



OFFICE OF
CHIEF COUNSEL

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

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INTERNAL REVENUE SERVICE NATIONAL OFFICE CHIEF COUNSEL ADVICE

MEMORANDUM FOR JAMES E. KEETON, JR.
DISTRICT COUNSEL CC:SER:KYT:NAS

FROM: David L. Fish
Chief, Branch 4 (Disclosure Litigation) CC:EL:D

SUBJECT: Fedstate Memorandum of Understanding (MOU) Between
Kentucky-Tennessee Housing Authority

This office has reviewed the proposed MOU between Kentucky-Tennessee District and Tennessee Housing Authority which was attached to your December 4, 1998 memorandum to the Special Counsel (Modernization and Strategic Planning). Our comments/suggestions follow below.

Paragraph six (6) indicates that the IRS will deny tax credits if an allocation for the credit was obtained with false information. To the extent that the IRS does not tell the Tennessee Housing Authority when or why the IRS denies tax credits, this paragraph presents no disclosure issue. We understand that the only disclosure that is being authorized is the initial disclosure addressed in paragraph 4 after the I.R.C. § 6103(c) consent (Form 8821, "Tax Information Authorization") is obtained. If the IRS intends to disclose any information to the Tennessee Housing Authority when tax credits are denied, including the fact of denial, then the language in paragraph six needs to be changed and the disclosure authority reconsidered.

With regard to paragraph eight (8), the IRS takes the position that there are no redisclosure restrictions on recipients of tax information pursuant to a section 6103 consent. Accordingly, there would be no section 6103 mechanism for enforcing the Tennessee Housing Authority's redisclosure of this information.

If you have any further questions, please call 202-622-4570.