



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

OFFICE OF
CHIEF COUNSEL

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MEMORANDUM FOR NORTHERN CALIFORNIA DISTRICT COUNSEL

FROM: Kathryn A. Zuba
Chief, Branch 2 (General Litigation)

SUBJECT: Use of Form 809, Receipt for Payment of Taxes

You request our assistance in reviewing a proposed advisory memorandum from District Counsel, Northern California District to the Taxpayer Advocate for the Northern California District. This document is not to be cited as precedent.

ISSUE:

Whether there is any legal authority which mandates the Service's use of Form 809 as a receipt for non-cash payments made by walk-in taxpayers?

CONCLUSION:

There is no legal requirement that Form 809 must be used when a walk-in taxpayer requests a receipt for a non-cash tax payment.

FACTS:

When a taxpayer makes payment in person at a Customer Service walk-in center, and requests a receipt, the IRM provides that Service personnel may only issue as a receipt a Form 809, Receipt for Payment of Taxes. See IRM 21, Customer Service Handbook, § 21.1.6.1.1.¹ Form 809 is a multi-part form, issued in a inventory-controlled book, and requires many time-consuming steps to complete. In addition, all Form 809 receipted payments must be entered daily on a Form 795, Daily Report of Collection Activity. We understand from your memorandum that Customer Service staff spend their time filling out receipt forms rather than providing service to taxpayers.

¹ Although this advisory addresses non-cash payments, Form 809 also is used whenever a taxpayer makes payment by cash or currency.

Since Form 809 is the only official receipt, if a taxpayer presents anything other than Form 809 which was used as a receipt, it must be reported to Inspection. See, e.g., IRM § 5831(2); IRM Handbook 5.1, General Handbook, § 2.1.2; IRM Handbook 6810, Taxpayer Service Handbook, § 19(5)(2). This raises a concern that an employee who issues a receipt other than Form 809 for a walk-in payment is in violation of the IRM and may be subject to investigation or even termination under section 1203 of the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. No. 105-206, 112 Stat. 685 (1998).

LAW & ANALYSIS:

I.R.C. § 6314(a) provides that the Service shall give receipts for payment, upon request. Neither the statute nor the accompanying regulations specify what form the receipt shall take. Treas. Reg. § 301.6314-1 simply notes that, if payment is made by check, the canceled check usually is a sufficient receipt.

Similarly, parts of the IRM make provision for multiple forms of receipt. For example, IRM § 5181.3(10)(2)(b) says that a taxpayer's canceled check, copy of bank check or money order usually is his receipt for a non-cash payment. IRM Handbook 5.1, General Handbook, § 8.7.9.2(c), referring to MCAR payments, advises a date-stamped photocopy of a check or money order be given to the taxpayer that asks for a receipt. Although the Service presently authorizes only Form 809 as a receipt for non-cash, walk-in payments, the Service may change these requirements by amending the IRM. It is up to the Service to decide what form or forms of receipt best serve their goals.

Although we do not offer an opinion on whether Form 809 should be the exclusive means of receipt for a walk-in, non-cash taxpayer, we note that Form 809 and the accompanying Form 795, Daily Report of Collection Activity, serve as part of the Service's internal payment control process. See IRM Handbook 6810, Taxpayer Service Handbook, § 8(11)1; IRM § 5821. Therefore, any proposal to replace the Form 809 should be carefully examined to insure that accountability and security concerns are met.

We have coordinated your proposed advisory opinion with General Legal Services, which will address the issue of whether the use of a receipt other than Form 809 may pose a violation of I.R.C. § 1203. If you have any questions, please call 202/622-3620.

cc: Assistant Regional Counsel (GL), Western Region
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