DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

COMMISSIONER
SMALL BUSINESS/SELF-EMPLOYED DIVISION

November 9, 2007

The Honorable Charles E. Grassley
Ranking Member
Committee on Finance
United States Senate
Washington, DC 20610

Dear Senator Grassley:

This letter is in response to your letter of May 24, 2007, requesting information on the effect of a proposal to amend Internal Revenue Code section 932(c) to provide, retrospectively, that the three-year statute of limitations (for civil tax cases) for an individual claiming residency in the U.S. Virgin Islands (USVI) would begin running when the individual files a tax return with the USVI Bureau of Internal Revenue (BIR), rather than a U.S. income tax return with the IRS. Your inquiry was referred to me because it primarily relates to examinations by the IRS Small Business/Self-Employed operating division.

Our responses to your questions (which are reprinted in bold below) are based on the most current data and information readily available. The responses generally assume that any retrospective change to the statute-of-limitations rules would affect returns for tax years ending on or before December 31, 2003.

If enacted, the proposal to change the statute of limitations would significantly affect examinations. For example, the IRS has a comprehensive strategy for addressing non-compliant taxpayers who participated in arrangements involving the improper use of the USVI Economic Development Program (EDP), as described in Notice 2004-45. It is a multi-faceted approach that includes joint efforts with the BIR; regulatory changes; and civil income examinations and criminal investigations as appropriate. While the amount of potential revenue at issue is unknown, the amount of USVI EDP credits claimed exceeds $373,000,000.[1] This does not include any penalties or interest or any potential deficiencies from listed transactions, unreported income or any other issues. The group of potentially non-compliant taxpayers is comprised primarily of high-income individuals who are U.S. citizens that may have improperly claimed up to a 90% reduction in their income taxes.

[1] This represents the amount of total credits positively identified by the IRS as taken by EDP beneficiaries. Some of these EDP credits may have been taken by taxpayers participating in arrangements described in Notice 2004-45.

1. Please provide the number of individuals/entities that are currently under audit that would be affected by changing the statute of limitations to run retrospectively based on the filings of a Virgin Islands tax return.

The IRS is conducting civil income tax examinations on 279 individual taxpayers who claimed to be bona fide residents of the USVI and filed their income tax returns with the BIR and not the IRS. Examinations of 260 of these individuals involve taxable years prior to 2004 that would be immediately affected by the statute of limitations change, which will result in barred deficiencies. In addition, examinations of 16 entities would be immediately affected by the proposed change. These cases were selected for examination based on the potential compliance risk, and the refinement of our risk assessment process continues as we evaluate the information obtained from our civil examinations and criminal investigations.

2. Please provide the number of individuals/entities that have received a notice of deficiency (including the number that are in appeals) that would be affected by changing the statute of limitations to run retrospectively based on the filings of a Virgin Islands tax return.

These cases are under various stages of development at exam and appeals. The IRS has not as yet issued notices of deficiency that such a change would affect. The tax issues involved are technically complex and factually intensive, requiring significant audit activity. Each case requires factual development of residency and an income sourcing determination as well as coordination of examinations with the BIR. In addition, the tax examinations are often delayed due to the necessity of making third party contacts, issuing summonses, and pursuing summons enforcement actions.

3. Please discuss the potential pool of individuals/entities that the IRS is reviewing or will be reviewing for consideration for audit that would be affected by changing the statute of limitations to run retrospectively based on the filing of a Virgin Islands tax return.

In addition to the 279 individuals currently under civil examination, the IRS has identified other individuals and entities not currently under examination who may have participated in arrangements described in Notice 2004-45 and could be affected by the change in the statute of limitations. Consistent with its normal practices, the IRS will evaluate these leads to determine the level of compliance risk, initiate appropriate compliance actions and identify appropriate resolution strategies as needed and as resources permit. Based on results of the current tax examinations, the risk assessment processes will be refined to better handle additional compliance activities in an effective manner.

4. Please identify those individuals/entities that have filed an appeal with the federal courts, including the tax court that would be affected by changing the statute of limitations to run retrospectively based on the

filings of a Virgin Islands tax return.

The IRS is unaware of any case currently pending before a federal court that would be affected by such a change.

5. Please provide the number of individuals/entities that have been referred for criminal investigation that would be affected by changing the statute of limitations to run retrospectively based on the filing of a Virgin Islands tax return.

