



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

OFFICE OF
CHIEF COUNSEL

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CC:PA:CBS:Br3
GL-100460-02
UIL: 7512.00-00

MEMORANDUM FOR
ASSOCIATE AREA COUNSEL (SB/SE),

FROM: Joseph W. Clark
Chief, Branch 3
(Collection, Bankruptcy & Summonses) CC:PA:CBS:Br2

SUBJECT: Separate Bank Accounts – 7512 Pattern Letter (for Banks)

This responds to your request of December 11, 2001, for our drafting assistance and suggestions regarding the above matter. Please find attached a draft pattern letter that we think could be appropriate for your local client's desired use.

We understand that a few Trust Fund Compliance Initiative (TFCI) taxpayers in your area, all located in sparsely populated communities, are reporting initial difficulties in persuading their customary local banks to open the special deposit accounts for them that are required by I.R.C. § 7512.

We assume this problem stems from these particular bank's initial unfamiliarity with the very specific requirements of section 7512 and its explanatory regulation, in terms of the captioning and usage of the special deposit accounts. We also understand that after the respective headquarters banks for these reluctant bank branches have received letters from local Counsel for the Service, that the special deposit accounts have actually then been opened as required, albeit late.

In order to avoid the potential delay and additional work caused to the Service in these circumstances in future TFCI cases, your local client has asked your office to draft a suggested pattern letter for their use that would let the bank know precisely what banking services its customer requires and the legal reasons these services are needed. At the time a revenue officer hands the responsible person of a TFCI taxpayer a Form 2481 (Notice to Make Special Deposits of Taxes), you contemplate that the taxpayer could also be handed the pattern letter to explain the mechanics of the special deposit account to a bank. The TFCI taxpayer, in turn, would then be able to present the bank with this pattern letter when asking the bank to open the new special deposit account.

We are also providing you with an electronic copy of this draft pattern letter in Word format, so that your local client may transfer the body of the memorandum to an appropriate letterhead and add or revise certain appropriate details.

Please call the attorney assigned to this case at 202-622-3630 if you require further assistance.

Attachment:

Draft Pattern Letter in Section 7512 Cases for a Taxpayer to give a Bank

ATTACHMENT

Date

Person to Contact:

Employee Number:

IRS Contact Address:

IRS Telephone Number:

Employer Identification Number:

Taxpayer Name and Address:

Dear Bank Officer or Account Opening Employee:

The above-named customer of your bank is presenting you with this letter in order to facilitate the opening of a special deposit account required by the internal revenue laws. Upon notification by the Internal Revenue Service (see enclosed IRS Form 2481 – Notice to Make Special Deposits of Taxes), persons such as your customer must immediately open a special trust fund account with a United States bank for deposit of such taxes. This letter is to help you understand the importance of creating this account and the precise nature of the banking services that your customer now needs from you in order to comply with the legal requirements of section 7512 of the Internal Revenue Code (I.R.C.), 26 U.S.C. § 7512. Section 7512 is reproduced on page 2 of the enclosed blank Form 2481.

Form 2481, which is the “notice” described in section 7512(a)(2), directs a business receiving the notice to establish immediately a bank account captioned as follows: “(Name of Business), Trustee, Special Fund in Trust for U.S. under Sec. 7512, I.R.C.” The precise captioning of the customer’s new special deposit account with a United States bank, after receipt of the Form 2481, is described in I.R.C. § 7512(b) and in the accompanying Treasury Regulation (Treas. Reg.), also enclosed. Once the account is established, the taxes deposited in such account “shall constitute a fund in trust for the United States payable only to the Internal Revenue Service on demand by the trustee.” Treas. Reg. § 301.7512-1:(c), 26 C.F.R. Part 301.

While the Form 2481 directed your customer to open the special deposit account immediately, a business is typically allowed at least one business day after receipt of the Form 2481 to open the required special deposit account. **In order for your customer to comply with the law after receiving a Form 2481, the business**

must open this special deposit account no later than the end of the second banking day following its first payroll (when the employment taxes are required to be “collected”) after receipt of the Form 2481. This timing requirement is described in I.R.C. § 7512(b) and Treas. Reg. § 301.7512-1:(b)(2).

After opening the special deposit account, your customer will thereafter be required to deposit sufficient sums in the account to cover its federal employment tax debts that are incurred with each successive payroll, no later than two days after each payroll is met. The amounts deposited in the special deposit account must remain in the account until paid over to the United States by the business.

When an IRS Form 2481 is delivered to a business for federal employment taxes, a box on the form is ordinarily marked by the IRS to require the business to file Form 941-M (monthly) employment tax returns, as opposed to the quarterly returns otherwise required by law. These monthly returns will need to be filed by the business with a designated IRS employee no later than the 15th day of the month following the (preceding) month covered by the return. Along with these monthly returns, the business must send its tax payments to the IRS with respect to the return. These payments should be drawn from amounts previously deposited by the business in the special deposit account.

While the required captioning and customer use of this special deposit account may be new to your institution, these provisions of the Internal Revenue Code were enacted in 1958 and the explanatory regulation was issued the same year. The IRS does not make widespread use of these provisions, but it has found that the extra attention received by and the discipline required of a business by the use of a special deposit account is often helpful in furthering compliance by a business with its federal employment tax responsibilities.

Your customer could face significant adverse consequences if the business fails to open the special deposit account as required, to make deposits to the account when required, and to pay over the taxes due to the United States when required. Accordingly, the United States and your customer will very much appreciate your assistance in facilitating the establishment and maintenance of the special deposit account in the manner described above.

If you have any questions regarding these matters, please call the revenue officer assigned to your customer's case at the number shown at the top of this letter. Local counsel for the IRS is also aware of our providing your customer with this letter. To speak with our local counsel, please call [attorney title and name] at [telephone number].

Sincerely yours,

Group Manager

Enclosures:

Blank IRS Form 2481

Treas. Reg. § 301.7512-1