Department of the Treasury

Internal Revenue Service Office of Chief Counsel

Notice

CC-2008-001

November 1, 2007

Coordination of Section 7623
Whistleblower Claims in the Tax

Whistleblower Claims in the Tax

Upon incorporation

Cancel Date: into CCDM

Subject: Court Cancel Date: into CCDM

Purpose

This Notice provides guidance relating to a new cause of action in the Tax Court for review of award determinations made by the Service's Whistleblower Office, pursuant to section 7623.

Background

Under I.R.C. § 7623, the Service is authorized to pay awards from the proceeds of amounts collected as a result of information provided by whistleblowers. The Tax Relief and Health Care Act of 2006, Pub. L. No. 109-432, § 406, 120 Stat. 2922, 2958-60 (2006), amended section 7623 and, among other things, conferred on the Tax Court jurisdiction to hear appeals of certain award determinations made by the Whistleblower Office. New section 7623(b)(4) provides that any determination made by the Whistleblower Office regarding a whistleblower award under section 7623(b) may be appealed to the Tax Court within 30 days of such determination. New section 7623(b)(5) limits the application of section 7623(b)(4) to appeals of award determinations with respect to actions in which the tax, penalties, interest, additions to tax, and additional amounts in dispute exceed \$2,000,000 and, in the case of an action against an individual, in which the individual's gross income exceeds \$200,000 in the taxable year(s) at issue. The Tax Court has jurisdiction to review award determinations regarding information provided to the Service by a whistleblower on or after December 20, 2006. In general, the docket number in these cases will contain a "W" that will identify the case as a whistleblower case.

In <u>Wolf v. Commissioner</u>, T.C. Memo. 2007-133, the petitioner appealed a notice of determination sustaining a levy relating to the petitioner's unpaid 1996 federal tax liabilities. The petitioner objected to the Service's levy and collection activity, claiming unspecified tax credits, and requested that the Tax Court order the Service to investigate alleged violations of federal law by personnel and contractors working for the

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United States Merchant Marine Academy. The petitioner had previously contacted the Service regarding these alleged violations in 1996 and, again, by letter in 2003. The petitioner had also raised the alleged violations in the section 6330 Appeals Office hearing regarding respondent's collection activities. In a conference call and hearing following the filing of the petition, the petitioner clarified that the only relief she sought in her Tax Court case was a reward relating to the information she provided to the Service concerning the alleged violations. Although not brought under section 7623, the petitioner used the Tax Court's jurisdiction over lien and levy cases to attempt to raise her claim for reward. The Tax Court noted that the petitioner provided the information regarding the alleged violations to the Service well before December 20, 2006, and held that it lacked jurisdiction to hear the petitioner's claim for reward under section 7623.

On June 13, 2007, the Tax Court issued an order in <u>Abraham v. Commissioner</u>, T.C. Dkt. No. 8308-07W, dismissing that stand alone section 7623 case for lack of jurisdiction, finding that the petitioner was seeking an award for information provided to respondent in 1998, which was prior to the effective date of the 2006 amendments to section 7623.

Procedure

Until additional procedures are established in the CCDM regarding pleadings, motions and decision documents, if a petitioner raises a section 7623 issue in a Tax Court case, the Office of Associate Chief Counsel (Procedure & Administration), Branch 7, and the Office of Associate Chief Counsel (General Legal Services), Public Contracts and Technology Law Branch, must be immediately contacted to discuss how the issue should be handled and coordinated.

/s/

Deborah A. Butler Associate Chief Counsel (Procedure & Administration)