A total of 80 cases involving arrangements described in Notice 2004-45 are controlled by IRS Criminal Investigation (CI). Of these cases under CI control, 21 have been referred to the Department of Justice for prosecution. Four of those individuals pleaded guilty to criminal charges related to their involvement in arrangements described in Notice 2004-45. Another four individuals, including three promoters of such arrangements, were indicted in *U.S.* v. *Auffenberg,* Crim. No. 07-30042-MJR (S.D. Ill. March 23, 2007).

Section 6531 generally provides for a six-year criminal statute of limitations for these types of cases. This six-year statute runs from the commission of the criminal offense. Making a retrospective change to the general statute of limitations under section 6501(a) pertaining to civil tax cases should therefore have no direct effect on the six-year statute of limitations applicable to any criminal prosecutions. However, in cases where the government fails to prove intent, the proposed change may operate to bar civil recourse.

6. Please estimate the number of cases listed in 1, 2, 3, 4 and 5 above that involve or may potentially involve: a) a listed transaction; b) a reportable transaction; c) fraud - and therefore are not subject to the statute of limitations; or d) other issues the IRS is finding in these cases. Please provide the amount of potential taxes at issue (including interest and penalties or other additions to tax) for each type of case and in total for all cases. Please provide the amount of tax, interest and penalties assessed and the amount collected.

The cases described in response to questions 1 through 5 generally fall into two broad categories: (1) individuals who claimed EDP credits and may have participated in arrangements described in Notice 2004-45, which in themselves are not listed transactions,[2] and (2) cases where no EDP credits were claimed by the individual under examination but where the IRS is examining questions concerning the bona fides of the

[2] Notice 2004-45 describes tax-avoidance arrangements in which taxpayers take highly questionable or meritless positions; however, the Treasury Department and the IRS have not identified participation in these arrangements alone as constituting either a listed or reportable transaction, though in some cases a listed transaction may be found to have been used in conjunction with such an arrangement.

individual's claim of residency in the USVI and/or other questions concerning the income tax return that the individual filed with the BIR. Within these categories, the IRS has further identified the following cases, which also are described in response to question 7.

a) Listed Transactions: The IRS has identified 12 cases that involve or may potentially involve listed transactions (as defined under section 6707A(c)(2)) and expects to find more as examinations progress. The IRS initial view is that the amount of potential tax, penalties and interest at issue in these cases may be significant but, because the cases are still being developed and no amounts have been assessed, the IRS at this time is unable to provide a reliable estimate.

b) Reportable Transactions: The listed transactions involved or potentially involved in the preceding category are also reportable transactions (as defined under section 6707A(c)(1)). The IRS has not identified any other reportable transactions and is unable to estimate the amount of potential tax, penalties and interest that might be at issue.

c) Fraud: The IRS has identified five cases involving civil fraud, in which the aggregate tax and penalties at issue range from $5 million to $10 million. The IRS may identify additional cases as a result of criminal investigations where the civil fraud penalty under section 6651(f) and the fraud exceptions to the statute of limitations under section 6501(c)(1) and (2) may apply. However, the IRS cannot provide a reliable estimate of potential cases and amounts of tax, penalties and interest at this time.

7. Please provide a narrative of the types of listed transactions, reportable transactions, fraud and other tax issues, particularly abusive tax avoidance transactions, that the IRS is commonly finding and how many are EDP-related cases. In this narrative, please describe how many individuals/entities are engaged in or invested in hedge funds or private equity. In addition, please discuss the other lines of business or occupations that are involved in the cases listed in 1, 2, 3, 4 and 5. Please discuss the roles of related parties or accommodating parties.

As indicated in the response to question 6, the IRS has thus far identified 12 cases involving listed transactions in the course of conducting examinations of individuals who have taken the position that they are bona fide residents of the USVI and, therefore, filed income tax returns only with the BIR. Of these cases, 11 also involved the potentially improper use of the USVI EDP described in Notice 2004-45. The 12 cases, all of which involve taxable years that a change in the statute of limitations would affect, generally involve multiple taxpayers participating in one of the following five types of listed transactions:[3]

[3] In addition, the IRS has identified five cases involving market-linked transactions described in Notice 2000-44, titled *Tax Avoidance Using Artificially Inflated Basis*. These cases would not be affected by a

- Tax avoidance using inflated basis (transactions described in Notice 2002-21);
- Partnership straddle tax shelters (described in Notice 2002-50);
- Offshore deferred compensation arrangements (described in Notice 2003-22);
- Certain trust arrangements seeking to qualify for the exception for collectively bargained welfare benefit funds under section 419A(f)(5) (transactions described in Notice 2003-24);
- Tax avoidance using offsetting foreign currency option contracts (described in Notice 2003-81).

