

**Tax Practitioner Liaison Meeting**  
Oregon Department of Revenue – Fishbowl meeting room  
Friday, December 7, 2007  
9:00a.m. - 11:00 a.m.

**MINUTES**

**Introductions**

All

**Tax Services / Kicker Update**

**Joan Linn (503) 945-8774**

Members of the Tax Services Unit are busy taking Kicker calls. The initial mailing of Kicker checks has taken place. All checks are mailed First Class, so if there is a forwarding address on file with the Post Office the Kicker Check will be forwarded. If your client has not received their Kicker Check they must wait 30 days before asking for a new check to be issued in order to allow for mail delivery delays. Part Year Resident and Nonresident Kicker checks were mailed at the same time. Please note the Kicker checks will be used to off-set a liability. If the Kicker check is more than the liability the taxpayer will receive the balance as a refund.

**Other kicker notes:** Taxpayers who file delinquent 2006 returns are still entitled to and will receive a kicker refund. The amount of the kicker allowed to the taxpayer will be adjusted if the tax before credits is changed as a result of an audit or amended return. When filing a delinquent 2006 return or amending a 2006 tax return please do not adjust the amount owed by the taxpayer for the kicker refund that will go to the taxpayer. We will make the proper adjustment during the processing of the return.

Introduction of Chuck Wert to the group: Chuck takes the position formerly held by Sandy Halfman who has been promoted. You will see Chuck from time to time for the Tax Services updates.

**Processing Center**

**Ron Wagner**

Unfortunately a member of the Processing Center could not attend today's meeting. Ron read the information provided as follows:

Suspense: Currently working on 2007 returns received electronically daily. This means if they are suspended, they are seen within one day from the day received. We are current on prior year returns (tax years 2006 and prior) and amended returns filed on the old 40X returns and amended returns filed using the Oregon amended schedule. This means as soon as they are opened, sorted, numbered, keyed, and go through the processing system, those that are suspended are looked at within 2 days. We are happy to report that we are down to 857 amended returns. Last year at this time we had over 4,000 Amended returns in suspense.

Current year processing was suspended for a short time due to Kicker processing. We are once again working suspended returns and will begin working on written objects as well. As Suspended and Amended returns are processed, Kicker checks will be processed and mailed.

2-D: No Report

ELF: The season ended at the end of October. 984,000 returns were e-filed! This is an increase of 14% over last year.

Question: How will the delay of the IRS for AMT affect Oregon?

Answer: At this point we are proceeding as if the processing season will begin January 15, 2008. Unfortunately, until the IRS makes a determination, we can not give a definite answer. We are as limbo as all of you. We will post information as we have it available on the Department of Revenue website.

**Update:** We began processing returns on Tuesday, January 8<sup>th</sup>.

**Withholding Program Update**

**Christy Cornish (503) 947-2062**

Withholding tables dated 1/2007 will remain the same for 2008

|                                       |         |
|---------------------------------------|---------|
| Personal Exemption Credit for TY 2008 | \$ 169  |
| Standard Deduction amounts for 2008:  |         |
| Single Filer                          | \$1,865 |
| Married filing jointly                | \$3,735 |
| Head of household                     | \$2,940 |
| Federal Tax Subtraction for 2008      | \$5,600 |

Transit Rate for 2008 .006618

Lane Transit for 2008 .0064

Payroll Tax Coupons will mail mid-December

All this information is on the website Business Page under Current Topics

**Working Family Child care credit**

**Roberto Villanueva (503) 947-2045**

The processing of returns with WFC had stopped for a short time while we issued the Kicker refunds. We are again processing returns and those taxpayers who are due a Kicker refund will receive them.

The WFC Team is offering training for WFC; one training module is geared towards tax practitioners and the other is geared towards child care providers. If you would like to receive more information or are interested in scheduling a training session, please contact Susan Smith (503) 945-8651.

For tax year 2006, a ring of fraudulent returns to collect unearned WFC refunds was discovered in Oregon. The Department of Revenue is currently working with the IRS to stop this problem and to prevent something similar from happening again in the future.

