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## Memorandum

**To** Mr. John R. Hadley  
Associate Tax Auditor  
Local Revenue and Allocation Section (MIC:27)

**Date:** May 1, 1996

**From** John L. Waid  
Senior Staff Counsel

**Subject:** [No Permit Number]  
Date of Knowledge – Registration Changes

I am responding to your memorandum to Assistant Chief Counsel Gary J. Jugum dated January 31, 1996. You ask when is the date of knowledge when the improper distribution arises out of a registration change. Although you do not say so, we assume from the context that any redistribution of local tax revenues under section 7209 arising from the incorrect registration change is made as a result of the staff discovering the error rather than from an inquiry by a city. You are apparently asking for general policy reasons rather than due to a city inquiry.

You describe the problem as follows:

“...Generally, a district office makes a registration change which adjusts the tax area code from one jurisdiction to another and/or the sales tax program, which dictates the taxpayer’s local tax allocation requirements. These changes are batched into large lists that are reviewed and worked by the Local Revenue Allocation Section’s tax technicians; the more complex registration changes, which often require taxpayer contact, are worked by our audit staff.

“It has been held by our section that the date of the registration change in and of itself establishes a DOK, but the concern involves the lag time (as much as one year) between when the registration is changed and the resulting entry on a list being reviewed and worked, to confirm or correct the previously allocated local tax....”

You are concerned that the result might be different depending on how the need for the registration change arises, whether due to a tax area code change or a change in operations requiring the filing of different schedules.

OPINION

Section 7209, enacted in 1959, provides as follows:

"The Board may redistribute tax, penalty and interest distributed to a county or city other than the county or city entitled thereto but such redistribution shall not be made as to amounts originally distributed earlier than two quarterly periods prior to the quarterly period in which the Board obtains knowledge of the improper distribution."

Section 7209 is interpreted and implemented by Business Taxes General Bulletin 59-12, rev. 1987. Regarding reallocation of local taxes occasioned by discovery by Board staff of misallocation information contained in Board records, it provides, in part, as follows:

"2. WHAT CONSTITUTES KNOWLEDGE OF IMPROPER DISTRIBUTION?"

"[W] here the facts [indicating the probability of an improper distribution] are in the records of the Board, the Board will not be considered to have knowledge of the erroneous allocation until an employee of the Board has examined the documents and questioned the tax allocation.

"In other words, facts actually in possession of the Board do not constitute knowledge of an erroneous allocation unless the taxpayer, and employee or the Board, or some other person questions the correctness of the local tax allocation."

We thus do not agree with your interpretation. Under the above authority, the date of knowledge of allocation errors arising out of a registration change is not the date of the change but the date the staff member questions the registration, no matter why the error occurred. The person raising the issue need not be the same person who actually reviewed the list, although, presumable, it normally would be. As noted above, however, this rule applies when the error is caught by a Board staff member. Otherwise, the date-of-knowledge rules involving inquiries from participating jurisdictions apply.

JLW:sr

cc: Mr. Robert Wils (MIC:39)