

#8 CLARIFY THAT IRS EMPLOYEES MAY HELP TAXPAYERS LOCATE A SPECIFIC LOW INCOME TAXPAYER CLINIC

Present Law

Pursuant to IRC § 7526, the IRS may award matching grants for the development, expansion, or continuation of Low Income Taxpayer Clinics (LITCs), subject to the availability of appropriated funds. LITCs are programs that provide representation to low income taxpayers for free or a nominal fee to assist them in resolving disputes with the IRS.

The Supplemental Standards of Ethical Conduct for Employees of the Department of the Treasury prohibit IRS employees from recommending or referring taxpayers to specific attorneys or accountants.⁵¹ The Office of Government Ethics' Standards of Ethical Conduct for Employees of the Executive Branch further limit IRS employees' ability to refer taxpayers to representatives.⁵²

The IRS publishes a list of LITCs, and employees often refer taxpayers to that publication or to the list available on www.irs.gov;⁵³ however, there is no provision in the law that permits IRS employees to provide information about the nearest LITC without violating the applicable standards of conduct.

Reasons for Change

Congress created the LITC grant program so low income taxpayers, who otherwise could not afford representation, could obtain assistance resolving disputes with the IRS. IRS employees receive training about LITCs and the valuable resources they provide for low income taxpayers. Taxpayers with tax problems often call the IRS for help. In some cases, they are asked by a taxpayer if they can identify organizations that can provide assistance. In other cases, an IRS employee recognizes on his or her own that a taxpayer would benefit from LITC assistance. The inability of IRS employees to refer taxpayers to a specific LITC undermines the usefulness of the LITC program by impeding — rather than advancing — taxpayer awareness of the program.

Recommendation

Amend IRC § 7526(c), *Special rules and limitations*, to clarify that, notwithstanding any other provision of law, IRS employees may refer taxpayers to LITCs receiving funding under this section.⁵⁴

51 “Employees of the IRS or TIGTA [Treasury Inspector General for Tax Administration] shall not recommend, refer or suggest, specifically or by implication, any attorney, accountant, or firm of attorneys or accountants to any person in connection with any official business which involves or may involve the IRS.” 5 C.F.R. § 3101.106(a). A Low Income Taxpayer Clinic (LITC) is similar enough to a firm of attorneys or accountants to fall within the scope of the regulation.

52 See 5 C.F.R. § 2635.702(c)(1) and 5 C.F.R. § 2635.101(b)(8).

53 See IRS Pub. 4134, *Low Income Taxpayer Clinic List* (Rev. 7-2017), and <https://www.irs.gov/advocate/low-income-taxpayer-clinics>.

54 There have been numerous similar proposals introduced in Congress over the last 15 years. See, e.g., Taxpayer Protection Act of 2016, H.R. 4912 114th Cong. § 303 (2016) (introduced in the House); Taxpayer Protection and Assistance Act of 2007, S. 1219, 110th Cong. § 2(b)(3) (2007) (introduced in the Senate); Taxpayer Protection and Assistance Act of 2005, S. 832, 109th Cong. § 2(b)(3) (2005) (introduced in the Senate).