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Tax Regs in Plain English

IRS Restructuring and Reform Act of 1998

1102(c) - Expansion of TAO Authority

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Section 1102(c)

A. Provision covered: 1102(c) "Expansion of Authority to Issue Taxpayer Assistant Orders" (IRC Provisions Affected: § 7811(a))

B. Background: Under prior law, the Taxpayer Advocate had the authority to issue Taxpayer Assistant Orders (TAOS) after first determining that the taxpayer was suffering or about to suffer a significant hardship as a result of Service action. Prior law did not define what was meant by "significant hardship." The statutory premise for considering whether to issue a TAO was a finding of significant hardship. In addition, the Commissioner had delegated to the Taxpayer Advocate the authority to issue TAOs on issues not specifically covered in section 7811 when a significant hardship existed.

C. Changes: The statute changes the Taxpayer Advocate's title to the "National Taxpayer Advocate." The statute now defines "significant hardship" as including (but not limited to): the threat of an "adverse action" by the Service; a delay of more than 30 days in resolving taxpayer account problems; the incurring by taxpayers of significant costs while they wait for relief from a Service action; irreparable injury to, or long-term adverse impact on, a taxpayer if relief is not granted. The Taxpayer Advocate may consider issuing a TAO if there is either significant hardship, as defined by the statute, or under such other requirements as may be prescribed by regulation. The statute also provides that when "any Internal Revenue Service employee is not following applicable published administrative guidance (including the Internal Revenue Manual)," the

Taxpayer Advocate must consider all the facts in the light most favorable to the taxpayer when deciding whether to issue a TAO.

D. Impact: The statute expands the circumstances under which the Taxpayer Advocate may consider issuing a TAO. The new requirement that the Taxpayer Advocate must construe the facts in a light most favorable to the taxpayer when a Service employee is not following applicable published administrative guidance may limit the Taxpayer Advocate's discretion in deciding the circumstances under which relief is justified.

E. Necessary Actions

1. Institutional Actions
    . Update or create training materials, IRM provisions, Revenue Procedures, or taxpayer publications as appropriate.
    b. Update and revise the regulations under I.R.C. § 7811.

F. Other Special Comments: None.

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