DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
OFFICE OF CHIEF COUNSEL
ASSOCIATE CHIEF COUNSEL GENERAL LEGAL SERVICES
ETHICS AND GENERAL GOVERNMENT LAW BRANCH (CC:GLS)
1111 CONSTITUTION AVENUE, N.W. ROOM 6404
WASHINGTON, D.C. 20224
Telephone: (202) 927-0900
Facsimile: (202) 927-0912

CC:GLS:CButler
GLS-139043-11
HQ-1527-11

April 23, 2012

MEMORANDUM FOR STEPHEN A. WHITLOCK
DIRECTOR, WHISTLEBLOWER OFFICE

FROM Mark S. Kaizen /s/
Associate Chief Counsel, General Legal Services

SUBJECT Scope of Awards Payable Under I.R.C. § 7623

This memorandum addresses whether I.R.C. § 7623 authorizes payment of whistleblower awards based on information related to violations of laws outside Title 26. For the reasons discussed below, violations of non-tax laws, such as the provisions of Titles 18 and 31 for which the IRS has delegated authority, cannot form the basis of an award under section 7623.

I. BACKGROUND

A. IRS Statutory And Delegated Authority

The IRS has general statutory authority to administer and enforce internal revenue laws. *See* I.R.C. § 7803(a)(2)(A) ("The Commissioner [of the IRS] shall have such duties and powers as the Secretary [of the Treasury] may prescribe, including the power to – administer, manage, conduct, direct, and supervise the execution and application of the internal revenue laws or related statutes and tax conventions to which the United States is a party."); *see also Commissioner of Internal Revenue v. Engle*, 464 U.S. 206, 226-27 (1984) ("The Commissioner has broad authority to prescribe all 'needful rules and regulations' for the enforcement of the tax laws, and it is up to him to choose the method that best implements the statutory mandate.") (citing I.R.C. § 7805(a)). In addition, the Secretary of the Treasury has delegated to the IRS specific responsibilities associated with implementing the Bank Secrecy Act (BSA), 31 U.S.C. §§ 5311-5332. They include investigating criminal violations of the Act, granting exemptions from BSA reporting requirements, disseminating copies of reports, and ensuring that financial institutions not examined by bank supervisory agencies comply with BSA requirements.

See Treas. Dir. 15-41 (1992). The Secretary also has delegated to the IRS authority under 18 USC §§ 1956 and 1957 to investigate money laundering violations where the underlying conduct is subject to investigation under Title 26 or the BSA, and has delegated related seizure and forfeiture authority to the IRS. *See* Treas. Dir. 15-42 (2002).

B. IRS Authority Under Section 7623

As a Code provision, I.R.C. § 7623 allows the IRS, through a grant of authority to the Secretary, to authorize payment of awards to individuals who bring to the agency's attention information that leads to the detection of tax underpayments or violations of internal revenue laws. This statute derives from legislation that Congress enacted in 1867. The original law authorized the Secretary "to pay such sums as he deems necessary for detecting and bringing to trial and punishment persons guilty of violating the internal revenue laws or conniving at the same." Internal Revenue Service, *FY 2009 Report to the Congress on the Use of Section 7623*, at 2 (July 21, 2011) (quoting 1867 legislation). The law's substance remained unchanged until 1996. *See id.* In that year, Congress amended the law to (1) add "detecting underpayments of tax" as a basis for making an award and (2) change the source of funds for award payments from agency appropriations to proceeds of amounts collected from the taxpayer (other than interest). Taxpayer Bill of Rights 2, Pub. L. No. 104-168, § 1209(a), 110 Stat. 1452, 1473 (1996). As amended in 1996, section 7623 stated the following:

> The Secretary, under regulations prescribed by the Secretary, is authorized to pay such sums as he deems necessary for—
>
> (1) detecting underpayments of tax, and
> (2) detecting and bringing to trial and punishment persons guilty of violating the internal revenue laws or conniving at the same,
>
> in cases where such expenses are not otherwise provided for by law. Any amount payable under the preceding sentence shall be paid from the proceeds of amounts (other than interest) collected by reason of the information provided, and any amount so collected shall be available for such payments.

