§ 301.7811–1  Tenant assistance orders.

(a) Authority to issue—(1) In general. When an application is filed by the taxpayer or the taxpayer’s duly authorized representative, in the form, manner and time specified in paragraph (b) of this section, the Ombudsman may issue a taxpayer assistance order if, in the determination of the Ombudsman, the taxpayer is suffering or is about to suffer a significant hardship as a result of the manner in which the internal revenue laws are being administered by the Internal Revenue Service, including action or inaction on the part of the Internal Revenue Service.

(2) Issuance without an application. The Ombudsman may issue a taxpayer assistance order in the absence of an application under section 7811(a).

(3) Duly authorized taxpayer’s representative. A “duly authorized taxpayer’s representative” is any attorney, certified public accountant, enrolled agent, enrolled actuary, or any other person permitted to represent the taxpayer before the Internal Revenue Service who is not disbarred or suspended from practice before the Internal Revenue Service and who has a written power of attorney executed by the taxpayer.

(4) Significant hardship—(i) Determination required. A determination of significant hardship is required to be made by the Ombudsman prior to the issuance of a taxpayer assistance order.

(ii) Term Defined. The term significant hardship means a serious privation caused or about to be caused to the taxpayer as a result of the particular manner in which the revenue laws are being administered by the Internal Revenue Service. Mere economic or personal inconvenience to the taxpayer does not constitute significant hardship.

(b) Application for taxpayer assistance order—(1) Form. The application for a taxpayer assistance order shall be made on a Form 911 (Application for Taxpayer Assistance Order to Relieve Hardship) available from any local office of the Internal Revenue Service or in a written statement which shall contain the following information:

(i) Name, social security number (or the employer identification number), and current mailing address of the taxpayer submitting the application.

(ii) Kind of tax (individual, corporate, etc.) and tax period or periods involved.

(iii) Description of the Internal Revenue Service action or proposed action which is causing or is about to cause a significant hardship to the taxpayer and, if known, the Internal Revenue Service office and personnel involved.

(iv) Description of the specific hardship caused or about to be caused and the kind of relief requested.

(v) Signature of the taxpayer/applicant or duly authorized representative.

(2) Manner. An application for a taxpayer assistance order shall be filed with the Internal Revenue Service Problem Resolution Office in the district where the taxpayer resides. Overseas applicants having a APO or FPO address shall file applications with the Internal Revenue Service, Problem Resolution Office where the return was filed. All other overseas applicants shall file applications with the Internal Revenue Service, Problem Resolution
Office, Assistant Commissioner (International), Washington, DC. Where appropriate, these Problem Resolution offices may refer an application for a taxpayer assistance order to another office of the Internal Revenue Service.

(3) Time. An application for a taxpayer assistance order shall be submitted within a reasonable time after the taxpayer becomes aware of the significant hardship or the potential significant hardship.

(c) Contents of Taxpayer Assistance Orders—(1) Terms of order. Upon deciding that a taxpayer is suffering or about to suffer a significant hardship as a result of the manner in which the internal revenue laws are being administered, the Ombudsman may issue a taxpayer assistance order requiring the Internal Revenue Service to—

(i) Release levied property (to the extent that the Internal Revenue Service may by law release such property), or

(ii) Stop any action or refrain from taking further action against a taxpayer pursuant to:

(A) Chapter 64 (relating to collection),

(B) Chapter 70, subchapter B (relating to bankruptcy and receiverships),

(C) Chapter 78 (relating to discovery of liability and enforcement of title), or

(D) Any other section of the Internal Revenue Code under which the Internal Revenue Service is taking or is about to take administrative action against the taxpayer that causes or will cause a significant hardship.

(2) Binding effect. A taxpayer assistance order is binding on the Internal Revenue Service unless reversed by an official authorized to modify or rescind such an order as provided in paragraph (d) of this section.

(3) Scope. The terms of a taxpayer assistance order may require the release from levy of property of the taxpayer to the extent that the Internal Revenue Service will by law release such property. In the absence of an overpayment there is, for example, no authority under which the Internal Revenue Service may release sums which have been credited against the taxpayer's liability and deposited into the Treasury of the United States. A taxpayer assistance order may generally not be issued with respect to the investigation of any criminal tax violation and generally may not be issued to enjoin an act of the Office of Chief Counsel (with the exception of Appeals). A taxpayer assistance order will not be issued to contest the merits of any tax liability nor is a taxpayer assistance order intended to be a substitute for or an addition to any established administrative or judicial review procedure.

