



OFFICE OF
CHIEF COUNSEL

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

NOV 24 1998

MEMORANDUM FOR JOHN M. DALRYMPLE
CHIEF OPERATIONS OFFICER

FROM: Judith C. Dunn *Judith C. Dunn*
Associate Chief Counsel (Domestic)

SUBJECT: Generation of Notices for Small Dollar Amounts

This responds to your memorandum dated October 23, 1998, forwarding copies of correspondence from Chairman Archer, Congressman Wolf, and [REDACTED]. [REDACTED] received a notice from the Service informing her that she owed \$ [REDACTED]. In her letter, [REDACTED] states that the issuance of such a bill is an inefficient use of Government resources. Congressman Wolf and Chairman Archer share [REDACTED] concerns and ask whether the Service has the authority to abate small tax balances. As explained below, § 6404(c) of the Code provides such authority.

In two previous memoranda (copies of which are attached) we addressed the notice requirements related to assessments and adjustments to taxpayers accounts. According to your memorandum, some members of your staff have read our prior advice as requiring the Service to bill taxpayers for small amounts, such as in [REDACTED] case. You interpret our prior advice as not requiring the Service to issue bills to taxpayers to collect small amounts of tax. Your interpretation is correct. In order to eliminate any confusion, you ask us to answer the following two questions.

1. Does § 6404(c) provide sufficient authority for the Service to abate tax balances below certain small dollar "tolerances"?

Yes, § 6404(c) authorizes the Service to abate the unpaid portion of the assessment of any tax, or liability in respect thereof, if the Secretary determines under uniform rules prescribed by the Secretary that the administration and collection costs involved do not warrant collection of the amount due. Further, § 301.6404-1(d) of the Regulations on Procedure and Administration provides that the Commissioner may issue uniform instructions to district directors authorizing them, to the extent permitted in such instructions, to abate amounts the collection of which is not warranted because of the administration and collection costs.

PMTA : 00237

Therefore, in [REDACTED] case, the \$ [REDACTED] bill could have been suppressed under the authority in § 6404(c) and accompanying regulations.

2. If the answer to Question #1 is yes, does § 6213 or any other provision prevent the Service from making a business decision on whether to notify taxpayers of such abatements?

No, in short, there is no section of the Code that specifically requires the Service to notify taxpayers of amounts abated under § 6404(c). Section 6213(b), dealing with math error assessments, does not require the Service to notify taxpayers of amounts abated. However, § 6213(b) generally does require the Service to notify taxpayers of assessments under the math error procedures. The following example illustrates this.

Assume a taxpayer files an income tax return showing a tax liability of \$250.00, withholding of \$350.00, and a refund due of \$100.00. During processing of the return, the Service discovers that, due to a math error, the correct tax liability is \$351.00. The Service assesses the additional \$101.00 of tax, and, as a result, the taxpayer has a balance due of \$1.00. Under section 6213(b), the Service is required to notify the taxpayer that an additional \$101.00 has been assessed due to the correction of a math error ("math error notice"). However, § 6213(b) does not require the Service to bill the taxpayer for the \$1.00 balance. Section § 6404(c) authorizes the Service to abate the \$1.00 balance. Therefore, the required math error notice need not request payment.

The Service is not required by statute to notify taxpayers of certain other adjustments (for example, assessing a penalty based on a failure to pay estimated income tax as provided in § 6654 of the Code). We understand the Service's current practice is to notify taxpayers of such adjustments. We strongly recommend that the Service continue this practice, especially when the adjustment reduces or eliminates a refund shown on the taxpayer's return. As explained above, § 6404(c) authorizes the Service to abate any small balance resulting from such an adjustment, and these notices need not request payment.

While we appreciate that the reference in § 6213(b) to a notice of assessment may have caused confusion, we believe the answers provided above are fully consistent with our prior advice. We would be glad to meet with you or your staff to answer any further questions regarding the § 6213(b) notice requirements.

We also note that the Commissioner sent an interim response to Chairman Archer's inquiry. We would like to work with you in drafting a final response to the inquiry; please contact me at 622-4500 or have a member of your staff contact David Auclair at 622-7639.

Attachments (2)