Pub. L. No. 104-168, § 1209(a).

Congress again amended the law in 2006 by adding subsection 7623(b). *See* Tax Relief and Health Care Act of 2006, Pub. L. No. 109-432, § 406, 120 Stat. 2922, 2958 (2006). This subsection directs the Secretary to pay awards to whistleblowers in cases where the IRS proceeds with an administrative or judicial action based on the whistleblower's information and recovers funds as a result of the action or through

settlement.[1] *See* I.R.C. § 7623(b)(1). In such cases, the whistleblower should receive as an award "at least 15 percent but not more than 30 percent of the collected proceeds (including penalties, interest, additions to tax, and additional amounts)."[2] *Id.*

Given that the statute does not define the term "internal revenue laws," you have asked whether section 7623 allows for payment of awards for information related to violations of non-Title 26 laws for which the Secretary has given the IRS enforcement authority, such as the provisions of Titles 18 and 31 discussed above. In addition, considering the absence of any definition of "additional amounts" in section 7623, you have asked whether, if the statute does authorize the IRS to pay awards based on either Title 18 or Title 31 violations, amounts collected as a result of such violations would constitute "additional amounts" for purposes of computing collected proceeds under the statute.

II. DISCUSSION

Whether Congress intended for I.R.C. § 7623 to authorize awards for detection of non-Title 26 violations turns on the statute's language, purpose, and history. *See McKenna v. First Horizon Home Loan Corp*., 475 F.3d 418, 423 (1st Cir. 2007) ("In determining congressional intent, we employ the traditional tools of statutory construction, including a consideration of the language, structure, purpose, and history of the statute.") (citation and internal quotation marks omitted); *Natural Res. Defense Council, Inc. v. Environmental Protection Agency*, 907 F.2d 1146, 1153 (D.C. Cir. 1990) ("In determining the intent of Congress, we must look to the particular statutory language at issue, as well as the language and design of the statute as a whole, and we must employ traditional tools of statutory construction, including, where appropriate, legislative history.") (citation and internal quotation marks omitted); *Renkemeyer, Campbell & Weaver, LLP v. Commissioner*, 136 T.C. 137, 149 (2011) ("[W]e apply accepted principles of statutory construction to ascertain Congress' intent."). A fundamental rule of statutory construction is that, unless otherwise defined, terms should be given their ordinary meaning. *See Renkemeyer*, 136 T.C. at 149 (citing *Perrin v. United States*, 444 U.S. 37, 42 (1979)). If the statute is ambiguous, the analysis should turn to legislative history. *See Renkemeyer*, 136 T.C. at 149 (citing *Burlington N. R.R. v. Oklahoma Tax Comm'n*, 481 U.S. 454, 461 (1987)).

As explained below, the plain language of section 7623, examined in the context of the entire Code, and its legislative history indicate that Congress intended the statute to authorize payment of whistleblower awards only with respect to violations of the tax laws under Title 26. Moreover, section 7623 defines the scope of "collected proceeds"

---

[1] This subsection applies to actions (1) against any taxpayer, but in the case of an individual, only if the individual's income exceeds $200,000, and (2) if the amount in dispute exceeds $2 million. *See* I.R.C. § 7623(b)(5).

[2] The 2006 amendment also eliminated the exclusion of interest from amounts available to pay an award. Pub. L. No. 109-432, § 406(a)(1)(C).

in a manner consistent with the Code's definition of "tax." Accordingly, amounts that the Government collects as a result of non-tax violations, such as those under Title 31, should not be included as collected proceeds under section 7623. In addition, amounts collected as penalties or criminal fines under Titles 31 or 18 are not "available" to the Secretary for payment of whistleblower awards, and for this reason as well, should not be included as collected proceeds. Finally, Title 31 separately provides for informant awards based on information leading to recoveries for BSA violations and to property seized under Title 18. Based on this additional independent reason, such recoveries cannot serve as the basis of an award under section 7623.