(d) Authority to modify or rescind. A taxpayer assistance order may be modified or rescinded only by the Ombudsman, a district director, a service center director, a compliance center director, a regional director of appeals, or the superiors of such officials. A modification or rescission by one of these designated officials may be elevated by the Ombudsman to the superior of such official.

(e) Suspension of statutes of limitations—(1) In general. The running of the applicable period of limitations for any action which is the subject of a taxpayer assistance order shall be suspended for the period beginning on the date the Ombudsman receives an application for a taxpayer assistance order in the form, manner, and time specified in paragraph (b) of this section and ending on the date on which the Ombudsman makes a determination with respect to the application, and for any additional period specified by the Ombudsman in an order issued pursuant to a taxpayer's application. For the purpose of computing the period suspended, all calendar days except the date of receipt of the application shall be included.

(2) Date of decision. The "date on which the Ombudsman makes a decision with respect to the application" is the date on which the taxpayer's request for a taxpayer assistance order is denied, or agreement is reached with the involved function of the Service, or a taxpayer assistance order is issued (except that when the taxpayer assistance order is reviewed by an official who may modify or rescind the taxpayer assistance order as provided in paragraph (d) of this section, the decision date is the date on which such review is completed).

(3) Periods suspended. The periods of limitations which are suspended under
section 7811(d) are those which apply to the taxable periods to which the application for a taxpayer assistance order relate or the taxable periods specifically indicated in the terms of a taxpayer assistance order.

Example 1. On August 31, 1989, the Internal Revenue Service levies on funds in the taxpayer’s checking account. On September 1, 1989 (at which time 7 months remain before the period of limitations on collection after assessment will expire on April 1, 1990) the Ombudsman receives the taxpayer’s written application for a taxpayer assistance order. Subsequently, on September 6, 1989, the Ombudsman determines that the levy has caused a significant hardship and the Internal Revenue Service function which served the levy agrees to release the levy. The levy is released. As a result of the application and the decision by the Ombudsman and the involved function of the Service resolving the hardship, the statute of limitations on collection after assessment is suspended from the date the Ombudsman received the application, September 1, 1989, until the date on which the decision was made to release the levy, September 6, 1989. Therefore, the statute of limitations on collection after assessment will not expire until after April 6, 1990, which is 7 months plus 5 days after the date on which the application for a taxpayer assistance order was received by the Ombudsman.

Example 2. The facts are the same as in example 1 except that the Internal Revenue Service function which served the levy does not agree to release the levy, and the Ombudsman, having made a determination that the levy has caused a significant hardship, issues a taxpayer assistance order on September 6, 1989, in which the levy is ordered to be released and specifies that the statute of limitations on collection after assessment is suspended for an additional 15 days. The period of limitations on collection after assessment will therefore not expire until after April 21, 1990, which is 7 months and 20 days (5 days plus 15 days) after the application for the taxpayer assistance order was received by the Ombudsman.

Example 3. The facts are the same as in example 2 except that the Ombudsman does not specifically suspend the statute of limitations on collection after assessment for an additional number of days in the taxpayer assistance order, but rather the function seeks modification or rescission of the taxpayer assistance order and the appropriate official charged with that responsibility completes his consideration of the assistance order on September 7, 1989. The period of limitations on collection after assessment will therefore not expire until after April 8, 1990, which is 7 months and 7 days after the application for the taxpayer assistance order was received by the Ombudsman.

(4) Absence of a written application. The statute of limitations is not suspended in cases where the Ombudsman issues an order in the absence of a written application for relief by the taxpayer or the taxpayer’s duly authorized representative.

(f) Independent action of Ombudsman. The Ombudsman may take any of the actions described in section 7811(b) in the absence of an application by the taxpayer.

(g) Ombudsman. The term “Ombudsman” includes any designee of the Ombudsman, such as Problem Resolution Officers in Internal Revenue Service regional and district offices and at Internal Revenue Service compliance and service centers.

(h) Effective Date. These regulations are effective as of March 20, 1992.

[1992-02-03T00:00:00-05:00]