

INTERNAL REVENUE SERVICE

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MEMORANDUM FOR DISTRICT COUNSEL, DELAWARE-MARYLAND DISTRICT
AND THE FED-STATE COORDINATOR

FROM: Barry J. Finkelstein
Assistant Chief Counsel (Criminal Tax)

SUBJECT: FED State Matter - Review of Draft Memorandum of
Understanding (MOU) Between IRS and State of Maryland
Comptroller of the Treasury

We have completed review of the draft Memorandum of Understanding (MOU) referenced above and conclude there are no substantive criminal tax issues raised by its provisions. The draft MOU outlines the scope and responsibilities of agents working for the IRS, Delaware-Maryland District Examination Division and the State of Maryland Comptroller of the Treasury in conducting joint compliance reviews/visits of Electronic Return Originators and participating in monthly Return Preparer Committee meetings. The draft MOU contemplates the IRS and State personnel will coordinate enforcement activities. In the event joint compliance reviews uncover indications of criminal fraud, the investigative team will suspend enforcement activity and coordinate with the district Fraud Coordinator to determine whether a criminal referral should be made to CID. Accepted criminal referrals will be jointly investigated under the direction of a lead special agent of the IRS. Information developed by the team relative to potential State tax issues may be reviewed by the State for state enforcement action once CI has declined a criminal referral. In our view, this arrangement does not raise Tweel concerns because the compliance reviews are overtly joint undertakings and are subject to appropriate suspense controls and resulting criminal investigations are jointly pursued under IRS direction. Additionally, the provisions of the MOU do not contemplate continued disclosures to the State once a criminal referral has been declined by the CI.

If you have any questions or comments, please feel free to contact Brian Townsend on (202) 622-4470.