



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

MAR 24 2010

MEMORANDUM FOR NINA E. OLSON, NATIONAL TAXPAYER ADVOCATE

FROM: Christopher Wagner
Commissioner, Small Business/Self Employed

SUBJECT: Appeal of Taxpayer Advocate Directive 2010-3

As a supplement to the procedures established in the Internal Revenue Manual, we are submitting this memorandum to outline our response to the above referenced Taxpayer Advocate Directive (TAD), dated January 20, 2010.

This TAD directs within ten days, we provide the National Taxpayer Advocate (NTA) with the names of SB/SE employees to be included in a joint SB/SE-TAS workgroup for review, and resolution, adjustment or correction of all accounts with collection statute expiration dates extended beyond 15 years after assessment (plus any statutory suspensions). Instead, we propose to provide the name of a Program Manager from Collection Policy to represent SBSE on the joint task group. We will provide this name within 10-days of a final determination by the Deputy Commissioner on our TAD appeal.

The TAD directs within 180 days of this TAD, we would identify and review all accounts with CSEDs extended beyond 15 years after assessment through the joint SB/SE-TAS workgroup, and (a) abate the tax and additions to tax for accounts with CSEDs extended beyond 15 years after assessment (plus any statutorily required suspensions) that would have already expired if limited to 15 years, unless exceptional circumstances exist, and notify the taxpayers involved; and (b) adjust the CSEDs to reflect the statutory period for collection of 15 years (plus any statutorily required suspensions) for accounts with CSEDs that will not expire after their extensions are limited to 15 years from assessment, notify the taxpayers involved, and if necessary, correct these CSEDs for statutory suspensions incorrectly calculated. We agree to work with the Taxpayer Advocate Service (TAS) to review these cases and consider alternative resolutions on a case by case basis in consultation with Counsel. Counsel will determine the legal scope and authority that we might be able to apply to the resolution of these cases upon review.

Collection is requesting to be provided a listing of the 4,000+ accounts referenced by the NTA in which she has identified cases for which the CSED is extended beyond 15

years after assessment. The work of the joint team will commence subsequent to receipt of this listing from the NTA.

The TAD also directs that within ten days of its date, we issue Interim Guidance limiting any CSED extended by a Form 900, Tax Collection Waiver, in connection with an installment agreement post-1998 to 15 years (plus any statutory suspensions). Our current policy already limits any new CSED extensions to 15 years (plus any statutory suspensions). Existing Forms 900 cannot be extinguished unilaterally by the IRS. Counsel has advised the Commissioner does not have the legal authority to take this action.

In summary, for the reasons set out above, we have respectfully appealed this TAD and requested the Deputy Commissioner to rescind and/or amend this TAD in accordance with the authority vested in him by Delegation Order 13-3. While we do not agree with the directives as specifically written, we are poised to work with the NTA to implement our alternative proposals.