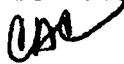


**Office of Chief Counsel
Internal Revenue Service
memorandum**

CC:WI:JBMinisky
FILES-123805-08

date: AUG 27 2009
to: Peggy Bogadi, Director
Submission Processing
Customer Account Services
from: Carol A. Campbell 
Division Counsel
(Wage & Investment)

subject: Acceptance of Cash Payments at Taxpayer Assistance Centers

Issue:

Are the Taxpayer Assistance Centers (TACs) required to accept cash from taxpayers for the payment of taxes?

Conclusion:

The TACs are required to accept cash from taxpayers for the payment of taxes pursuant to 31 U.S.C. § 5103. However, the IRS is not legally prohibited from limiting the acceptance of cash payments to TACs where safeguards cannot be implemented to protect the interests of the IRS and taxpayers.

Discussion:

The United States Code provides that "United States coins and currency (including Federal reserve notes and circulating notes of Federal reserve banks and national banks) are legal tender for all debts, public charges, taxes, and dues. Foreign gold or silver coins are not legal tender for debts." 31 U.S.C. § 5103. Thus, it seems clear that the IRS is required to accept U.S. coins and currency for the payment of taxes. The Department of Treasury's website also includes a frequently asked question regarding the requirement of accepting cash as legal tender for a debt. The response clarifies that a private party (i.e., a non-government entity) is not required to accept cash payments. See <http://www.ustreas.gov/education/faq/currency/legal-tender.shtml>.

While the U.S. government is required to accept cash in payment of taxes or other debts, there is no statute or regulation requiring the United States to accept cash payments at each and every location that accepts payments. The Service has approximately 400 Taxpayer Assistance Centers (TACs). Taxpayers are able to make

payments at each of the TACs. As a security measure, the Service has implemented specific procedures to be followed when a taxpayer makes cash payment at one of the TACs. This procedure intentionally involves more than one employee. First, a taxpayer desiring to make a cash payment must provide exact change. Second, this taxpayer must be provided a receipt for the payment. The taxpayer is given Part 2 of the Form 809 as receipt for the cash payment. See IRM 21.3.4.7.2.1. The employee who is authorized to receive the payment and to issue the Form 809 receipt is not authorized to make any adjustments to the taxpayer's account on IDRS. See IRM 21.3.4.7.2(4). This limitation precludes an employee from accepting a cash payment, adjusting the taxpayer's account to reflect the payment, and then converting the cash payment to the employee's personal use. The mandatory separation of duties protects the employee, taxpayers and the IRS.

In those locations where there are a very limited number of employees, is not feasible to accept cash payments. Minimal staffing at a location generally necessitates having employees with more than limited authorities. Having an employee with limited IDRS access in a TAC of this size severely restricts the services that can be provided to other taxpayers at that location. Therefore, it seems reasonable that the Service accept cash payments only at the TACs with greater staffing. The IRM incorporates this reasoning and authorizes the Director, Field Assistance or the Area Director to grant a deviation from accepting cash payments to TACs with fewer than three employees.

The exception provided for cash payments at small TACs is reasonable, but care needs to be taken to ensure that the exception does not become the rule. That is, the Service cannot eliminate its obligation to accept cash for the payment of taxes by staffing the TACs so that no centers have sufficient personnel to accept cash payments.

If you have additional questions or further concerns, please contact me or Joanne Minsky of my staff at 202-622-5777.