



OFFICE OF
CHIEF COUNSEL

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

August 27, 1999

MEMORANDUM FOR OFFICE OF THE NATIONAL TAXPAYER ADVOCATE C:TA
Attn: Ms. Sharese Stevens

FROM: Office of Counsel to the National Taxpayer Advocate

SUBJECT: [REDACTED]

This is in response to your request for advice regarding the above taxpayer. The taxpayer has raised a number of issues. You asked that we provide advice regarding the forgiveness of indebtedness issue.

Issue:

What action should the Taxpayer Advocate take with respect to the allegation of taxpayer [REDACTED] that he is entitled to a refund of income tax paid for the year [REDACTED] regarding forgiveness of indebtedness income allegedly received by [REDACTED] from the Veterans Administration (VA)?

Answer:

The Office of Taxpayer Advocate should assist the taxpayer by explaining to him the process for filing a timely claim for refund with the Service with respect to the forgiveness of indebtedness issue and by providing him with the necessary form.

Facts:

The VA issued a Form 1099 to the taxpayer for forgiveness of indebtedness income for the year [REDACTED]. According to the VA Records Center, the taxpayer received educational benefits from [REDACTED], of \$ [REDACTED] per month to attend classes at [REDACTED]. VA informed the Service that because the taxpayer failed the training classes, the education money had to be repaid. The taxpayer alleges that he never received the training money and that the checks were cashed by his mother in Florida, who is now deceased. The taxpayer states that he was living in Texas at the time. VA disputes this allegation, stating that VA checks are sent only to the veteran at his or her current address.

PMTA : 00277

The taxpayer has asked for a copy of the Form 1099 the VA filed with the Service; we understand that the form is not available.

Based on the Form 1099 from VA, the Service determined a deficiency against the taxpayer for [REDACTED]. It is our understanding that the deficiency was properly assessed on or about [REDACTED]. A notice of federal tax lien was filed against the taxpayer in [REDACTED] on or about [REDACTED], for several periods, including [REDACTED]. At the time the notice was filed, the amount of the unpaid balance on the [REDACTED] deficiency was \$[REDACTED]. The balance was subsequently satisfied by an offset of an overpayment of the [REDACTED] tax. The taxpayer claims he is entitled to a refund of the [REDACTED] deficiency.

Analysis:

The [REDACTED] deficiency was properly assessed by the Service and is *prima facie* correct. The assessment is supported by reasonable and probative information provided to the Service by the VA. See I.R.C. § 6201(d). The taxpayer, however, may contest the Service's determination on the merits by filing a timely claim for refund. ~~See I.R.C. § 6511. A claim for refund may be filed by the taxpayer within 2~~ years of payment of the tax through offset of the [REDACTED] overpayment. If the Service does not approve the refund claim, the taxpayer has administrative and judicial appeal rights.

Attachment:

Your file