

EX. A

THIS EXHIBIT HAS BEEN REPLACED WITH THE ATTORNEY GENERAL --POWER TO COMPROMISE--DO NOT USE THIS EXHIBIT

GENERAL INFORMATION CONCERNING THE SETTLEMENT OF TAX REFUND SUITS

1. An offer in compromise of a tax case need not follow any particular form -- a letter addressed to the Assistant Attorney General in charge of the Tax Division will suffice. The offer should set forth clearly the proposed terms of settlement. If the offer proposes a particular disposition of each issue, a computation showing the proposed overpayment of tax, penalty, and assessed interest is helpful. If the offer proposes overpayment of a specific amount it should set out the allocation of the proposed overpayment among tax, penalty, and assessed interest. Statutory interest is computed in accordance with law (usually Section 6611, I.R.C. 1986).

2. Prior to taking action on an offer in compromise, the Department will have obtained the recommendation of the Internal Revenue Service concerning settlement.

3. Upon timely request made to the Tax Division's attorney assigned to handle the case, taxpayer's counsel generally will be able to hold an informal settlement conference with the former at or near the place where the suit is pending. Also upon timely request, the Tax Division may afford counsel for taxpayer the opportunity to hold a further informal conference in Washington, attended by such representatives of the Division and of the Internal Revenue Service as the Division deems appropriate.

4. Tax settlements require the final approval of the Attorney General, or certain officials of the Department specifically designated by him. See Code of Federal Regulations, Title 28, Chap. I, Subpart Y, and Appendix. Neither the United States Attorney nor the trial attorney for the Government has such authority. The Government is not bound by any compromise until a formal notice of approval is sent by the Department to the proponent.

5. If a settlement is consummated, it is the policy of the Department to enter a stipulation for terminating the case by dismissal (instead of by judgment) in terms substantially as follows: "It is hereby stipulated and agreed that the above-entitled action be dismissed with prejudice, the parties to bear their respective costs, including any possible attorneys' fees or other expenses of this litigation." The terms of settlement are not included in the stipulation.

6. Section 6402, I.R.C. 1986, authorizes the crediting of the overpayment resulting from a settlement against any outstanding liability of the taxpayer for an internal revenue tax.

7. Additional information concerning settlement procedures may be obtained from the attorney in the Tax Division assigned to handle the case. For more detailed information (unofficial and no longer current, but nevertheless informative), see The Tax Lawyer, Fall 1967, pp. 27-40, and 1969 So. Calif. Tax Inst. 57.

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