**Corporation E-file**

**Barbara Stoenner (503) 945-8481**

The Department of Revenue is preparing to accept e-file corporate returns. Creative Solutions, whose software product is Ultra Tax, CS, is currently testing with us. Other software companies who expressed interest in testing with us are Drake Software and Tax Works. Tax Wise is considering testing with us.

UPDATE: Creative Solutions is now an accepted vendor with Oregon for corporate e-file.

To sign the electronic tax form please use the taxpayers federal PIN or print the signature page, sign it, and scan the page as a PDF. The system is set up to accept the PDF image of the signature page.

If you have questions please use the current e-file hotline and/or email address. Please be sure to identify your call or email as a corporate issue to expedite the call/email to the corporation team. Contact us at (503) 945-8415 or [www.electronic.filing@state.or.us](mailto:www.electronic.filing@state.or.us)

## **Corporation Update**

**David Farr (503) 945-8040**

2007 Corporation forms are no longer available to be ordered in paper form from the department. Any forms you need to file a corporate return can be obtained from the department website. The exception to this is Package C. Package C can still be ordered from the Department of Revenue.

## **Electronic Payments**

**Ron Wagner**

Unfortunately a member of the Processing Center could not attend today's meeting. Ron read the information provided as follows:

Soon taxpayers will be able to pay their 2007 tax debt and 2008 estimated taxes through **electronic direct debit** beginning late January 2008. This process will be handled by a third party vendor (US Bank). No additional fees are charged to the taxpayer for this convenience. This payment option is a service provided by U.S. Bank, but you do not need to have an account with them.

**Update:** The Department of Revenue began accepting Electronic direct debit payment on January 10<sup>th</sup>. Please see our website for additional information.

The Department of Revenue also accepts **credit card payments** through a third party vendor. Again, there is a fee for this service. The current company who handles this transaction for the department is Official Payments Corporation. Another vendor, Link to Gov, will also provide this service in the near future.

## **Individual Development Accounts**

**Cynthia Winter (503) 226-3001 X 101**

The Oregon IDA Initiative is overseen by Oregon Housing and Community Services. The Neighborhood Partnership Fund has been chosen to administer the program for taxpayers. Individual and corporate taxpayers can receive a 75% State of Oregon tax credit for their donation. For federal purposes, the taxpayer gets a deduction for their donation on Schedule A. The taxpayer will need to add back to Oregon income the amount claimed as an itemized deduction. Please see the attached IRS Opinion on a Florida case for information.

Low income residents can set up an IDA. The definition of account holders has been expanded to include children 12 years or older who are members of a lower income household. The amounts contributed to the accounts will be matched at a rate of 2:1 or 3:1 on the first \$1,000 contributed to the account each year. The funds can be used:

- To purchase a first home;
- For improvements to make or keep a primary dwelling habitable, accessible, or visit-able for account holder or household member
- For education or training required to obtain or maintain a job, or start or maintain a business.

It is a fantastic program for both account holders and donors. IDAs are an innovative way for low-income Oregonians to gain greater financial security. Donors are able to direct their tax dollars to this program. For more information visit [www.tnfpf.org](http://www.tnfpf.org) or call Cynthia Winter at The Neighborhood Partnership Fund.

### **Board of Tax Practitioners**

**Karla Siclait (503) 378-4034**

Exams were held on Saturday, December 8, 2007.  
The next board meeting is January 10, 2008

Individuals have been seen loitering around the offices of various tax preparers claiming to be able to give people a larger refund than what they would receive otherwise by using their preparer of choice. If this happens to you or your office, please do not contact the person. Instead, we ask that you contact our office and report the activity and it will be handled through the board.

### **Update from OATC/OSTC**

Thank you, OSTC for providing the coffee

OATC updates are currently taking place. The website has training schedules through April 2008 posted.

