalf of the . The has asked for assistance in expediting an IRS payment of their court-ordered refund for the case of ,

In , the United States District Court for the District of held that certain wages paid to correctional officers in Massachusetts were not subject to Medicare taxes under the continuing employment exception to Medicare [Internal Revenue Code section 3121(u)(2)(C)]. Accordingly, the court ruled that the correctional officers and the are entitled to refunds of the Medicare taxes they had paid. Although the court issued its opinion in favor of the plaintiffs in , it did not enter a final judgment for the refund amounts until . On , the court ordered the United States to pay refunds to the of \$ for tax years through

inclusive, plus interest.

I regret that the law prohibits me from responding to you about your inquiry [section 6103 of the Internal Revenue Code]. I cannot disclose any taxpayer return information, including information about whether a matter is pending before the IRS and information

about the status of any matter pending before the IRS, without the written authorization of the taxpayer or taxpayers affected by the disclosure. However, as explained in a telephone conversation with Tippi Jilek of your staff, the IRS treats a constituent's written correspondence to a Member of Congress asking for help with a specific federal tax issue as a consent to allow the disclosure of the constituent's tax information to the Member. Accordingly, a written request from your constituent will enable me to assist you in this matter.

I am sorry that I cannot provide any information at this time. If you have further questions about return information, please call me at \_\_\_\_\_, or of my staff at \_\_\_\_\_.

Sincerely,

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Nancy J. Marks  
Division Counsel/Associate Chief Counsel  
(Tax Exempt & Government Entities)