A. Section 7623 Relates Solely To Violations Of Federal Tax Laws.

As stated above, section 7623 provides two bases on which the IRS may make a whistleblower award: information leading to detection of (1) "underpayments of tax" or (2) violations of "internal revenue laws." I.R.C. § 7623(a). Both "underpayments of tax" and violations of "internal revenue laws" refer to violations of tax laws and thus do not pertain to violations of Titles 18 or 31.

By its plain language, the term "underpayments of tax" relates solely to tax laws. Such laws in the federal realm comprise Title 26. *See* Internal Revenue Manual 4.10.12.1.2(3) (Nov. 11, 2007) ("Title 26 of the United States Code, reproduced separately as the Internal Revenue Code (Code), contains most of the Federal tax law."); Internal Revenue Service, *Tax Code, Regulations and Official Guidance*, available at http://www.irs.gov/ taxpros/article/0,,id=98137,00.html#26cfr (Title 26, the Treasury Tax Regulations, and other official IRS guidance, including revenue rulings, revenue procedures, notices, and announcements, form the corpus of federal tax law).

Moreover, the legislative history behind section 7623 makes clear that Congress intended the statute to apply solely to violations of tax laws. In 1996, for instance, Congress added "detecting underpayments of tax" as a basis for making whistleblower awards to *clarify* that information pertaining to civil, as well as criminal, violations can form the basis of an award. *See* H.R. Rep. No. 104-506, at 51 (1996) ("The bill [amending I.R.C. § 7623] clarifies that rewards may be paid for information relating to civil violations, as well as criminal violations."); H.R. Rep. No. 104-350, at 1400 (1995 (Conf. Rep.) ("The House bill [amending I.R.C. § 7623] clarifies that rewards may be paid for information relating to civil violations, as well as criminal violations."). Because Congress used the specific language "underpayments of *tax*" to make this clarification, when these congressional reports refer to "violations," they undoubtedly mean *tax* violations. It follows that Congress had intended the statute's original language regarding violations of "internal revenue laws" to refer to violations (both civil and criminal) of *tax* laws.

In fact, the reports pertaining to the 2006 amendments to section 7623 unequivocally state that Congress intended the statute to apply to violations of tax laws. *See*, *e.g.*, S. Rep. No. 109-336, at 31 (2006) ("The provision [amending I.R.C. § 7623] reforms the

reward program for individuals who provide information regarding *violations of the tax laws* to the Secretary.") (emphasis added); H.R. Rep. No. 109-203, at 1166 (2006) ("The Senate amendment reforms the reward program for individuals who provide information regarding violations of the tax laws to the Secretary."); Joint Comm. on Taxation, 109th Cong., *General Explanation of Tax Legislation Enacted in the 109th Congress* at 745 (2007) ("The provision [amending I.R.C. § 7623] reforms the reward program for individuals who provide information regarding violations of the tax laws to the Secretary.").

In addition, while neither section 7623 nor any other Code provision defines the term "internal revenue laws," use of the term throughout the Code, in court opinions, and in other relevant sources indicates that "internal revenue laws" refers to tax laws under Title 26 or its predecessors. Section 6301 of the Code, for instance, states that the "Secretary shall collect the taxes imposed by the *internal revenue laws*." I.R.C. § 6301 (emphasis added). Here, "internal revenue laws" obviously refers to laws imposing taxes, *i.e.*, those under Title 26. Likewise, section 6065 of the Code provides that "any return, declaration, statement, or other document required to be made under any provision of the *internal revenue laws* or regulations shall contain or be verified by a written declaration that it is made under the penalties of perjury." I.R.C. § 6065 (emphasis added). The terms "return, declaration, statement, or other document" refer to documents related to tax obligations, *see* I.R.C. § 6001, which suggests that "internal revenue laws" in section 6065 refers to tax laws as well. The same rationale applies with respect to section 1400S of the Code, which allows the Secretary to "make such adjustments in the application of the *internal revenue laws* as may be necessary to ensure that taxpayers do not lose any deduction or credit or experience a change of filing status by reason of temporary relocations by reason of Hurricane Katrina, Hurricane Rita, or Hurricane Wilma." I.R.C. § 1400S(e) (emphasis added). On its face, the term "internal revenue laws" here refers to laws pertaining to tax deductions, tax credits, and tax filing status, all of which fall under provisions of Title 26. Similarly, section 7212 of the Code, titled "Attempts to interfere with administration of internal revenue laws," prohibits any attempt to interfere with employees "acting in an official capacity *under this title*." I.R.C. § 7212(a) (emphasis added). Given that section 7212 is part of Title 26, "under this title" means under Title 26. Accordingly, "administration of internal revenue laws" in the statute's title necessarily means administration of Title 26.

