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Tax Regs in Plain English

IRS Restructuring and Reform Act of 1998

1203 - Termination of Employment for Misconduct

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Section 1203

A. Provision(s) covered: Section 1203, Termination of Employment for Misconduct

B. Background: This new provision was enacted In response to the widespread perception that IRS employees are not held fully accountable for improper conduct affecting taxpayers. The section provides that IRS employees must be charged with misconduct and terminated if there has been a judicial or final administrative determination that the employee committed any of the following acts or omissions:

1. willful failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's home, personal belongings, or business assets;
2. providing a false statement under oath with respect to a material matter involving a taxpayer or taxpayer representative;
3. with respect to a taxpayer, taxpayer representative, or other employee of the Internal Revenue Service, the violation of --

. any right under the Constitution of the United States; or

B. any civil right established under --

- i. title VI or VII of the Civil Rights Act of 1964;
- ii. title IX of the Education Amendments of 1972;
- iii. the Age Discrimination in Employment Act of 1967;

- iv. the Age Discrimination Act of 1975;
 - v. section 501 or 504 of the Rehabilitation Act of 1973; or
 - vi. title I of the Americans with Disabilities Act of 1990;
4. falsifying or destroying documents to conceal mistakes made by any employee with respect to a matter involving a taxpayer or taxpayer representative;
 5. assault or battery on a taxpayer, taxpayer representative, or other employee of the Internal Revenue Service, but only if there is a criminal conviction, or a final judgment by a court in a civil case, with respect to the assault or battery;
 6. violations of the Internal Revenue Code of 1986, Department of Treasury regulations, or policies of the Internal Revenue Service (including the Internal Revenue Manual) for the purpose of retaliating against, or harassing, a taxpayer, taxpayer representative, or other employee of the Internal Revenue Service;
 7. willful misuse of the provisions of section 6103 of the Internal Revenue Code of 1986 for the purpose of concealing information from a congressional inquiry,
 8. willful failure to file any return of tax required under the Internal Revenue Code of 1986 on or before the date prescribed therefor (including any extensions), unless such failure is due to reasonable cause and not to willful neglect,
 9. willful understatement of Federal tax liability, unless such understatement is due to reasonable cause and not to willful neglect, and
 10. threatening to audit a taxpayer for the purpose of extracting personal gain or benefit.

The Commissioner has the sole discretion, which he cannot delegate, to determine whether to take a personnel action other than termination for the described acts or omissions. Such determination may not be appealed in any administrative or judicial proceeding.

C. Change(s): This is a new section which requires mandatory removal of an employee upon a judicial or final administrative determination that the employee has committed an act or omission described above.

D. Impact: Employees will now be subject to removal for commission of certain acts or omissions, absent a determination by the Commissioner that a lesser penalty is appropriate.

E. Necessary Actions

1. Actions/Procedures: Procedures should be established to assure that management and personnel take appropriate steps with respect to cases involving the described acts or omissions. Referral procedures should be established for cases which the Commissioner determines may require his review and imposition of a penalty other than removal.
2. Things we CAN do: See E1.
3. Things we CAN'T do: See E1.

F. Other Special Comments: None

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