



OFFICE OF  
CHIEF COUNSEL

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

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

I am responding to your letter to Senator Harry Reid about tax refunds relating to theft losses by fraud victims under section 165 of the Internal Revenue Code (Code). Senator Reid wrote to us on your behalf and asked us to respond directly to you.

Taxpayers who lose money in criminally fraudulent investment arrangements such as Ponzi schemes may be entitled to investment theft loss deductions (section 165(c)(2) of the Code). I am enclosing the following additional information on this type of loss:

- Revenue Ruling 2009-9 explains the income tax law that applies to investors who lose money in criminally fraudulent investment arrangements.
- Revenue Procedure 2009-20 provides optional safe harbor treatment for qualified investors who lost money in this type of arrangement.
- Revenue Procedure 2011-58 modifies Revenue Procedure 2009-20 to address situations in which the death of a lead figure prevented the possibility of a criminal charge.

These documents are not specific to taxpayers who invested with Bernard L. Madoff Investment Securities, LLC and may apply to any taxpayers who lose money in criminally fraudulent investment arrangements.

Once we receive a refund claim for processing, many different factors can affect the timing of the refund payment. Whether we approve a claim for a refund is based on the specific facts and circumstances of each case. For more information, please see the enclosed 2012 Tax Season Refund Frequently Asked Questions.

I hope this information is helpful. Please contact me or \_\_\_\_\_ of my staff at \_\_\_\_\_ if you have any questions.

Sincerely,

Thomas D. Moffitt  
Chief, Branch 2  
Office of Associate Chief Counsel  
(Income Tax & Accounting)

cc: The Honorable Harry Reid

Enclosures (4)