The Notice 2004-45 cases generally involve individuals who may have falsely claimed to be bona fide residents of the USVI with income from sources within (or effectively connected with the conduct of a trade or business within) the USVI to claim a 90-percent tax incentive credit on their USVI income tax return. These cases in themselves technically are not listed transactions but involve tax-avoidance arrangements.

In addition, the IRS uncovered a number of potentially abusive cases other than those involving listed transactions or Notice 2004-45 arrangements, where taxpayers may have been seeking to hide their involvement by filing income tax returns only in the USVI.

The cases currently under audit that the proposed change in the statute of limitations would affect involve individuals in many different businesses and occupations. However, most of these cases, particularly those involving Notice 2004-45 arrangements, possess the following characteristics:

- The individuals generally have high incomes. Although the IRS has not calculated a median income level, the average amount of USVI tax incentive credit claimed in the cases currently under examination for taxable years 2001 through 2004 was approximately $750,000.
- The individuals are owners of closely held U.S. business entities, typically wholly owned flow-through entities.
- The individuals become partners or shareholders in USVI flow-through entities in taxable years after they claim USVI residency.

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change to the statute-of-limitations rules.

- The individuals claim 90-percent tax incentive credits through arrangements described in Notice 2004-45 on what otherwise would have been fully taxable allocations of income in the United States.

The IRS thus far has identified 18 individuals who may be involved in Notice 2004-45 arrangements and who either are hedge fund managers or work for hedge fund managers. Individuals in these cases have claimed millions of dollars in tax incentive credits on their USVI income tax returns, although it is unclear to what extent these credits are inappropriate without completed examinations. The IRS has not encountered any cases that are specifically associated with private equity funds.

8. Please discuss what efforts the IRS is taking to go after promoters, if any, that may be involved in cases listed in 1, 2, 3, 4 and 5 above.

The IRS has identified at least five promoters of arrangements described in Notice 2004-45. The IRS is, where appropriate, conducting civil and criminal investigations of such promoters under, e.g., sections 6700 and 6701. The IRS and Department of Justice have also considered seeking injunctions against these promoters but have decided that injunctions are not necessary at this time in light of the abatement of current promotion activity and the 2004 enactment of stricter residence and source requirements under section 937.

9. Please discuss what efforts the IRS is taking to make certain that it is aggressively pursuing all individuals listed in 1, 2, 3, 4 and 5. In particular, please inform us what steps the IRS is taking and will be taking to identify individuals and entities from 3 above. Does the IRS believe these actions will ensure 100% identification of those who improperly have taken advantage of the EDP program or who have otherwise improperly benefited from not filing a U.S. tax return and have filed a Virgin Islands tax return? If not, why not.

As detailed in response to question 10, the IRS has been pursuing, civilly or criminally, the individuals identified in response to questions 1 through 5 since approximately 2003, when it learned that promoters were active in the area. The IRS has used the following means to identify the pools of individuals discussed, particularly in response to question 3, for purposes of its civil examinations.

Identification of Notice 2004-45 Cases: The IRS identifies cases involving Notice 2004-45 arrangements by examining information from a variety of sources. These sources include:

- A publicly available list of USVI Economic Development Authority beneficiary companies;

- Related information returns filed with the IRS;
- USVI income tax returns requested from the BIR under the exchange of information authorized by the Tax Implementation Agreement between the United States and the USVI.

The IRS also pursues new leads as potentially abusive situations come to light. When it begins investigating a Notice 2004-45 case, the IRS seeks information on the identity of owners of companies involved in the potential tax avoidance arrangements (e.g., by examining USVI partnership returns), which in turn may add to the pool of potential examinations as the IRS identifies other partners and participants.

Identification of Other Cases: The IRS screens requests for the cover-over of net collections of income taxes from individuals who file income tax returns with the BIR as bona fide residents. Section 7654(a) mandates this cover-over.

