

Internal Revenue Service to Make Litigation Guideline Memoranda Available for Public Inspection

Announcement 99-81

On July 22, 1999, the Internal Revenue Service (IRS) will make, among other documents, Litigation Guideline Memoranda (LGMs), issued between January 1, 1986, and October 20, 1998, available for public inspection. Section 3509(d)(2)(A) of the Internal Revenue Service Restructuring and Reform Act of 1998 (RRA 98), Pub. L. No. 105-206, required that certain types of “Chief Counsel Advice” be made available for public inspection at this time. In general, Chief Counsel Advice is advice about the tax laws written by the National Office of Chief Counsel to field offices, including District Counsel, Examination and Appeals.

As reflected in Chief Counsel Notice N(32)210-1 (April 18, 1988) LGMs “provide information and instruction relating to litigating procedures and methods, and standards and criteria on issues and matters of significant interest to litigating attorneys in the Office of Chief Counsel.” However, “each [LGM] represents the litigating position criteria and procedures of the Office of Chief Counsel as of the date of issuance and may not represent the current position.” Because some of the LGMs do not represent current Chief Counsel position, they may have been designated internally as “obsolete.” This designation will not necessarily be appar-

ent on the face of the document. Despite the fact that the Chief Counsel attorneys no longer follow the guidance and instructions set forth in obsolete LGMs, all LGMs issued between 1986-1998 are being made publicly available. It is anticipated that the IRS will make available to the public a Title Index that identifies which LGMs are current and those that have been obsoleted.

Pursuant to § 3509 of RRA 98, Congress has authorized the IRS to delete taxpayer identifying details and information that is exempt from public disclosure under the Freedom of Information Act (FOIA). *See* § 6110(i)(3). The FOIA deletions will be made only if it is determined that disclosure might “seriously impede or nullify IRS activities in carrying out a responsibility or function;” for example, jeopardize an ongoing investigation or judicial proceeding or that would be harmful to other interests specified in the FOIA. IRM 1230, Internal Management Document System Handbook, at text 293(2). After the documents have been made available to the public, the correctness of the deletion of any information may be challenged under section 6110.

Documents released under this process will be found in the Freedom of Information Room, 1111 Constitution Ave., NW, Washington, DC 20224, where they may be read and copied by the public during the hours 9:00 A.M. to 4:00 P.M.

The public is cautioned that LGMs may not be used or cited as precedent. *See* § 6110(k)(3).

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