



DEPARTMENT OF FINANCE AUDIT DIVISION

SAP 92-3-AU 12/14/92

STATEMENT OF AUDIT PROCEDURE

COURTESY CONFERENCES

I. BACKGROUND

Occasionally, a taxpayer fails to make a timely protest of an asserted tax deficiency and then receives a final demand or warrant which it believes is incorrect. While a statute of limitations cannot be waived, the Commissioner of Finance may, pursuant to statutory authority, revise, adjust, or redetermine a tax liability which has been incorrectly or erroneously asserted. This Statement of Audit Procedure is intended to set forth a procedure for taxpayers in certain circumstances to request a revision of a determination of tax deficiency after it has become final.

II. SCOPE

Where the taxpayer claims to have information showing that there was an obvious error or miscalculation of the tax at issue, this procedure provides the billing unit of the Department with an opportunity to review the documentation supplied by the taxpayer and revise, adjust, or redetermine the liability if appropriate. This review is without prejudice to the Department's or taxpayer's raising of any claim or defense, including but not limited to the statute of limitations barring a legal right to protest the determination.

This procedure applies to outstanding tax liabilities where a statutory right to protest is not available. In cases where the taxpayer claims that the statutory notice was improperly mailed, the Department will review the mailing and determine if it was proper. If the notice was improperly mailed, the bill will be canceled and any warrant vacated. In addition, if the bill is shown to be in error by unequivocal documentary evidence such as a canceled check for payment of the liability, the bill will be canceled and any warrant vacated without resort to this procedure.

III. PROCEDURE

When a taxpayer believes an income or excise tax liability to be incorrect, after the statutory period to protest a notice of determination has expired, the taxpayer may request a courtesy conference at which the liability will be reviewed. Whether such a conference is granted is in the sole discretion of the Commissioner of Finance or her designee. In deciding whether to grant a courtesy conference, the Commissioner may consider the following: the nature of the issue and whether there is clear legal precedent for the adjustment; the taxpayer's conduct (or the conduct of the authorized representative) in the case or inquiry that led to the determination, including whether the taxpayer was cooperative in the audit, responded to inquiries, and was forthcoming with information or documentation requested by the auditor; and the fiscal condition of the taxpayer, including information regarding the dissipation of assets which may be available for collection of the liability.

The Commissioner may grant a courtesy conference on conditions which, in her discretion, protect the City's interest while the conference is pending. Such conditions may include, but are not limited to: the giving of additional information useful in collecting the liability from the taxpayer or others who may be liable at law for the tax; or such other and further conditions as may be necessary to protect the City's interest in collecting the tax liability.

Upon taxpayer's compliance with any conditions set, the courtesy conference should be scheduled as soon as practicable or, if no conference is necessary, the documentation should be reviewed as soon as possible. The Collections Unit shall be notified of the granting of a courtesy conference and further collection action should be suspended, in accordance with any conditions required by the Commissioner, until the taxpayer is given written notification of the result of the courtesy conference by regular mail. If a courtesy conference is not granted, the taxpayer will be notified by regular mail.

GN:rah

#3 sapcrtycnf