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From: Rath Thomas M
Sent: Monday, June 17, 2019 10:56 AM
To: Krish Linda M
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Subject: Taxpayer Correspondence White Paper
Attachments: Taxpayer Correspondence White Paper.pdf

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Linda,

Attached is the white paper on taxpayer correspondence. The white paper has been reviewed by P&A. Please let me know if you need further assistance.

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Requirement for a Telephone Number in Taxpayer Correspondence

The issue of whether the IRS is legally required to include a telephone number in systemically generated correspondence has arisen with increased frequency. [REDACTED]

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[REDACTED] Systemically generated taxpayer correspondence that emphasizes self-help resources is sometimes referred to as soft or educational correspondence. The purpose for this kind of systemically generated correspondence is to get a specific group of taxpayers to comply with the federal tax laws, e.g., determine if they are required to file a return and, if so, file the return.

The requirement to include a telephone number in all taxpayer correspondence, including systemically generated correspondence, is contained in section 3705 of the Restructuring and Reform Act of 1998 (RRA 98). The Joint Committee on Taxation explained that section 3705 was enacted to address taxpayer frustration regarding their inability to know who to contact with regard to tax-related questions arising from IRS correspondence. J. Comm. on Taxation, General Explanation of Tax Legislation Enacted in 1998, 128 (Nov. 24, 1998). The Office of Taxpayer Correspondence (OTC) is the clearinghouse for all IRS taxpayer correspondence, and it is responsible for ensuring that all taxpayer correspondence complies with the requirements of RRA 98.

In relevant part, section 3705 provides:

SEC. 3705. INTERNAL REVENUE SERVICE EMPLOYEE CONTACTS

(a) NOTICE.—The Secretary of the Treasury or the Secretary's delegate shall provide that—

(1) **any manually generated correspondence** received by a taxpayer from the Internal Revenue Service shall include in a prominent manner the name, telephone number, and unique identifying number of an Internal Revenue Service employee the taxpayer may contact with respect to the correspondence;

(2) **any other correspondence or notice** received by a taxpayer from the Internal Revenue Service shall include in a prominent manner a telephone number that the taxpayer may contact; and

(3) an Internal Revenue Service employee shall give a taxpayer during a telephone or personal contact the employee's name and unique identifying number (**bold added**).

As can be seen, section 3705 is written very broadly and does not contain any exceptions. Section 3705 applies to two categories of taxpayer correspondence: 1) manually generated correspondence; and 2) any other correspondence or notice. While section 3705 does not define correspondence, the IRS defines manually generated

correspondence for purposes of section 3705(a)(1) in IRM 21.3.3.4.17.1, Preparing Outgoing Manually Generated Correspondence, as follows:

The term manually generated correspondence is defined as any correspondence issued that is non-systemically generated and must contain certain elements listed in [Section 3705(a)](1) above. The IRS employee issuing the correspondence is:

- a. Exercising judgment in working or resolving a specific taxpayer identified issue.
- b. Requesting the taxpayer [to] provide additional case-related information to resolve the issue and the corresponding employee is in the best position to respond to all issues raised in the taxpayer's correspondence. The Service must use sound business judgment to determine the provision's [Section 3705(a)(1)]'s applicability.

As can be seen, the IRS defines manually generated correspondence for purposes of section 3705(a)(1) to include any non-systemically generated correspondence it issues. Also, because section 3705(a)(1) applies to all manually (or non-systemically generated) correspondence the IRS issues, section 3705(a)(2) applies to all other correspondence (any other correspondence or notice) issued by the IRS. Therefore, section 3705(a)(2) necessarily applies to all systemically generated (issued) taxpayer correspondence, including soft or educational taxpayer correspondence.

The way the IRS defines correspondence for purposes of section 3705(a)(1) is consistent with the general meaning of correspondence. For example, Merriam-Webster defines correspondence as: "Communication by means of letters or e-mail." The Cambridge English Dictionary defines correspondence as: "Letters, especially official or business letters; the action of writing, receiving, and reading letters, especially between two people." Black's Law Dictionary defines correspondence as: "Interchange of written communications. The letters written by a person and the answers written by the one to whom they are addressed."

The meaning of correspondence under sections 3705(a)(1) and 3705(a)(2) should be the same. The only difference is that for manually generated correspondence under section 3705(a)(1), the IRS must include a telephone number for a specific employee. For any other correspondence (systemically generated correspondence) under section 3705(a)(2), the IRS must include a general telephone number and the general 1-800-829-1040 number will suffice. Both sections 3705(a)(1) and 3705(a)(2) require that the telephone number be displayed in a prominent manner, which is interpreted to mean in the correspondence itself as compared to through a link in the correspondence.

Also, there is no requirement for a taxpayer to first respond (or correspond) to what the IRS issues before what the IRS issues is considered correspondence under section 3705. While "correspondence" may include that which requests return correspondence or other response, it need not do so. Consistent with the broad scope of section 3705

and the generally accepted meaning as just noted, we view correspondence as any letter sent from one party to another. Thus, correspondence includes all letters from the IRS intended for a specific taxpayer, even when not requesting a reply or response. These letters are issued due to certain characteristics of a specific taxpayer (or criteria the taxpayer met) and asking the taxpayer to take certain action because of those characteristics.

There is also nothing in section 3705(a)(2) to indicate that the requirement for including a telephone number in all systemically generated correspondence is only meant to apply when a taxpayer is in the examination or collection treatment stream. Therefore, section 3705(a)(2) requires the inclusion of a telephone number in all systemically generated taxpayer correspondence in case a taxpayer has a question about the correspondence.

In summary, given the broad scope of the language set forth in section 3705(a) regarding manually generated and any other correspondence, we cannot interpret section 3705(a)(2) to legally exclude certain categories of taxpayer correspondence, including soft or educational correspondence, from its reach. We also note that besides the legal requirement, there are good business reasons to include a telephone number. First, a telephone number enables taxpayers to ascertain that the correspondence is legitimate as compared to a scam. Second, a telephone number provides taxpayers with a way to get answers to questions they may have about the correspondence.

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