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**GAO**

United States General Accounting Office  
Washington, DC 20548

Office of  
General Counsel

In Reply  
Refer to: B-195396

OCT 1 1979

Mr. Paul H. Taylor  
Fiscal Assistant Secretary  
Department of the Treasury *AGC00038*

*[Request for Relief From Liability For*

Dear Mr. Taylor;

You request that we grant relief under 31 U.S.C. § 82a-1 (1976) to Mr. Clarence S. Taylor, Director, San Francisco Disbursing Center, for a \$590 overpayment of an income tax refund to a payee who cannot now be located. Relief from liability is granted to Mr. Taylor for the reasons discussed below.

On May 16, 1975, an income tax refund check was issued by the Internal Revenue Service Center in Ogden, Utah, to the taxpayer, Mr. Robert E. Schneider, at an address in Portland, Oregon. This check was returned to the San Francisco Disbursing Center because Mr. Schneider had moved. The check was cancelled and the proceeds credited to the Internal Revenue Service. The return of a check because of an improper address normally starts an administrative process that leads to the issuance of a substitute check. On December 12, 1975, a substitute check was routinely issued by the Ogden, Utah, Internal Revenue Service Center to Mr. Schneider in the amount of \$590. *AGC00038*

However, on August 1, 1975, Mr. Schneider had filed a claim of non-receipt. A stop payment was placed against the original check and a new check was issued by the San Francisco Disbursing Center in August 1975 and mailed to an address in Tigard, Oregon. Mr. Schneider subsequently cashed the August check. Mr. Schneider was not entitled to the check dated December 12, 1975, since he had previously negotiated the August 1975 check but he cashed the December check too. *DLG092 2968*

The discrepancy was caused by an employee's failure to research accurately the appropriate cancellation and stop payment files, as required in Part IV, sections 5100.3; 5162 and 5163 of the Division of Disbursements Procedures Manual. Treasury's Chief Disbursing Officer states that to prevent a recurrence of this type situation, the necessity of accurately researching all claims and return checks for prior action has been emphasized with the appropriate staff members and that supervisors frequently check the operation to insure that instructions are being followed.



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The record further indicates that several attempts, including visits by an investigator, were made to locate the taxpayer. Further, appropriate information is still in the Internal Revenue Service computer and should Mr. Schneider ever file a tax return, action will be taken to recover the overpayments.

Our Office is authorized by 31 U.S.C. § 82a-2 (1976) to relieve accountable officers of responsibility for an improper or erroneous payment if we determine that the erroneous payment was not the result of bad faith or lack of due care on the part of the accountable officer. Since there were written instructions available and known, and since the magnitude of the disbursing operations preclude the personal inspection of all operations by the Director, we agree that this loss did not occur as a result of bad faith or lack of due care on Mr. Taylor's part. Accordingly, relief may be granted to him.

Sincerely yours,

MILTON SOCOLAR

Milton J. Socolar  
General Counsel