To be consistent with how these Code provisions treat the term "internal revenue laws," the term in I.R.C. § 7623(a) should be interpreted as referring to tax laws under Title 26. *See Commissioner v. Lundy*, 516 U.S. 235, 250 (1996) (in case interpreting the term "claim" under Title 26, applying "rule of statutory construction that identical words used in different parts of the same act are intended to have the same meaning"); *see also Pleasanton Gravel Co. v. Commissioner*, 85 T.C. 839, 851 (1985) ("It is a well-accepted rule of statutory construction that the various sections of the [Internal Revenue] Code should be construed so that one section will explain and support and not defeat or destroy another section.").

Other parts of the U.S. Code support this interpretation, making clear that "internal revenue laws" refers to Title 26 and, therefore, to federal tax laws. The statute on federal rulemaking procedures, for instance, mentions the "internal revenue laws of the United States," and explains that "[t]he internal revenue laws of the United States, referred to in subsec. (a), are classified generally to Title 26, Internal Revenue Code." 5 U.S.C. § 603 note. Similarly, the law applying United States laws (with the exception of the "internal revenue laws") to Puerto Rico states that "[t]he internal revenue laws of the United States, referred to in text, are classified generally to Title 26, Internal Revenue Code." 48 U.S.C. 734 note; *see also* 48 U.S.C. § 1421h note ("The internal-revenue laws of the United States, referred to in text, are classified generally to Title 26, Internal Revenue Code."); 49 U.S.C. § 80305 note ("The internal revenue laws, referred to in text, are classified generally to Title 26, Internal Revenue Code."); 50 U.S.C. App. § 526 note ("The internal revenue laws, referred to in text, are classified generally to Title 26, 26 U.S.C.A. § 1 *et seq.*").

Courts and other authority also have indicated that the term "internal revenue laws" refers to tax laws under Title 26 or its predecessors. *See*, *e.g.*, *Van Horn v. Commissioner*, 42 T.C.M. (CCH) 1261 (1981) (equating "enforcement of the Federal income tax laws" with "administration of the Internal Revenue laws"); *Poppell v. United States*, Civ. Action No. 868, 1970 WL 316, at *5 (S.D. Ga. Mar. 21, 1970) (referring to "tax laws of this country" as "Internal Revenue Laws"); *United States v. One 1957 Ford Tudor Fairlane Victoria*, 161 F. Supp. 232, 232-33 (D. Md. 1958) (including specific tax laws under umbrella of "internal revenue laws"); *see also*, *e.g.*, Exec. Order No. 10289, 16 Fed. Reg. 9499 (Sept. 17, 1951) (as amended) (using term "internal revenue laws" to refer to laws that impose taxes).

Accordingly, on the face of the statute, and given its legislative history and the meaning of its terms under Title 26 and other authority, the two bases on which section 7623 allows the IRS to make whistleblower awards relate solely to violations of tax laws under Title 26. The statute thus does not authorize whistleblower awards based on the detection of violations of non-tax laws, such as those under Titles 18 and 31 over which the IRS has delegated authority.

