



United States
General Accounting Office
Washington, D.C. 20548

Office of the General Counsel

B-248555

June 3, 1992

Gerald Murphy
Fiscal Assistant Secretary
Department of the Treasury
Washington, D.C.

Dear Mr. Murphy:

This is in response to your letter of April 27, 1992, in which you asked us to grant relief under 31 U.S.C. § 3527 to Mr. [redacted], Director, Fresno Service Center, for the loss of \$1,780 in Internal Revenue Service (IRS) tax collections. The loss occurred due to embezzlement by a former IRS employee. As explained below, since the 3-year statute of limitations has expired, Mr. [redacted] account has been settled by operation of law. As a result, he has no personal financial liability for the loss in question.

The losses occurred on December 6 and 16, 1983 and January 6, 1984, when four taxpayers visited the Carson, California, IRS branch office for the purpose of paying outstanding tax liabilities. All four taxpayers informed the IRS that they made cash payments, totaling \$1,708 to an employee of the IRS. Each taxpayer stated that he provided them with a receipt. Two of the four taxpayers identified Revenue Representative [redacted] as the person who accepted the cash payments.


On December 18, 1986, Mr. [redacted] was convicted in Federal Court of four counts of embezzlement of tax payments. The Court, however, did not order restitution. The IRS then made an assessment in the amount of \$1,780 against Mr. [redacted] on December 6, 1988. All attempts to locate Mr. [redacted] have been unsuccessful and all attempts to collect have been exhausted.

Under 31 U.S.C. § 3526(c), the Comptroller General is authorized to settle accounts of accountable officers, and hence to grant or deny relief "within 3 years after the date the Comptroller General receives the account." B-235401, Dec. 6, 1989. In general, the 3-year statute of limitations begins to run when an agency's accounts are "substantially complete". 70 Comp. Gen. 616 (1991). For losses caused by embezzlement, fraud or other criminal activity, the 3-year period does not begin until the loss has been discovered and

reported to the appropriate agency officials. Id. Once the 3-year period has expired the account in question is considered settled and there is no need for our Office to consider whether or not to grant relief. B-221720, May 8, 1986.

In this case, since the loss was discovered in January 1984, the statute requires that we regard Mr. _____ account as settled. Accordingly, Mr. _____ can no longer bear financial liability with respect to this loss and thus we need not consider whether to grant relief. In order to avoid this situation in the future, please submit relief requests in a timely manner.

Sincerely yours,



Gary L. Kepplinger
Associate General Counsel