



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

OFFICE OF
CHIEF COUNSEL

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CC:EL:D

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INTERNAL REVENUE SERVICE NATIONAL OFFICE CHIEF COUNSEL ADVICE

MEMORANDUM FOR NORTH-SOUTH CAROLINA DISTRICT COUNSEL
CC:SER:NCS:GBO

FROM: Chief, Branch 4 (Disclosure Litigation) CC:EL:D

SUBJECT: Farm Labor Contractor Memorandum of Understanding (MOU)

This is in response to your request dated April 20, 1999. This document is not to be cited as precedent.

We have reviewed the MOU between the United State Department of Labor, Wage and Hour Division (USDOLWH), the Florida Department of Labor and Employment Security (FDLES) and the Service regarding the Farm Labor Contractor Licensing Project, which the North/South Carolina District would like to use as a model for its MOU.

The first paragraph indicates that "[t]his agreement will serve as the ongoing request by the USDOLWH and the FDLES to the IRS to provide Federal employment tax information pursuant to Form 8821." The intent of the agreement serving as an ongoing request is unclear. Because a Form 8821 is being used, there is no need for the Service to receive a written "request" from USDOLWH and/or FDLES as is the case with disclosures pursuant to section 6103(d). We suggest you use language similar to that in the Low Income Housing Credit Program MOU, which also incorporates the use of Forms 8821 for disclosure purposes. To the extent that the Form 8821 is being executed according to its instructions and provides disclosure authority for disclosing participants' Federal employment tax filing and payment histories, we suggest paragraph 5 indicate that the Service is providing the information in accordance with a valid Form 8821.

Paragraph 8 indicates that "IRS agents may accompany USDOLWH agents on compliance sweeps." It is our understanding that the nature of these compliance sweeps is educational. This allows the IRS to explain the Federal employment tax requirements and observe how the program operates. Provided the IRS does not provide any tax information for these sweeps, including the names and addresses of taxpayers, disclosure would not have an effect on these joint activities. To the extent joint enforcement activities with nontax agencies are contemplated I.R.C. § 6103 would generally preclude such activities.

If you have any questions, please call (202)622-4570.