



About Those Extensions We Just Denied...
Special Podcast for June 4, 2006



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IRS Erroneously Denies As Many as 50,000 Extensions

The IRS has now released information on the potential improper denial of extensions to 50,000 taxpayers who had paper form 4868s filed with the Fresno Service Center. Those taxpayers affected appear to be taxpayers whose extensions were filed by paid preparers in bulk with Fresno.

A number of tax professionals had begun to raise the alarm about denied extensions on various online discussion groups, and this past week CPA James Counts posted the following item on the California Society of CPAs TaxTalk discussion group from the IRS Taxpayer Advocate Service that outlined the issue:

TAS Immediate Intervention:

Denial Of Application For Extension Of Time To File

The IRS has just announced that they may have incorrectly denied Form

4868, Application for Automatic Extension of Time to File US Individual Income Tax Return.

During a two week processing cycle in May 2006, the Fresno Campus denied 61,818 Forms 4868, Application for Automatic Extension of Time to File U.S. Individual Income Tax Return. The Taxpayer Advocate Service (TAS) Office of Systemic Advocacy identified this as an immediate intervention issue impacting taxpayers who live in Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nebraska, Nevada, New Mexico, Oregon, South Dakota, Utah, Washington, and Wyoming and filed Forms 4868 with Fresno.

The says that local TAS offices in these states have been contacted by many practitioners who maintain the applications were filed timely and they have postal receipts to prove it. TAS is working closely with Fresno Campus, W&I Submission Processing to address the problem, identify the root causes and immediate resolution. Fresno Campus acknowledges that problems in the extraction function of Receipt and Control may have contributed to a high volume of applications being denied.

The IRS will be issuing guidelines as soon as a determination is made on how to resolve this issue.

TAS has told their offices that if a taxpayer or practitioner from one of the affected states contacts should contact their office regarding the denial of an extension to file income tax return for tax year 2005, they are to advise the practitioner or taxpayer the IRS is looking into the issue and will get back to them.

Later in the week, the following text was posted by Marty Haney, CPA to the Arizona Tax Section tax discussion listserv and the same text was posted by Albuquerque CPA Larry Hess to the TaxTalk list. In Marty's case, the text came from Lisa Novak of the Phoenix IRS office, while Larry obtained his text from an email from the New Mexico Society of CPAs, whom I would assume received it from their IRS contact. This appears to be the "official" IRS response, at least for now:

The Service recently became aware that some taxpayers may have been erroneously denied an extension of time to file their tax return. A human error occurred in affixing the proper date stamp to certain Form 4868 extension requests at the IRS Fresno Campus. Most of the impacted forms were transmitted in bulk from paid preparers. The IRS estimates that 45,000 - 50,000 taxpayers may be affected.

The IRS is now reviewing all of the denied extensions to determine which ones were accurately denied. In cases where the IRS can identify the paid preparer who bulk-mailed the extensions which were incorrectly denied, the IRS will notify the practitioner. If IRS cannot identify a paid preparer then the taxpayer will receive a

letter advising them that their extension is approved and that they may ignore the previous, incorrect correspondence. The IRS estimates its review of the denied extensions and subsequent mailings to taxpayers and practitioners will be completed before the end of June.

Taxpayers who believe their extension was improperly denied by the IRS Fresno Campus need take no action at this time. If the taxpayer received a denial letter and does not receive further correspondence by the end of June, the taxpayer may request a reconsideration of their case by following the instructions in the denial letter. Since the IRS is already reviewing their case, the Service asks all taxpayers who mailed an extension request to Fresno to wait until the end of June before taking any action.

What to Do?

Practitioners that have clients who have been impacted have two problems. First, you have the client relations issue to deal with—your clients believe you fouled up when, in fact, it is the IRS who fouled things up. Unfortunately, the best you do is tell the client the IRS (the same group that fouled this up in the first place) is supposed to notify them by the end of June that all is well or will tell the preparer. A practical problem is that if you, as the preparer, are not contacted because the IRS is unable to determine that you filed the extensions in question, you'll have to ask your clients if they got a letter.

The other problem is the problem that the IRS has now denied the extension and unless they determine that it was their mistake (and we're not sure how they'll manage to do that), you are going to have to go through the normal process to protest this denial. Now while the IRS is telling you to just do nothing until June 30, I doubt that makes sense since if you discover the IRS didn't manage to figure out that your clients were ones they mistakenly denied an extension for, you'll need to scramble to contest the denial.

At the very least, it would appear prudent to be prepared to flood the IRS with protests on July 1 if you don't hear shortly that your clients have been given the green light. Professionals with certified/registered mail receipts or approved third party filing documents will be in good shape—those without such materials may have more issues if the IRS were to decide that their fix had found all affected taxpayers and your taxpayers weren't in that group. Those in the area covered by the Ninth Circuit Court of Appeals (which does include many of the affected areas) may have more recourse, since the Ninth Circuit has ruled that the statutory certified/registered/approved third party mail receipts are not necessarily the exclusive method of proving timely application of a postmark—but in Circuits that hold to the position that the statutory provisions are the exclusive way to prove filing, things could get ugly.

The good news is that it seems unlikely the IRS would push this one, since this is a public relations black eye for them at this point. But to protect your clients, you need to start out with the assumption the IRS will not care about this problem and be ready to defend the

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timeliness of your filing.