### **Roundtable**

An phishing scam impersonating the IRS is out making the rounds. People are being asked to provide credit card numbers to the IRS through this email. The IRS does not ask taxpayers for information through email.

Assumed Business Name Renewal Service – A mailing is going out under this name, which is an actual company, for renewing business names for \$100. The return address tracks back to a mail drop in Keizer. A check with the Secretary of States office reveals that a person can renew their assumed business name directly with them for \$50. Use of this company is not necessary. – Laurel Crenshaw

### **Next Meeting: May 2008**

Here's hoping you all have a Happy Filing Season.



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

OFFICE OF  
CHIEF COUNSEL

September 12, 2006

Number: **INFO 2006-0081**  
Release Date: 9/29/2006  
UIL: 170.00-00, 162.00-00, 164.00-00

CC:ITA:3  
GENIN-133475-06

Dear \_\_\_\_\_ :

This letter responds to your request for information dated June 28, 2006. In your letter, you requested information regarding the deductibility of certain payments by taxpayers to certain Florida non-profit scholarship funding organizations under the Florida Corporate Income Tax Credit Scholarship program.

#### Description of the Florida credit

The Florida Corporate Income Tax Credit Scholarship program was established by the State of Florida in 2001. It permits a corporation subject to the Florida corporate income tax to make a cash payment to a qualified non-profit scholarship funding organization and reduce the state income tax that it otherwise would pay.

Generally, the law provides that up to 75 percent of the Florida corporate income tax that a corporation otherwise would be required to pay can be paid, instead, to a scholarship funding organization, and the amount reduces the Florida income tax liability. If a corporation's payment in a given taxable year to a scholarship funding organization is greater than 75 percent of its Florida income tax liability in that year, the amount in excess of 75 percent of that year's tax liability is carried forward and may be used to reduce the corporation's Florida income tax liability in the following three taxable years.

Section 220.187(3)(a) of the Florida Statutes provides:

- (a) There is allowed a credit of 100 percent of eligible contribution against any tax due for a taxable year under this chapter. However, such a credit may not exceed 75 percent of the tax due under this chapter for the taxable year, after the application of any other allowable credits by the taxpayer... The credit granted by

the section shall be reduced by the difference between the amount of federal corporate income tax taking into account the credit granted by this section and the amount of federal corporate income tax without application of the credit granted by this section.

Section 220.187(2)(b) of the Florida Statutes provides that a “eligible contribution” means a monetary contribution from a taxpayer, subject to the restrictions provided in this section, to an eligible nonprofit scholarship-funding organization. Section 220.187(2)(d) provides that an “eligible nonprofit scholarship-funding organization” means a charitable organization that is exempt from federal income tax pursuant to section 501(c)(3) of the Internal Revenue Code and that complies with the provisions of subsection (4).

Section 220.187(7)(a) and (d) of the Florida Statutes provides:

(a) If the credit granted pursuant to this section is not fully used in any one year because of insufficient tax liability on part of the corporation, the unused amount may be carried forward for a period not to exceed 3 years; however, any taxpayer that seeks to carry forward an unused amount of tax credit must submit an application for allocation of tax credits or carryforward credits as required in paragraph (d) in the year that the taxpayer intends to use the carryforward. The total amount of tax credits and carryforward of tax credits granted each state fiscal year under this section is \$88 million. This carryforward applies to all approved contributions made after January 1, 2002. A taxpayer may not convey, assign, or transfer the credit authorized by this section to another entity unless all of the assets of the taxpayer are conveyed assigned or transferred in the same transaction.

\* \* \* \*

(d) The department (i.e., the Department of Revenue) shall adopt rules necessary to administer this section, including rules establishing application forms and procedures and governing the allocation of tax credit and carryforward credits under this section on a first-come, first-served basis.

