



Office of the General Counsel

B-235401

December 6, 1989

Mr. Gerald Murphy
Fiscal Assistant Secretary
Department of the Treasury

Dear Mr. Murphy:

By letter of April 14, 1989, you asked us to grant relief, under 31 U.S.C. § 3527(a), to Mr. _____, former Director of the Austin Service Center, for the loss of \$1,500 in Internal Revenue Service (IRS) tax collections. The loss appears to have occurred due to embezzlement by a former IRS employee. As explained below, since the 3-year statute of limitations has expired, Mr. _____ account has been settled by operation of law. As a result, he has no personal financial liability for the loss in question.

The loss occurred on March 20, 1984, when a taxpayer visited a branch of the IRS collection division for the purpose of entering a payment agreement to extinguish an outstanding tax liability. The taxpayer states that he talked to a temporary employee (hired the previous month) who instructed him with regard to making a cash payment and entering an installment plan. According to the taxpayer, the temporary employee prepared an installment agreement and then asked him for the \$1,500 that he intended to use as a cash payment.

The IRS employee took the money from the taxpayer and, after he requested a receipt, gave him a piece of IRS notepaper on which was handwritten the words "Recied (sic) 1500 - 3/20/83 (sic)." The employee never recorded the receipt of the \$1,500 payment, nor did she have it applied against the taxpayer's account.

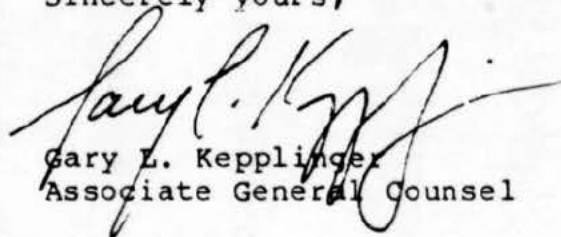
On April 18, 1985, the taxpayer filed a formal complaint alleging that his \$1,500 payment had never been credited to his account. The IRS considers the claim uncollectible. The temporary employee who served the taxpayer had resigned from her position on April 6, 1984, approximately two weeks after the date of the alleged payment. She died on August 29, 1987, without an estate from which recovery could be made.

Under 31 U.S.C. § 3526(c) (1982), 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." As a result of changes in audit methods, accounts are now retained at the various agencies where they are subject to audit and settlement by our Office. To reflect this procedural change, our Office generally considers the end of the period of accountability during which a loss occurs and the agency has substantially complete accounts as the point from which the 3-year period begins to run. B-205587, June 1, 1982. Our Office has consistently held that once the 3-year statutory 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; B-217741, Oct. 15, 1985.

In this case, since the loss was discovered in April 1985, the statute requires that we regard Mr. [redacted] account as settled. Accordingly, Mr. [redacted] can no longer bear any 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