

B-254454

November 19, 1993

Mr. John P. Mitchell
Acting Director
Deputy Chief Financial Officer
Department of Treasury

Dear Mr. Mitchell:

This responds to your letter of August 4, 1993, asking that we relieve Mr. [redacted], former director of the Internal Revenue Service's Philadelphia Service Center, from liability for the loss of \$21,257.99 in tax collections deposited with the Federal Reserve Bank of Philadelphia. For the reasons stated below we conclude that the applicable statute of limitations has expired and consequently relief is unnecessary.

On April 4, 1984, the Philadelphia Service Center deposited \$1,949,459.53 with the Federal Reserve Bank of Philadelphia. The IRS made two errors on the summary included with the deposit. They failed to include one block of checks totalling \$21,257.99 and listed another total as \$1,566.88 instead of \$4,566.88.

On April 13, 1984, the Federal Reserve Bank sent the IRS a debit voucher for \$24,257.99. On the same day, they also sent a deposit ticket for the \$3,000 error. IRS' account was not credited for the remaining \$21,257.99, the block of checks not included on the summary. However, the taxpayers were given proper credit to their tax accounts and the correct amounts deducted from their checking accounts. You report that the IRS has made numerous unsuccessful attempts to research and resolve the discrepancy. IRS Counsel has recommended that collection action against the Bank be terminated.

You request relief for Mr. [redacted], former director of the Philadelphia Service Center, for the \$21,257.99 loss to revenue receipts.

Under 31 U.S.C. § 3526(c), "[t]he Comptroller General shall settle an account of an accountable official within 3 years after the date the Comptroller General receives the account." Moreover, "[t]he settlement of an account is conclusive on the Comptroller General after 3 years after

the account is received by the Comptroller General." Id. Because accounts are no longer physically transmitted to this Office, we consider the Comptroller General to have "received" the account at the time that the agency's accounts are substantially complete. 70 Comp. Gen. 420 (1991). Accounts are substantially complete at the latter of (1) when an accountable officer certifies a periodic statement of accountability, or (2) when an agency receives information, such as a debit voucher, placing it on notice that a deficiency exists. Id.; B-234954, B-235043, Jan. 17, 1990.

The debit voucher notifying IRS of the deficiency was sent by the Federal Reserve Bank on April 13, 1984. The 3-year limitation period expired in April 1987, substantially prior to your August 4, 1993, request to us. Accordingly, Mr. [redacted] account has been settled by operation of law. As a result, he has no personal financial liability for the loss and relief is unnecessary.

We note that the GAO Policy and Procedures Manual requires prompt reporting of financial irregularities, not more than 2 years after the date the agency has substantially complete accounts, in order to avoid any statute of limitations problem. 7 GAO PPM § 8.4. This time frame provides agencies time to try to resolve those irregularities not involving fraud prior to reporting them to GAO. However, if this is not possible, by reporting financial irregularities within 2 years, our Office has time to avoid the expiration of the 3-year statute of limitations and an adequate opportunity to determine whether relief is appropriate.

Sincerely yours,

Gary L. Kepplinger
Associate General Counsel