B. "Collected Proceeds" Under Section 7623 Do Not Include Amounts Unrelated to Tax Liability.

Section 7623 states that any award for information related to underpayments of tax or violations of internal revenue laws "shall be paid from the proceeds of amounts collected by reason of the information provided." I.R.C. § 7623(a). The statute then explains that such "collected proceeds" from which an award should be paid include "penalties, interest, additions to tax, and additional amounts." I.R.C. § 7623(b)(1). These "penalties," "additions to tax," and "additional amounts" do not encompass amounts unrelated to tax liability, such as penalties under Title 31.

As an initial matter, given that, as explained above, the IRS may pay awards under section 7623 only for information leading to detection of violations of tax laws, it follows that amounts collected based on such information should relate solely to tax liability as well. Apart from that, the terms "penalties," "additions to tax," and "additional amounts" have a specific meaning under the Code that does not extend beyond the definition of "tax." Section 6665 of the Code states that "any reference in this title to 'tax' imposed by this title shall be deemed also to refer to the additions to the tax, additional amounts, and penalties provided by [chapter 68]." I.R.C. § 6665(a)(2); *see also* I.R.C. § 6671(a) ("The penalties and liabilities provided by this subchapter shall be paid upon notice and demand by the Secretary, and shall be assessed and collected in the same manner as taxes."). Neither section 7623 nor its legislative history contains any indication that Congress intended the terms "penalties," "additions to tax," and "additional amounts" to have a meaning different than that established in section 6665 as applicable to the entire Code. Accordingly, these terms refer to amounts assessed under chapter 68 that increase the total amount of *tax* liability. *See Commissioner v. Lundy*, 516 U.S. 235, 250 (1996) (absent evidence of contrary congressional intent, "identical words used in different parts" of the Internal Revenue Code should have "the same meaning").

"Penalties," "additions to tax," and "additional amounts" under section 7623 thus cannot include penalties or recoveries that the IRS can assess or make under non-Code provisions, such as Title 18 or Title 31, because such penalties or recoveries are not assessed under chapter 68 of the Code. The Tax Court has stated as much with respect to penalties that the IRS imposes under the BSA, 31 U.S.C. § 5321, for failure to file foreign bank account reports (FBARs). In *Williams v. Commissioner*, 131 T.C. 54 (2008), the Tax Court held that it lacked jurisdiction to consider challenges to FBAR penalties. The court stated that, pursuant to I.R.C. § 7442, it had jurisdiction only as conferred by Title 26 and predecessor "internal revenue statutes." *Id.* at 57. Neither the deficiency procedures, which form the basis of most of the Tax Court's jurisdiction, nor any other jurisdictional grounding in Title 26 extended to FBAR penalties in Title 31. *Id.* at 57-58. Moreover, while I.R.C. § 6665 had expanded the definition of "tax" to include additions to tax, additional amounts, and penalties, the Tax Court was "aware of no statute that would expand 'tax' as used in the lien and levy statutes in Title 26 to include the FBAR penalty of Title 31." *Id.* at 58 n.6.

Accordingly, penalties, additions to tax, and additional amounts included as "collected proceeds" under section 7623(b) do not encompass amounts associated with non-Title 26 violations. Amounts recovered for violations of Titles 18 or 31 thus may not be considered for purposes of computing an award under section 7623.[3]

[3] The IRS assesses and collects in the same manner as tax any criminal restitution ordered, pursuant to 18 U.S.C. § 3556, for failure to pay tax under Title 26. *See* I.R.C. § 6201(a)(4). Given that the IRS collects this specific type of restitution as tax, any such restitution should be included as "collected proceeds" for purposes of section 7623, even though ordered pursuant to Title 18.

C. Penalties And Fines Under Titles 31 And 18 Are Not "Available" For Payment Of Whistleblower Awards.

Section 7623 provides that the Secretary must pay whistleblower awards out of "proceeds of amounts collected" based on the whistleblower's information and that those amounts "shall be *available*" for such payment. I.R.C. § 7623(a) (emphasis added). Amounts paid as civil penalties under Title 31, or as criminal fines under Titles 31 or 18, are not "available" to the Secretary for payment of whistleblower awards. For this reason as well, therefore, such amounts should not be included as "collected proceeds" under section 7623.

