

Industry Issue Resolution Pilot Program

Notice 2000-65

1. INTRODUCTION OF A PILOT PROGRAM

This Notice announces the *Industry Issue Resolution Pilot Program*. The objective of the program is to provide guidance to resolve frequently disputed tax issues that are common to a significant number of large or mid-size business taxpayers. This effort is part of the IRS's strategy to resolve issues in a manner other than the traditional post-filing examination process. The Large and Mid-size Business Division (LMSB) of the IRS will undertake much of the operational responsibility for the projects in the program.

We invite taxpayers as well as industry associations and other groups representing taxpayers to suggest issues and possible options for resolution. Parties submitting suggestions may be asked to meet with government representatives and to provide additional information. After analysis and review, the IRS and Treasury intend to select issues to address in this pilot program. Taxpayers or groups may contact Richard Druk of LMSB's Pre-filing and Technical Guidance Office at (202) 283-8387 (not a toll-free number) to ask questions or to discuss this program.

The form of resulting guidance may vary depending on the issue. However, the most likely form of guidance will be a Revenue Procedure that permits taxpayers to adopt a recommended treatment of the issue on future returns. In many cases, this may require filing a request for a change in method of accounting. Examples of the types of Revenue Procedures that could be issued under this program include: Rev. Proc. 2000-38, 2000-40 I.R.B. 310, on the treatment of mutual fund distributor commissions; Rev. Proc. 99-26, 1999-24 I.R.B. 38, on employee benefits secured by letters of credit; Rev. Proc. 97-44, 1997-2 C.B. 496, on the LIFO conformity requirement for automobile dealers.

The principal focus of the program is to resolve issues arising in future years.

However, depending on the circumstances, resolution also may be provided for certain issues for prior years.

Suggestions for issues for the pilot program should be forwarded as provided in section 3 of this Notice by February 28, 2001. LMSB, the IRS Office of Chief Counsel and the Treasury Office of Tax Policy will evaluate the suggestions with a view to selecting approximately five issues, drawn from diverse industries, for the pilot program. In reviewing potential issues for the program, the selection criteria will include the suitability of the issue for the program, the likelihood that timely guidance can be provided, and the availability of appropriate staffing and other resources. Projects selected for this program will be handled in a manner similar to items listed on the Treasury and IRS Guidance Priority List.

Parties whose topics are included in the pilot will be notified and may be asked to provide additional information and legal analysis of the issue. The issues selected for the pilot program will be announced publicly. After completing the pilot, the IRS and Treasury will evaluate the program and may then continue the program on a permanent basis.

We believe that the Industry Issue Resolution program offers significant and timely benefits for taxpayers as well as the IRS, and invites interested parties to participate.

2. ISSUES APPROPRIATE FOR THE PROGRAM

The objective of this program is to provide guidance to resolve frequently disputed tax issues that are common to a significant number of large or mid-size taxpayers. Therefore, issues most appropriate to the program generally will have the following characteristics:

- There is uncertainty about the appropriate tax treatment of a given factual situation.
- The uncertainty has resulted in frequent, often repetitive examinations of the same issue.
- The issue impacts a significant number of taxpayers within an industry group, many of which are larger businesses (those with gross assets in excess of \$5 million).

- Factual determination is a major component of the issue.

For purposes of the pilot, the following issues would not be suitable:

- Issues unique to one or a small number of taxpayers.
- Issues under the jurisdiction of the Commissioner, Tax Exempt and Government Entities Division (e.g., employee plans).
- Issues regarding transactions that lack a *bona fide* business purpose or have as their principal purpose the reduction of federal taxes.
- Issues involving transfer pricing or international tax treaties.

3. REQUESTING CONSIDERATION UNDER THE PROGRAM

No particular format is required for submissions in response to this Notice. However, submissions should briefly describe the issue recommended for the pilot and explain why there is a need for guidance. Submissions may include an analysis of how the issue may be resolved. In addition, submissions should state the number of taxpayers estimated to be affected by the issue. All submissions will be available for public inspection and copying in their entirety. Therefore, comments should not include taxpayer-specific information of a confidential nature. Letters should include the name and telephone number of a person to contact should further clarification be needed.

The address to submit an issue for consideration under the pilot program is:

Internal Revenue Service
Att'n: Richard Druk
Large and Mid-size Business Division
LM:PFTG
Mint Building, 3rd Floor M-3-321
1111 Constitution Avenue NW
Washington, DC 20224

Alternatively, submissions may be faxed to 202-283-8427 or e-mailed to pftg2@irs.gov.

4. ADDITIONAL INFORMATION ABOUT THE PROGRAM

Project staffing. The IRS and Treasury intend to staff each project with a team

(the IIR team) that will analyze such information as may be appropriate and propose a resolution. This resolution will require the approval of those officials normally responsible for approving the type of guidance to be issued.

An IIR team will be composed of appropriate personnel from the IRS field, the IRS Office of Chief Counsel, Appeals, the LMSB Office of Pre-filing and Technical Guidance, and the Treasury Office of Tax Policy. A Technical Advisor (formally referred to as an Industry Specialist) also may be a team member. In some circumstances, the IRS may find it necessary to hire outside experts.

Communication with requesting taxpayer or group and other interested parties. As part of its efforts to formulate a recommendation for a resolution position, the IIR team may meet with the submitting taxpayer or group, and possibly with other interested parties. It is anticipated that the submitting party and other interested parties will be given the opportunity to present factual data and legal analysis. The IIR team may seek additional factual development or legal analysis from the submitting party or other sources.

Any solicitation of input from affected persons will be done within the requirements of the Federal Advisory Committee Act (FACA). The IRS does not intend to form advisory committees during this process. Input is welcome from interested parties, but they will not be invited to enter into negotiations or to participate in the decision-making process with respect to the proposed resolution of the issue.

Potential inspection of books and records. An IIR team may consider the inspection of an individual taxpayer's records desirable as part of the factual research necessary to develop its position. Although a team may request such inspection, any such inspection will be voluntary. Any inspection of a taxpayer's records under this program, whether at the initiative of the taxpayer or the team, will not preclude or impede (under section 7605(b) of the Internal Revenue Code or any IRS administrative provisions) a later examination or inspection of records with respect to any tax year, nor subject the IRS to any procedural restrictions (such as providing notice under section 7605(b)) that otherwise might apply before beginning such examination or inspection.

Disclosure of information provided by interested parties. Interested parties are encouraged to provide whatever information is necessary to permit the IRS and Treasury to reach an appropriate resolution of an issue. However, this information may be subject to disclosure under the Freedom of Information Act (FOIA).

5. COMMENTS

The IRS invites interested persons to comment and provide feedback on this program. Comments should be sent to the address provided in section 3 of this Notice.

6. FURTHER INFORMATION

For further information regarding this Notice, contact Richard Druk of the LMSB Pre-filing and Technical Guidance Office at (202) 283-8387 (not a toll-free number).