Office of Chief Counsel
Internal Revenue Service

memorandum

CC:NER:NJD:NEW:TL-N-3071-99
WSGarofalo

date: OCT 04 1999

to: Technical assistant to the District Director, New Jersey District

from: District Counsel, New Jersey District, Newark

subject: **RRA 1998 - Third Party Excise Tax Inquiries - Excise Tax Registration Program**

You requested our views on several points related to third party contacts by the Examination Division excise tax group with respect to the excise tax registration program.

The District Director issues form 637 to persons who are registered for the purpose of selling or buying certain products free of excise tax. The excise tax group periodically reviews the records of registered persons to ensure that they are in compliance with the terms of the registration. On occasion, the District Director revokes a registration. The IRM (at 4730) currently instructs the Director to notify in writing all known suppliers to a registrant if that registration is revoked.

You asked whether the notice of revocation issued to suppliers/sellers is a third party contact as defined in IRC section 7602(c). The buyer pays the excise tax to the seller, if a tax is owed. The seller then remits the tax to the Service. The buyer is the taxpayer. The notice of revocation pertains to the collection of excise tax from the buyer. Therefore, the notice is a third party contact as defined by IRC section 7602(c).

Since the notice of revocation is a third party contact, prior notification must be sent to taxpayer before a third party contact is made through the sending of notice of revocation. To the extent that prior notification has not been sent, then the notice cannot be issued to the suppliers. Of course, the sending of the notice to the taxpayer would not be prohibited.

You asked whether it is advisable to issue letter 3164 (the prior notification letter) to all current registrants. Currently, the Service provides the letter to all persons at the beginning of an examination, and to all persons actively under examination. Since the registrants may be viewed as potential subjects of an examination, they should receive letters at the time their registration is to be reviewed, or prior to that time.

This memorandum was reviewed by the National Office prior to issuance.

MATTHEW MAGNONE
District Counsel

By: _____
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