The USVI cover-over procedures are generally described in the Internal Revenue Manual at 3.15.128.6. The BIR makes the requests. It sends a listing containing basic taxpayer identification information; amounts to be covered over; the first two pages of the USVI income tax return; and, in some cases, amounts to be refunded directly to the taxpayers. An IRS tax analyst screens the requests and looks for certain audit indicators (such as those related to the validity of a taxpayer's USVI residency). As a result of this screening process, the analyst refers the relevant portion of the requests to the IRS Large and Mid-Sized Business (LMSB) operating division for more thorough review and, if necessary, examination.

In addition to screening cover-over requests, the IRS has also identified a small number of other cases that arose from enforcement activity that is generally applicable to all U.S. citizens and resident aliens and coincidentally involved individuals who claimed to be bona fide residents of the USVI.

Ensuring Complete Identification: The IRS believes that the foregoing actions and procedures will identify individuals who have improperly taken advantage of tax incentives the USVI offers. In addition, the cover-over screening process will help ensure the identification of individuals who may have improperly filed income tax returns solely in the USVI. Although it may not be able to ensure 100-percent identification of cases where individuals are taking improper advantage of the filing rules under section 932(c), the IRS, as part of its general obligation to enforce the tax law, is confident that it has done and will continue to do everything it can to identify taxpayers who file solely in the USVI to benefit improperly from tax incentives or otherwise take improper advantage of the filing rules, which are limited to bona fide residents of the USVI who properly file, report, and pay their taxes to the BIR.

Further, future identification efforts will be aided by the enactment of section 937(c), which requires individuals who take the position that they have become or ceased to be residents of a U.S. possession, including the USVI, to file with the IRS new Form 8898, *Statement for Individuals Who Begin or End Bona Fide Residence in a U.S. Possession*. Most importantly, future cases will also be identified through the automatic exchange-of-information program between the IRS and BIR, which was announced in Notice 2007-31 and is discussed in more detail in response to question 12.

10. Please identify the number of IRS employees that are assigned to the work of identifying and examining the cases discussed in the above questions. Please provide a narrative of the IRS efforts in this area since 2004 and anticipated for the next three years. Please discuss the level of cooperation from the Virgin Islands that the IRS and Treasury are receiving.

Although staffing levels may fluctuate at times, currently 30 of the IRS's revenue agents are conducting USVI-related civil examinations. Approximately 51 of the IRS's special agents are working the criminal investigations as discussed in response to question 5. To the extent that these investigations result in recommendations for prosecution by CI, the special agents will send the cases to the Office of Division Counsel/Associate Chief Counsel (Criminal Tax) (CT) for review by CT attorneys before forwarding them to the Department of Justice for prosecution.

In addition, the IRS has established an "Issue Management Team" (IMT) for U.S. possessions issues, drawing from the various Commissioner and Chief Counsel offices with expertise and jurisdiction over issues involved in these examinations. The IMTs help coordinate and focus the IRS's efforts on the important compliance issues that appear in multiple cases.

Following is a brief history of the IRS's efforts:

- 2002 to 2003 – CI discovered EDP-related and other tax-avoidance schemes concerning USVI and began early operations and investigations.

- May 2004 – A meeting took place in St. Croix, Virgin Islands, among BIR, Assistant U.S. Attorney for the USVI, and IRS to discuss emerging issues associated with tax-avoidance arrangements.

- May 2004 – The IRS Service Center instituted new procedures for heightened screening of BIR cover-over requests.

- June 2004 – The Treasury Department and the IRS issued Notice 2004-45.

- June 2004 – A meeting took place in Florida between BIR and the IRS. The IRS and BIR agreed to work together on cases and develop methods to

facilitate examinations and the handling of cases.

- October 2004 – The IRS began civil examinations of USVI-related cases.
- January 2005 – Initial appointments on joint IRS/BIR examinations of Notice 2004-45 cases began.
- February 2005 – The Office of Associate Chief Counsel (International) issued administrative advice to SBSE concerning section 932(c) and the statute of limitations on assessment after reconsidering the position taken in earlier administrative advice. Compare Chief Counsel Advice 200624002 (Feb. 16, 2005) with Field Service Advice 19906031 (Feb. 12, 1999).
- October 2006 – The IRS began collecting Form 8898, first issued in March 2006, identifying individuals who took the position that they became or ceased to be residents of USVI as mandated by section 937(c).
- March and April 2007 – Treasury and the IRS issued Notice 2007-19 and Notice 2007-31, both of which concern the application of the statute-of-limitations and filing rules applicable to U.S. citizens and residents who take the position that they are bona fide residents of the USVI.