The Florida Department of Revenue has implemented this statutory framework by prescribing a regulation contained in section 12C-1.0187 of the Florida Administrative Code. With respect to the mechanics as it applies to a contributor, the regulation states, in part that:

(3) If a taxpayer receives an approval letter from the Department of Revenue, but fails to make the contribution, no credit is allowed. If a taxpayer receives an approval letter from the Department of Revenue, but makes the contribution to an ineligible organization, or a nonprofit scholarship funding organization does not

accept the contribution, no credit is allowed. If the contribution is made outside the tax year for which the credit was approved, no credit is allowed.

\* \* \* \*

(5) If the credit granted pursuant to this section is not fully used in any one year, the unused amount may be carried forward for a period not to exceed three years. Any taxpayer that seeks to carry forward an unused amount of credit must submit Form F-1160 to the Department in the year that the taxpayer intends to use the carry forward amount. The Department will send written correspondence to the applicant within ten working days regarding the amount of carry forward credit that the taxpayer may use or the reason the Department could not approve the use of a carry forward credit.

\* \* \* \*

(6) A taxpayer may not convey, assign, or transfer the credit authorized by this section to another entity unless all of the assets of the taxpayer are conveyed, assigned, or transferred in the same transaction.

## Discussion

### Charitable contribution deduction

Section 170(a)(1) of the Internal Revenue Code provides the general rule that, subject to certain limitations, there shall be allowed as a deduction any charitable contribution (as defined in section 170(c)) payment of which is made within a taxable year. See also section 1.170A-1 of the federal income tax regulations.

Generally, to be deductible as a charitable contribution under section 170, a transfer to a charitable organization or government unit must be a gift. A gift for this purpose is a transfer of money or property without receipt of adequate consideration, made with charitable intent. A transfer is not made with charitable intent if the transferor expects a direct or indirect return benefit commensurate with the amount of the transfer. If a taxpayer receives a benefit in return for a transfer to a charitable organization, the transfer may be deductible as a charitable contribution, but only to the extent the amount transferred exceeds the fair market value of the benefit received, and only if the excess amount was transferred with the intent of making a gift. See *United States v. American Bar Endowment*, 477 U.S. 105, 116-118 (1986); *Hernandez v. Commissioner*, 490 U.S. 680, 689-691 (1989); section 1.170A-1(h)(1) and (2) of the regulations.

If the benefits received, or expected to be received by a donor are substantial (that is, greater than those incidental benefits that inure to the general public from transfers for charitable purposes), then the transferor has received, or expects to receive a quid pro quo sufficient to remove the transfer from the realm of deductibility under section 170. *Singer v. United States*, 449 F.2d 413, 422-423 (Ct. Cl. 1971).

The tax benefit of a federal charitable contribution deduction is not regarded as a return benefit that negates charitable intent, reducing or eliminating the deduction itself. Similarly, the fact that states typically provide for a similar deduction in determining the taxable income base for state tax purposes does not affect the federal deduction under section 170. However, that situation is arguably distinguishable from one in which, as a result of a payment a taxpayer makes to a governmental or charitable body, a state offsets the taxpayer's state tax liability with a credit.

#### Deduction for payment of state tax

Section 164 provides generally for an itemized deduction for the payment of certain taxes, including state income tax. See section 164(a)(3). Similarly, taxpayers engaged in a trade or business may deduct certain tax payments as business expenses under section 162. A charitable contribution deduction under section 170 may not be allowable for a payment that qualifies for the Florida Corporate Income Tax Credit if the credit is viewed as a quid pro quo benefit that eliminates the necessary charitable intent for federal tax purposes. However, if receipt of the credit from the state is viewed as a disqualifying benefit, arguably the taxpayer's transfer of the credit to the state to satisfy the taxpayer's state tax liability should be viewed as a payment of state tax for purposes of the federal deduction for tax payments in section 164 or for section 162.

This letter has called your attention to certain general principles of the law. It is intended for informational purposes only and does not constitute a ruling. See Rev. Proc. 2006-1, §2.04, 2006-1 (Jan. 3, 2006). If you have any additional questions, please contact our office at .

Sincerely,

Christopher F. Kane  
Branch Chief, Branch 3  
(Income Tax & Accounting)