

Office of Chief Counsel
Internal Revenue Service

memorandum

CC:NER:CTR:HAR:TL-N-6549-97
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date: **MAY 05 1999**

to: Chief, Examination Division, Connecticut-Rhode Island District
Attn: Craig A. Leeker, Group Manager, Group 1111

from: Assistant District Counsel, Connecticut-Rhode Island District, E.
Hartford

subject: **Third Party Contacts**

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Background

On March 2, 1999, we were given a letter that the Examination Division received from [REDACTED] regarding third party contacts and how [REDACTED] believed IRC § 7602(c) should operate. This letter was forwarded to the National Office for its guidance on the proper response. To date, the National Office has made no decision on the approach to take in responding to the letter.

On April 15, 1999, while awaiting word on how to respond to the [REDACTED] letter, you posed the following questions:

1. Since you have provided [REDACTED] the generic third party letter on [REDACTED], do you know have to provide [REDACTED] with another notice?
2. If so, what should be contained in any new letter? Does the letter have to be specific as to who is going to be contacted and what the audit team is going to ask third party contacts?
3. What steps do you have to go thorough in attempting to get the information from [REDACTED] before being permitted to go to third parties? Are IDRs sufficient? If [REDACTED] says it will provide the information, but has not yet done so, how long must you wait

for the information? If the taxpayer says it would be a great burden to provide the documents, and wants to cut back on the request, is that sufficient?

4. Does the audit team have to request the specific information from [REDACTED] before going to a third party?

Conclusion

The important thing to keep in mind is that once the general advance notification of third party contacts was given to [REDACTED] the audit team is free to make whatever third party contacts it deems necessary regardless of whether the taxpayer concurs. However, under the new guidelines (which has really been the Service's policy all along), the audit team is supposed to try to get the information from the taxpayer before making third party contacts whenever possible.

In any event, there is no reason for you to delay making necessary third party contacts until after a response is sent to [REDACTED]. It is the view of the National Office that regardless of what the revised third party contact letter may look like, there will be no requirement that you reissue letters to those taxpayers who already received the old letter. Thus, with respect to the [REDACTED] cycle that is currently being worked, you may proceed as you normally would.

Specifically addressing your questions:

1. No. The generic letter gave [REDACTED] reasonable notice. [REDACTED]'s response, in fact, demonstrates that it got the message.

2. Not relevant because of answer to 1. But for your information, the "reasonable notice" under IRC § 7602(c) does not need to specify what third parties will be contacted (the statutory language says "may" be contacted) and does not need to specify what information would be sought.

3. Once reasonable notice that third parties may be contacted has been given, the audit team may obtain information from third parties in the same manner as before the statute's enactment. The statute does not give [REDACTED] any rights to prevent third party contacts or interfere with the examination. You must, however, record the fact of the third party contacts and provide the record periodically or upon taxpayer request.

4. No. IRC § 7602(c) does not lay upon the Service any greater duties than (1) giving reasonable notice that third parties may be contacted, (2) making a record of third party

contacts, and (3) providing the record periodically or upon taxpayer request.

If you have any questions, please contact Meryl Silver at (860)290-4068.

BRADFORD A. JOHNSON

By:

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