31 U.S.C. § 5321 contains civil penalty provisions for any violation of the BSA, its implementing regulations, or any geographic targeting or special measures order issued under them, as well as penalties for evading BSA reporting or recordkeeping requirements. The statute does not specify any particular fund or account into which amounts paid as penalties should be deposited. Accordingly, pursuant to 31 U.S.C. § 3302(b) (the "miscellaneous receipts" statute), amounts paid as BSA penalties should be deposited into Treasury's General Fund. *See* GAO, 2 *Principles of Federal Appropriations Law* 6-166 – 6-175 (3d ed. 2006) (agencies must deposit into the General Fund of the Treasury any funds received from sources outside the agency absent statutory authority to retain the funds or deposit them elsewhere). Once these amounts go into the General Fund, only a specific appropriation can get them out. *See id.* at 6-168 – 6-169.

No appropriation exists that authorizes taking money from the General Fund for payment of whistleblower awards under I.R.C. § 7623. Rather, by mandating that "proceeds of amounts collected" based on a whistleblower's information "shall be available" for payment of whistleblower awards, Congress has created a permanent appropriation funded with collected proceeds. *See* 31 U.S.C. §§ 701(2), 1101(2) (an appropriation refers to any provision of law, not necessarily in an annual appropriations act, authorizing an obligation or expenditure of funds for a given purpose); *see also Matter of: Permanent Appropriation of Mobile Home Inspection Fees*, 59 Comp. Gen. 215, 217 (1980) (statute that authorizes the deposit of fees into a special fund for a particular purpose constitutes a permanent, indefinite appropriation). Because Congress has specified "amounts collected" as the funding source, or appropriation, for IRS whistleblower awards, only funds from that source may go towards award payments. *See* GAO, 2 *Principles of Federal Appropriations Law* 6-235 (3d ed. 2006) (all expenditures for a particular purpose must come from the appropriation for that specific purpose). Accordingly, money from Treasury's General Fund, including amounts paid as penalties under 31 U.S.C. § 5321 and deposited into the Fund, may not go toward payment of whistleblower awards. Such amounts are therefore not "available" for award payments under section 7623 and should not be included as "collected proceeds."

Likewise, criminal fines under Titles 31 and 18 are not "available" for payment of IRS whistleblower awards. 31 U.S.C. § 5322 and related regulations, as well as 18 U.S.C. § 1960, impose criminal fines for BSA violations. 18 USC §§ 1956 and 1957, which the IRS enforces, also provide for criminal fines, while 18 U.S.C. § 3571 provides generally for criminal fines for those guilty of federal offenses. Under the Victims of Crimes Act, Congress requires that all criminal fines, with certain exceptions, be paid into the Crime Victims Fund (CVF). *See* 42 U.S.C. § 10601(b)(1). Congress did not include fines arising under Titles 18 or 31 among the specific exceptions to this requirement. *See id.* In addition, nothing in the Victims of Crimes Act, Title 18, or Title 31 indicates that Congress intended to exclude fines under Titles 18 or 31 from this requirement. Accordingly, such fines must be deposited into the CVF. *See generally U.S. v. Smith*, 499 U.S. 160, 167 (1991) (where Congress explicitly enumerates certain exceptions to a statutory requirement, additional exceptions should not be inferred absent evidence of legislative intent).

