

Extension of Test of Employment Tax Early Referral Procedures for Appeals

Announcement 97-52

SUMMARY: This document extends the test of the employment tax early referral procedures set forth in Announcement 96-13, 1996-12 I.R.B. 33, for an additional one-year period beginning on May 27, 1997, the date this Announcement is published in the Internal Revenue Bulletin.

FOR FURTHER INFORMATION CONTACT: Thomas Carter Louthan, Director, Office of Dispute Resolution and Specialty Programs, National Office Appeals, (202) 401-4098 (not a toll-free number).

EXTENSION OF TEST OF EMPLOYMENT TAX EARLY REFERRAL PROCEDURES FOR APPEALS

Summary: This Announcement is part of the Internal Revenue Service's strategy designed to improve employment tax administration for all taxpayers, including those who are small business owners. The purpose of early referral for employment tax issues is to resolve them more expeditiously through simultaneous action by the District and Appeals. Announcement 96-13 describes the method by which a taxpayer requests early referral of one or more unagreed employment tax issues from the District to Appeals. A taxpayer may request early referral of any developed, unagreed employment tax issue, including the application of section 530 of the Revenue Act of 1978, that is under the jurisdiction of the District Director arising from an audit.

This document extends the test of the procedure set forth in Announcement 96-13 for an additional one-year period beginning on May 27, 1997, the date this Announcement is published in the Internal Revenue Bulletin.

Background: Section 530 of the Revenue Act of 1978 provides businesses with relief from federal employment tax obligations if certain requirements are met. It terminates the business's, not the worker's, employment tax liability under Internal Revenue Code Subtitle C (Federal Insurance Contributions Act and Federal Unemployment Tax Act taxes, federal income tax withholding, and

Railroad Retirement Tax Act taxes) and any interest or penalties attributable to the liability for employment taxes (Rev. Proc. 85-18, 1985-1 C.B. 518).

Section 530(e)(3) of the Revenue Act of 1978, as amended by the Small Business Job Protection Act of 1996, generally effective after December 31, 1996, clarifies that the first step in any case involving whether the business has the employment tax obligations of an employer with respect to workers is determining whether the business meets the requirements of section 530. If so, the business will not have an employment tax liability with respect to the workers at issue. As a result, IRS examiners will now consider the taxpayer's eligibility for relief under section 530 of the Revenue Act of 1978 before initiating any examination of the relationship between a business and a worker.

The application of section 530 of the Revenue Act of 1978 is considered an appropriate issue for early referral under section 2.02 of Announcement 96-13. Taxpayers that disagree with the District's determination regarding the application of section 530 of the Revenue Act of 1978 have the option of immediately requesting early referral of the issue from the District to Appeals. Appeals will try to resolve the section 530 issue following the procedures set forth in Announcement 96-13 and Revenue Procedure 96-9, 1996-1 C.B. 575. See section 6 of Announcement 96-13. If the section 530 issue remains unresolved, or if it is determined that the taxpayer is not eligible for relief under section 530, the case will be returned to the District for consideration of the worker classification issue(s).

A one-year test of the employment tax early referral procedure concluded on March 18, 1997. During the additional one-year test period, Appeals will try employment tax early referral in more cases so that the program can be further evaluated.

Effective Date: This Announcement extends the test of the employment tax early referral procedure set forth in Announcement 96-13 for an additional one-year period beginning May 27, 1997.

For further information contact: Thomas Carter Louthan, Director, Office of Dispute Resolution and Specialty Programs,

National Office Appeals, (202) 401-4098 (not a toll-free number).