As indicated by this history, the IRS has worked with the BIR on the EDP-related cases since the beginning of the project. As to civil examinations, the BIR has fully cooperated to the extent that it has available resources.[4] The BIR revenue agents and case managers participate in joint audits. The BIR has provided exchange of information by copying or allowing access to requested returns filed in the USVI. The U.S. possessions IMT and the BIR hold regularly scheduled meetings and phone conferences to discuss issues related to the cases and examination process. In the criminal area, coordination procedures have generally resulted in cooperation between the BIR and the IRS.

11. Please identify the amount of tax that has been assessed and collected (including interest and penalties or other additions to tax) that would have to be refunded if the Treasury were required to refund all taxes that would have been barred from being assessed and collected if the statute of limitations were changed to run retrospectively based on the filing of a Virgin Islands tax return. Please identify the number of individuals/entities that would benefit from this change. Please identify the number of individuals/entities that would receive benefits of over $100,000 and $1 million from this change. Please identify the number who engaged in listed or reportable transactions since 1984.

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[4] The BIR has approximately 10 revenue agents conducting civil examinations and 2 attorneys.

The amount of tax assessed and collected that would be subject to refund if the Treasury were required to refund amounts that would be barred if the statute of limitations were changed to run retrospectively based on the filing of a USVI income tax return is not readily available. The amount of interest assessed and subject to refund is unavailable. The tax and penalties that have been assessed and collected thus far are from agreed cases where taxpayers have filed delinquent returns. How the legislation requiring a refund of these amounts would be structured or how individuals would claim refunds for such amounts is unclear. Further, how such legislation would impact competent authority cases where taxpayers are seeking or have obtained relief from double taxation is unclear.

The IRS has not yet assessed or collected tax, penalties, or interest from the 12 listed transaction cases identified in response to question 6.

12. I support guidance that provides a balance between encouraging legitimate economic development in the Virgin Islands but at the same time not allowing individuals to improperly avoid U.S. tax. Please discuss your views on how Treasury and IRS guidance has met these two goals.

The Treasury Department and the IRS have issued significant guidance concerning USVI and the four other U.S. possessions over the last three years. The IRS believes that these various items of guidance, both individually and collectively, support and strike a balance between the identified goals of encouraging economic development and taxpayer compliance.

The Treasury Department and the IRS issued Notice 2004-45 to alert taxpayers to promoted positions that were without merit. The Notice described the promotion and provided guidance to taxpayers concerning the applicable tax laws. The Notice also alerted taxpayers that the IRS would be challenging the promoters' positions and that it may impose civil and criminal penalties if warranted.

In April 2005, the Treasury Department and the IRS issued comprehensive temporary and proposed regulations under new section 937. These regulations provided guidance on whether an individual satisfies the requirements to be a bona fide resident of a possession and whether income is from sources (or effectively connected with the conduct of a trade or business) within a possession. The temporary and proposed regulations also provided rules under other Internal Revenue Code provisions that apply to bona fide residents of possessions and persons with income from possession sources.

In January 2006, the regulations concerning residency were finalized. The final regulations provide clear standards for those seeking to become residents of the USVI or another U.S. possession. These standards generally require that a bona fide resident must be present in the possession, maintain a tax home there, and not have a

closer connection to the United States or a foreign country. Consistent with the legislative history, however, the regulations also provide certain exceptions that are intended to account for situations where an individual is outside a possession for legitimate reasons that lack a tax-avoidance purpose.

In response to comments received after the issuance of the final residency regulations, the Treasury Department and the IRS issued an amendment to the final regulations in November 2006 that provided a new alternative to satisfy the presence requirement. To better accommodate the reality that business cycles and other life circumstances may require more time away from a possession in some years than in others, this new alternative allows taxpayers to use a three-year average combined with a lower annual minimum number of days in the possession.

As to the portion of the temporary and proposed regulations relating to possessions source and effectively connected income, the Treasury Department and the IRS issued Notice 2006-76 in August 2006 in response to comments from the USVI. The Notice provides examples involving certain e-commerce transactions to further illustrate the application of the temporary and proposed regulations. These regulations and the additional examples in Notice 2006-76, which the Treasury Department and the IRS are currently working to finalize, provide guidance to facilitate the proper structuring of transactions by taxpayers so that income from sources within a possession or effectively connected with the conduct of a trade or business within the possession is eligible for certain possession-specific exemptions, exclusions, or other tax advantages in the Internal Revenue Code that are designed to spur local autonomy and economic development.

