

ID: CCA_2019032515095652

UILC: 6325.03-00

Number: **201916009**

Release Date: 4/19/2019

From: [REDACTED]

Sent: Monday, March 25, 2019 3:09:56 PM

To: [REDACTED]

Cc: [REDACTED]

Bcc:

Subject: RE: Certificate of Discharge - Taxpayer's Ability to Designate Payment s

The IRM language you cited in your memo remained in 5.12.3.20 until in bounced to 5.12.3.16(5) in 9-2006. There was a huge overhaul of IRM 5.12 in 10-2013. The discharge topic was moved to 5.12.10.

The application of payments in the best interest of the government language was included in IRM 5.12.10.9(4) (10-2013), and the current version of the IRM reads:

(4) Post all payments received in conjunction with certificate applications on the date of receipt.

Note: As stated in the conditional commitment letter, issuance of the certificate is conditioned upon the taxpayer's agreement that payments will be applied in the best interest of the government as determined by the Service.

IRM 5.12.10.9(4) (9-2015).

Generally, taxpayers can designate voluntary payments. But I've always understood that to be a general rule. IRM 5.1.2.8 states that "normally" voluntary payment designations will be honored by the Service. But all discharges (with the exception of 6325(b)(4) discharges) are at the discretion of the Service. So while taxpayers may generally designate voluntary payments as they wish, they cannot if that want a discharge that the Service is not required to give.

So I don't think the question is "whether the IRS is going to accept the payment designation in exchange for the certificate of discharge." After all, the Service is not the party seeking the discharge. I think the question is whether the taxpayer is willing to accept the Service's terms in order to get the discharge.

If you would like to discuss this, please let me know.