

Office of Chief Counsel  
Internal Revenue Service

**memorandum**

CC:DOM:IT&A:1/SPR-101038-97  
DBAuclair

date: APR 15 1997

to: National Director Customer Service Operation T:C:O

from: Assistant Chief Counsel (Income Tax & Accounting)  
CC:DOM:IT&A

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subject: Generation of Notices for Small Dollar Amounts

This responds to your memorandum of January 14, 1997, requesting clarification of the advice we gave in our March 10, 1992, memorandum regarding whether the Service is required to issue notices with small dollar amounts to taxpayers.

ISSUE

Whether the Service is required to notify a taxpayer that the Service has made an adjustment to the taxpayer's account, even if the notice reflects only a small or zero balance.

CONCLUSION

The type of adjustment made to the taxpayer's account governs whether the Service is required to issue notice to the taxpayer. The Service is required to notify taxpayers if the Service wishes to assess a deficiency in respect of any tax imposed by subtitle A or B or chapter 41, 42, 43, or 44. In situations not subject to such a restriction on assessment, the Service is not legally required to notify the taxpayer that the Service has made an adjustment to the taxpayer's account. However, there are compelling policy reasons for the Service to notify taxpayers of any adjustment to taxpayers' accounts.

FACTS

The Service's current practice is to notify taxpayers if the Service makes adjustments to their accounts. Some have questioned the efficiency of the Service issuing notices showing a small or zero balance. However, most taxpayers and practitioners have indicated that they want the Service to issue notices of adjustments to taxpayers' accounts. You have requested that we review the advice provided in our March 10, 1992, memorandum to determine if the Service is required to issue

notice that the Service has made an adjustment to a taxpayer's account.

## DISCUSSION

### Situations Where Notice is Required

#### Notice Required Prior to Assessment

Implicit in the analysis contained in our March 10, 1992, memorandum is the concept that the Service must give notice to taxpayers prior to the assessment of certain taxes. Section 6212(a) of the Code states that if the Service determines there is a deficiency, as defined in section 6211, in respect of any tax imposed by subtitle A or B or chapter 41, 42, 43, or 44, the Service is authorized to send notice of such deficiency to the taxpayer by certified or registered mail. In general, section 6213(a) states that the Service cannot assess such a deficiency unless it issues a notice of deficiency to the taxpayer and the appropriate statutory waiting period has expired. Accordingly, the Service must provide notice to taxpayers under section 6213(a) regardless of the amount of the deficiency to be assessed.

#### Notice Required After Assessment

Section 6213(b)(1) of the Code provides that the Service must give notice to a taxpayer of an assessment of tax based on a mathematical or clerical error. Also, under section 6213(b)(2), the taxpayer is entitled to protest such an assessment. Therefore, the Service must give notice to a taxpayer of any adjustment made to the taxpayer's account based on a mathematical or clerical error, regardless of the balance due. The Service is also required to provide notice to the taxpayer of a termination or jeopardy assessment under section 6851, 6852, or 6861.

#### Abatement of Assessment

In some situations, the assessment of tax may result in a small balance due. In such situations, section 6404(c) of the Code allows the Service to abate the unpaid portion of the assessment of any tax, or any liability in respect thereof, if the administration and collection costs would not justify pursuit of the debt. Our memorandum of March 10, 1992, discusses whether notice and demand for payment under section 6303(a) of the Code is required prior to abatement of an amount under section 6404(c). The memorandum correctly concluded that the Service does not have to issue a notice under 6303(a) if it intends to abate a small dollar amount under 6404(c).

Situations Where Notice Is Not Required

In situations not subject to the restrictions on assessment discussed above, the Service does not have to provide notice to taxpayers prior to assessing taxes or penalties. Such a situation exists in the example you provided of a Notice CP-25 of adjustment resulting in a zero balance. In this example, the taxpayers filed a joint return showing a refund of \$59.00; however, the Service assessed a \$59.00 penalty based on a failure to pay estimated income tax as provided in section 6654 of the Code. The Notice CP-25 informs the taxpayers of the adjustment to their account, and reflects a zero balance for the taxable year. This notice accomplishes three essential administrative purposes: (1) it informs the taxpayers that they will not be receiving an anticipated refund; (2) it explains why they will not be receiving the anticipated refund; and (3) it offers them the opportunity to contact the Service if they believe a mistake has been made.

Section 6665 of the Code provides that if a taxpayer files a return, the Service does not have to give notice prior to assessing a penalty for failure to pay estimated income tax under section 6654. Accordingly, in your example, the Service is not required to notify the taxpayers of the adjustment made to their account. However, there are compelling policy reasons for the Service to issue such a notice.

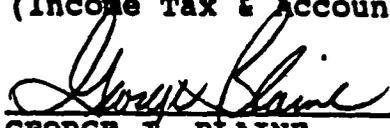
The taxpayers are expecting a refund based on their return. If the Service makes an adjustment to their account that eliminates or reduces their refund, reasonable taxpayers would want to be informed of such an adjustment. Without such notice and explanation, taxpayers would undoubtedly inquire to obtain the important information contained in the CP-25 notice.

The better policy would be to continue the current administrative practice of notifying taxpayers when the Service adjusts taxpayers' accounts, regardless of the balance due.

JAC  
DP

JODY J. BREWSTER  
Assistant Chief Counsel  
(Income Tax & Accounting)

By:

  
GEORGE J. BLAINE  
Chief, Branch 1