Congress has listed specific purposes for the CVF. *See* 42 U.S.C. § 10601(c) ("Sums deposited in the [CVF] shall remain in the [CVF] and be available for expenditure under this chapter for grants under this chapter without fiscal year limitation."). Congress did not include paying whistleblower awards among these purposes. *See* 42 U.S.C. §§ 10602-10603. Accordingly, the funds in the CVF, which constitute "appropriations" for a specific purpose, *see generally* 31 U.S.C. §§ 701(2) and 1101(2), may not be used to pay whistleblower awards. *See* 31 U.S.C. § 1301(a) ("Appropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law."); GAO, 1 *Principles of Federal Appropriations Law* 4-11 (3d ed. 2004). Amounts paid as criminal fines under Titles 31 or 18, which are deposited into the CVF, are thus not "available" for payment of whistleblower awards under section 7623, and also should not be included as "collected proceeds."[4]

D. Awards For Information Related To Violations Of Titles 31 And 18 Are "Otherwise Provided By Law."

Title 31 contains its own provisions for whistleblower awards based on information leading to recoveries for BSA violations or property seized under Title 18. For this additional independent reason, such recoveries cannot form the basis of an award under section 7623.

The IRS whistleblower statute authorizes the Secretary "to pay such sums as he deems necessary for" detecting underpayments of tax or violations of internal revenue laws, but only "in cases where such expenses are not otherwise provided for by law." I.R.C. § 7623(a). Accordingly, if another statute authorizes payment of awards for information

[4] Because criminal restitution ordered pursuant to 18 U.S.C. § 3556 goes to the IRS, as opposed to the CVF or Treasury General Fund, amounts paid as such restitution are "available" to the IRS for payment of whistleblower awards.

related to certain types of violations, awards with respect to those violations would not be available under section 7623.

Under Title 31, "[t]he Secretary may pay a reward to an individual who provides original information which leads to a recovery of a criminal fine, civil penalty, or forfeiture, which exceeds $50,000, for a violation of [chapter 53 of Title 31.]" 31 U.S.C. § 5323(a). Chapter 53 includes the BSA provisions for which the IRS has delegated authority. *See* Treas. Dir. 15-41 (1992). In addition, Title 31 establishes the "Department of the Treasury Forfeiture Fund." *See* 31 U.S.C. § 9703(a). The Fund is available to the Secretary, at his discretion, for payment of awards for information leading to a civil or criminal forfeiture involving a Treasury law enforcement organization, and for purchases of evidence or information regarding a violation of 18 U.S.C. §§ 1956 or 1957, for which the IRS has delegated authority, or violations that may subject property to forfeiture under 18 U.S.C. §§ 981 or 982. *See* 31 U.S.C. § 9703(a)(2)(A), (B).

Title 31 thus provides for payment of awards for information pertaining to violations of the Title 31 provisions, as well as the Title 18 provisions involving forfeiture, for which the IRS has delegated authority. In addition, Title 31 allows for "purchase" of information pertaining to violations of the Title 18 provisions involving money laundering for which the IRS has delegated authority. Accordingly, even if the Titles 31 and 18 provisions under the IRS's authority could be considered "internal revenue laws" under I.R.C. § 7623 (which they cannot), Title 31 already provides for payment of sums for information related to violations of these laws. Because expenses for such payments are "otherwise provided by law," section 7623 does not provide a basis for awards pertaining to these Title 31 and Title 18 violations.

III. CONCLUSION

Based on each of the reasons discussed above, amounts recovered for violations of non-tax laws may not be considered for purposes of computing an award under section 7623. Information that pertains to Title 18 or Title 31 violations but nonetheless leads to recovered amounts for a Title 26 violation, however, may provide the basis of an award under section 7623. Nothing in section 7623 precludes the IRS from paying an award in situations where the information provided relates to either a Title 18 or Title 31 violation, but the IRS's investigation based on that information leads to detection of violations of tax laws. In such circumstances, the IRS may pay an award so long as, based on the information provided, the IRS recovers proceeds directly associated with a violation of tax laws. If, on the other hand, the IRS receives information pertaining to a Title 26 violation that leads not to a recovery under Title 26, but to a recovery for violations of Titles 18 or 31, then the IRS may not pay an award under section 7623. The IRS may pay awards under section 7623, based on a whistleblower's information, only if it recovers amounts related to violations of tax laws.

If you have any questions, or if our office can be of further assistance, please contact Chuck Butler at (202) 927-0828.