

INTERNAL REVENUE SERVICE

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March 20, 2001

MEMORANDUM FOR ASSOCIATE AREA COUNSEL
(SMALL BUSINESS / SELF-EMPLOYED)
Attention: Pamela Karr Harrison

FROM: Joseph W. Clark
Senior Technician Reviewer, Branch 2 (Collection, Bankruptcy & Summons)

SUBJECT: Liability : Request for Forgiveness of Tax

This constitutes our response to your request for comments on your draft memorandum regarding a taxpayer's request for forgiveness of a future tax liability.

(the taxpayer), which does business in , wrote to the Commissioner requesting that its payroll tax liability for an upcoming six-month period be forgiven in part because an agency which handled payroll taxes for the taxpayer between and was convicted of embezzling the funds, a situation which has forced the taxpayer to struggle financially ever since. The taxpayer's letter to the Commissioner was forwarded to your office, and you subsequently drafted a memorandum reflecting your views on the matter.

We agree with the view expressed in the memorandum, that the Internal Revenue Code (the Code) fails to provide the Service with authority to accept the arrangement proposed by the taxpayer, which would entail the Service's forgiving approximately \$ of a \$ liability which has not yet been incurred. As the memorandum reflects, the taxpayer's proposal as currently presented does not meet the standards for an offer in compromise pursuant to I.R.C. § 7122. If the taxpayer wishes to have the Service consider an offer in compromise, the taxpayer would need to comply with established procedures for consideration of offers. The Code does not authorize forgiveness of tax liabilities prospectively, on hardship grounds. While the Service does settle unassessed amounts by executing closing agreements, pursuant to I.R.C. § 7121, we do not believe that this is the type of situation in which use of a closing agreement would be appropriate.

Thank you for soliciting our advice on this matter. If you have further questions, please call 202/622-3620.