INTERNAL REVENUE SERVICE

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Dear Senator Levin:

This letter is in response to of your constituent,	, , , ,	. ,	dated July 11, 2 ssor.	
seeks assistance in obtain his former employ	•			made to him
in 2001 and which taxes w	ere paid by	to the IRS.	alsos	states that
filed a claim for refund of t FICA taxes that relate to s years 1998 through 2001. refunds inconsistently; tha earlier 1998 tax year and redenied claims for refunding the	imilar retirement He further infor t is, the IRS acc refunded the FIC	t payments may may us that the epted CA taxes that	de by during the last section of the last sect	ng each of the he claims for iled for the year, but
We thank you for your inquithat addresses a taxpayer relate to refund claims filed laws, we are prohibited fro taxpayer's case to anyone representative. However,	's concerns. In to by another tax om providing spet other than the t	this matter, payer, cific tax or tax axpayer or the	conce Due to disclosure payer information taxpayer's auth	erns essentially and privacy n regarding a orized

In general, there are numerous reasons why the IRS can deny a taxpayer's refund claim for a particular tax year when the IRS has previously accepted a similar refund claim by that same taxpayer for an earlier tax year. Such reasons include that the taxpayer failed to file the later claims within the required period of limitations applicable to those claims; there has been a change in the law adverse to the taxpayer; or there was an erroneous

refund made by the IRS on the refund claim submitted for the earlier tax year. In all cases, when the IRS does deny a refund claim, it will provide written notice to explain the appeal rights and procedures that are available for a taxpayer to protest the denial of its claim for refund. If the taxpayer does not agree with the IRS' denial of its claim for refund, the taxpayer can elect to assert its rights and follow the procedures available to the taxpayer to protest the IRS' denial of its claim for refund.

We note that cites to the ruling of the United States Court of Appeals for the Eighth Circuit in the *North Dakota State University* case as support for the refund claims that filed. With regard to this case, the IRS issued an Action on Decision on December 31, 2001, in order to help taxpayers understand the IRS' position with regard to that judicial decision.

The AOD sets forth that the IRS disagrees with the Eighth Circuit's decision. The AOD further states that the IRS recognizes the precedential effect of the decision to cases appealable to the Eighth Circuit and, therefore, that it will follow the decision with respect to cases that have the exact facts within that circuit. However, the AOD also states that the IRS will continue to litigate its position that the decision is erroneous in cases having different facts in the Eighth Circuit and in all cases in other circuits.

I hope this information is helpful. Please call me at

if you have any questions.

Sincerely,

Catherine E. Livingston
Assistant Chief Counsel
(Exempt Organizations/Employment
Tax/Government Entities)

Enclosures (2)