



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224
February 15, 2001

OFFICE OF
CHIEF COUNSEL

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WDBrackett
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MEMORANDUM FOR ASSOCIATE AREA COUNSEL (SB/SE) – OKLAHOMA CITY
CC:SB:6:OKL

FROM: LAWRENCE H. SCHATTNER, CHIEF, BRANCH 3
COLLECTION, BANKRUPTCY AND SUMMONSES

SUBJECT: REQUEST FOR PROOF AND VALIDATION OF ASSESSMENT
I.R.C. §§ 6203 and 6331(j)(2)(A)

This responds to your memorandum dated January 31, 2001. This document is not to be cited as precedent.

You asked that we pre-review a proposed advisory to the Technical Support Group Manager in Territory 10. Your proposed advisory adopts a response (to Question 4, pages 5-8) in a May 15, 2000 advisory jointly issued by Deborah Butler and Gary Gray. Generally, we concur in the position you have taken but we have a few comments, provided below.

The facts recited in the proposed advisory are as follows. The taxpayer told the revenue officer that, before collection can be made, the revenue officer "must furnish the taxpayer with the original assessment documents and copies of ... required notices." "[T]he practice in the field to verify an assessment is to review a TXMODA print, which shows the date of the assessment, the character of the tax, the taxable period, and the amount of the assessment, and an ENMOD, which shows the name and address of the taxpayer." Both TXMODA and ENMOD show the taxpayer's TIN (SSN).

In requesting the revenue officer to provide documents (original or copies), the taxpayer is asking in effect that the revenue officer fulfill an FOIA request. You correctly point out that the revenue officer has no legal function regarding, or responsibility to fulfill, FOIA requests. Even if the taxpayer's request is interpreted to be a request for a Form 4340 [Certificate of Assessments, Payments and Other Matters] or a request that a revenue officer provide to the taxpayer a copy (printout) of the documents used by the revenue officer to make the section 6331(j)(2)(A) verification, there is no requirement that a revenue officer verify the liability to the taxpayer by providing any of such documents, copies or printouts. See the May 15, 2000 advisory at the bottom of page 5.

We recommend the following changes to the proposed advisory.

Conclusions: insert after the second sentence the following.

There is no requirement that a revenue officer verify the liability to the taxpayer.

In the third sentence, insert “, or verification under the section 6203 procedure”, after “FOIA procedure”.

Discussion: At the beginning of the fourth paragraph (beginning “In a memorandum”), insert:

Our office has taken the position that a revenue officer, in showing that he has verified the liability as required by section 6330(c)(1), is not required to prove the liability as the government is required to prove such liability in court. Thus, the revenue officer is not required to examine a Form 4340 or a certified transcript in order to verify a liability.

In the fourth line insert “pages 5-8,” after “Region,”. Delete “See the attached memorandum at pg. 5.”

Revise the sentence “The transcript ... certified.” to read as follows:

The transcript does not have to be certified although, as the aforementioned memorandum notes, a certified transcript is useful because it shows where the transcript was obtained, who is certifying it, and the certification statement says that it shows everything in certified categories that appear on the account as of the date of the certification.

In the last sentence, insert “,or the five identifiers through the section 6203 procedure” after “FOIA procedure”. Delete “Id. at pg. 5.”

In the fifth paragraph (beginning “Thus, a revenue officer”), in the third line of the third sentence, insert “, or the five identifiers under the section 6203 procedure” after “FOIA procedure”.

If you have any questions, contact Bill Brackett at 202-622-3881.