Specific to the USVI, the temporary and proposed regulations issued in April 2005 also contain rules under sections 932 and 934. These rules generally concern the proper determination of U.S. and USVI income tax liability and filing requirements for bona fide residents and individuals with income from sources in the USVI. The temporary and proposed regulations amend the existing regulations under section 934 and provide new regulations to reflect changes to the statutory framework since the Tax Reform Act of 1986. The Treasury Department and the IRS are working to finalize these regulations.

To better coordinate the USVI and U.S. tax systems, Treasury and the IRS issued Notice 2007-19 and Notice 2007-31, both of which concern the application of the statute-of-limitations and filing rules applicable to U.S. citizens and residents who take the position that they are bona fide residents of the USVI. Both Notices provide new interim rules, pending the issuance of regulations under sections 932 and 7654. Consistent with other recent possessions guidance, the Notices provide certainty to taxpayers while at the same time minimizing the potential for abuse.

Under Notice 2007-19, the interim rules generally provide that the statute of limitations will begin to run on the filing of a USVI income tax return by a "covered person," defined as a U.S. citizen or resident alien who (i) takes the position that he or she is a bona fide resident of the USVI, (ii) files an income tax return with the USVI, and (iii) has less than $75,000 of gross income for the taxable year. If such an individual has $75,000 or more of gross income in the taxable year, then that individual is considered a "non-covered person" under the interim rules provided by the Notice and, like any other U.S. taxpayer, must file an income tax return with the IRS to start the running of the statute of limitations for assessment of U.S. tax liability, if any, under section 6501. Because of the exemption from U.S. gross income provided under section 932(c)(4) to bona fide residents of the USVI (if they meet the specified requirements), a return filed by a bona fide resident of the USVI with the IRS should report zero gross income and zero taxable income. The Notice provides that the interim rules apply retrospectively, such that a previously filed USVI income tax return of a covered person is treated as a U.S. return for purposes of section 6501. However, non-covered persons must file a return with the IRS to start the statute of limitations in the United States for a prior year.

The $75,000 threshold provided in the interim rule under Notice 2007-19 is intended to promote the sound administration of the tax system by reducing burden for taxpayers who are relatively unlikely to be engaged in tax-avoidance arrangements. Individuals with higher levels of gross income, particularly income other than from wages, may be more inclined to participate in, or more likely able to pay promoters of, tax shelters. Thus, the interim rules preserved the U.S. filing requirement for such individuals until the IRS could implement an automatic exchange-of-information program with the BIR that provides the IRS with the ability to enforce properly any U.S. tax liabilities of such individuals.

In Notice 2007-31, the Treasury Department and the IRS announced the implementation of an automatic exchange-of-information program between the IRS and BIR. Under this program, the IRS will receive complete copies of income tax returns filed with the BIR by individuals who take the position that they are bona fide USVI residents and qualify for the U.S. exemption in section 932(c)(4). In light of the IRS's new ability to obtain quickly USVI income tax returns on an automatic basis, the Notice also contains a new interim statute-of-limitations rule effective beginning with taxable year 2006. Under the new rule, the U.S. federal statute of limitations for all U.S. citizens and residents claiming to be bona fide residents of the USVI generally will begin with the filing of an income tax return with the BIR so long as such an exchange-of-information program is operative.

Finally, to help resolve any double tax issues that may arise from the application of separate tax systems and that might tend to dampen economic activity in the possessions, the Treasury Department and the IRS issued Revenue Procedure 2006-23. These updated competent authority procedures regarding U.S. possessions provide taxpayers guidance on seeking administrative relief when the IRS and a

possession's tax authority (such as the BIR) take inconsistent positions that may result in double tax.

Changing the statute-of-limitations rules to run retrospectively from the filing of a USVI rather than a U.S. income tax return would have a significant effect on examinations and could allow a significant number of individuals currently under examination to avoid paying income tax for years prior to 2004.

I hope this information responds to the questions you raised. If you have any further questions, please contact me or call Deputy Chief Counsel (Technical) Clarissa Potter at (202) 622-3300.

Sincerely,

Kathy K. Petronchak

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