



APPEALS

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

June 8, 2006

TS-06-26

MEMORANDUM FOR DIRECTOR, FIELD OPERATIONS - EAST
DIRECTOR, FIELD OPERATIONS - WEST

FROM: Diane S. Ryan /s/ *Diane S. Ryan*
Director, Technical Services

SUBJECT: Appeals Coordinated Issue Designation
Foreign Tax Credit (FTC) Generators
UIL – 901.11.00

I have designated the above issue as an Appeals Coordinated Issue effective with the date of this memorandum. In accordance with IRM 8.1.4.8 and IRM 8.2.1.2, Appeals officers (AOs) and Appeals team case leaders (ATCLs) who have this issue must make a referral to Appeals Technical Guidance through their managers upon assignment or preliminary review using Form 13381. This form is on ACDS and Appeals website <http://appeals.web.irs.gov/lbsp/default.htm>.

Barry A. Breen, International Specialist, is the Technical Guidance Coordinator for this issue. AOs and ATCLs should contact Barry at (513) 263-4802 to obtain legal arguments and current information, including settlement guidelines. They should also maintain contact to keep him apprised of the case status and to obtain review and concurrence before finalizing a settlement.

An “FTC Generator” is a potentially abusive cross-border lending transaction where:

1. complicated structures are utilized to create in one step and to eliminate in another step the foreign tax that generates an FTC so that overall no foreign tax is being paid but an FTC is being claimed; or
2. the transaction creates at one step and eliminates in another step the foreign income of the U.S. taxpayer claiming the FTC so there is an FTC with no income.

The transactions are either:

1. "U.S. Lender Transactions" where a U.S. person makes a loan to a foreign person that results in a significant part of the U.S. person's return in the form of FTCs; or
2. "U.S. Borrower Transactions" where a U.S. person borrows from a foreign person in a manner that allows the U.S. person to pay creditable foreign taxes in lieu of deductible interest.

These transactions were used to generate large FTCs on returns filed within the last ten years; and taxpayers, both within and outside the Financial Services Industry, continue to employ these or similar structures.

When an AO or ATCL identifies the coordinated issue, the Feature Code AI will be added to the key case work unit record. Either Appeals Processing Services, the AO, or the ATCL may update ACDS for the Feature Code.

All issues in the ACI Program are tracked on CIRS. Please update CIRS for all cases currently in Appeals with this issue using the UIL number shown above.

If you have any questions please call Cynthia Vassilowitch, Director, Technical Guidance, at (203) 773-2229.

cc: Director, Technical Guidance