

**Office of Chief Counsel  
Internal Revenue Service  
memorandum**

CC:PA:01:GSemasek  
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to: Phyllis Ann Burnside  
Senior Tax Analyst  
Federal, State & Local Governments  
(SE:T:GE:FSL:CPM)

Stewart Rouleau  
Tax Law Specialist  
Federal, State & Local Governments  
(T:GE:FSL:CPM)

from: Blaise G. Dusenberry  
Senior Technician Reviewer  
(Procedure & Administration)

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subject: Reporting Requirements of State Tax Credits

This program manager technical assistance memorandum responds to your request for assistance. This advice may not be used or cited as precedent.

**ISSUES**

**CONCLUSIONS**

## **FACTS**

## **DISCUSSION**

Section 6050E requires information reporting for state and local income tax refunds. The regulation implementing section 6050E states that an information return is required when “any refund officer who, with respect to an individual, makes payments of refunds of State or local income taxes or allows credits or offsets with respect to such taxes aggregating \$10 or more for such individual in any calendar year.” Treas. Reg. § 1.6050E-1(a). This regulation defines “credit or offset” to mean an overpayment of state or local tax which, in lieu of being refunded to the taxpayer, is: (i) applied against the existing liability of the taxpayer; (ii) available for application against future liability of

the taxpayer; or (iii) otherwise used or available for use for the taxpayer's benefit. Treas. Reg. § 1.6050E-1(b)(4).

For purposes of the section 6050E information reporting requirement, a tax credit or offset is considered to be *allowed* when the liability to pay or credit such amount is admitted by the State or local taxing jurisdiction. Treas. Reg. § 1.6050E-1(g). The applicable regulation reads in part:

Thus, if an amount with respect to the taxpayer's 1982 taxable year is credited in 1983 to reduce the liability of the taxpayer to make estimated tax payments in 1983, it is reportable as a credit allowed in 1983. It is not reportable in the taxable year that gives rise to the refund, credit or offset.

The refund officer described in the regulation must make and file an information return, currently a Form 1099-G, in accordance with the regulation each calendar year. The regulation also states, though, that the refund officer need not furnish the information return to the individual taxpayer if the refund officer verifies that the taxpayer did not claim itemized deductions for federal tax purposes for the taxable year giving rise to the refund, credit, or offset. Treas. Reg. § 1.6050E-1(k)(2). Verification may be made from the state income tax return if state law requires Schedule A, Form 1040, to be attached to the state income tax return or information from Schedule A must be transcribed onto the state income tax return, the information from Schedule A is required to compute the state tax liability, and the omission of Schedule A or information from Schedule A is consistent with the taxpayer's computation on the state income tax return. Thus, if the refund officer can verify that the taxpayer did not claim itemized deductions, a copy of the Form 1099-G need not be furnished to the taxpayer.

Please call Gerald Semasek at (202) 317-5414 if you have any questions.