



PRIVACY, GOVERNMENTAL
LIAISON AND DISCLOSURE

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

TAXPAYER EXHIBIT
B3
June 23, 2015
Robert Carpio and Virginia Carpio
793495

SEP 23 REC'D

September 19, 2013

STATE BOARD OF EQUALIZATION



Ernest Mattison, Jr.



Appeal Name: Robert Carpio; Virginia Carpio

Case ID: 793495 ITEM #: B3

Date: 6/23/15 Exhibit No: 6.11

TP FTB DEPT PUBLIC COMMENT

Dear Ernest Mattison, Jr.:

I am responding to your Freedom of Information Act (FOIA) request dated August 1, 2013 that we received on August 5, 2013 on behalf of your clients Robert & Virginia Carpio.

You asked for copies of records pertaining to the final 1040 Audit Appeal Resolution.

Of the one thousand five hundred and ninety pages located in response to your request, I am enclosing one thousand four hundred and ninety-two pages on CD. I am withholding fifty-four pages in part and ninety-eight pages in full for the following reasons:

- Some documents have been edited in full and others in part since they contain tax information of other taxpayers and tax periods not covered by your power of attorney. FOIA exemption (b)(3) requires us to withhold information that is specifically exempted from disclosure by another law. The law supporting this exemption is Internal Revenue Code section 6103(a).
- I deleted the Discriminant Information Function (DIF) score from the enclosed records. Release of the DIF score would seriously impair IRS assessment, collection, and enforcement proceedings. FOIA exemption (b)(3), supported by Internal Revenue Code section 6103 (b)(2) and (e)(7) exempts this information from release. Disclosure of this information would also reveal law enforcement techniques, procedures and guidelines protected by FOIA exemption (b)(7)(E).
- Twenty-four documents have been edited in full pursuant to FOIA exemption (b)(7)(C) which exempts from disclosure personal information in law enforcement records that if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.
- I removed information that is outside the scope of your request from the enclosed documents.

- I am withholding six pages in full pursuant to FOIA exemption (b)(5). This portion of FOIA exempts from disclosure inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency. There are three primary privileges covered by this exemption:
 - The deliberative process privilege protects documents that reflect the pre-decisional opinions and deliberations that play a direct part in the process of making recommendations on legal or policy matters.
 - The attorney work product privilege protects documents prepared by an attorney or other Service employee during litigation or in reasonable contemplation of litigation, and
 - The attorney-client privilege protects confidential communications between an attorney and a client relating to a legal matter for which the client has sought professional advice.
- Some documents have been edited in part and others in full pursuant to FOIA exemption (b)(7)(A). This section of the FOIA exempts from disclosure records or information compiled for law enforcement purposes, but only to the extent that production of such records could interfere with enforcement proceedings. Disclosure of this information is also exempt under FOIA subsection (b)(3) supported by Internal Revenue Code section IRC Section 6103(e)(7), because release would impair federal tax administration.

The redacted portions of each page are marked by the applicable FOIA exemptions. This constitutes a partial denial of your request. I have enclosed Notice 393 explaining your appeal rights.

The fee for copying the released documents is \$44.76. Please send your check or money order payable to the Treasury of the United States with the enclosed payment stub. We must receive your payment within 35 days from date of this letter. Fees paid are reimbursement for services performed and are not refundable. If you fail to pay the fees, your name and your client's name will be added to the Freedom of Information Act Non-Payment list, and no future requests will be processed until all fees are paid in full.

The enclosed CD contains your documents and is encrypted. The password to open the files is being mailed separately.

The redacted portions of each page are marked by the applicable FOIA exemptions. This constitutes a partial denial of your request. I have enclosed Notice 393 explaining your appeal rights.

If you have any questions please call Senior Disclosure Specialist C. Dorsey ID # 0228563, at 904-665-1174 or write to: Internal Revenue Service, Disclosure Scanning Operation – Stop 93A, PO Box 621506, Atlanta, GA 30362. Please refer to case number F13218-0002.

Sincerely,



Paula M Curren
Disclosure Manager
Disclosure Office 07

Enclosures
Responsive Records on CD
Notice 393
Fee Payment Stub

Ernest H. Mattison, Jr., CPA

222 E. Olive Ave. Suite #3
Redlands, CA 92373
(909) 307-1100
Fax: 307-1147

FAX TRANSMISSION COVER SHEET

Date: Friday, November 15, 2013
To: **Ms. C. Dorsey, Senior Disclosure Specialist**
Disclosure Scanning Operation
Internal Revenue Service, Atlanta, GA
Fax: (904) 665-1809
Re: **Robert & Virginia Carpio**
SSN [REDACTED] (Primary)
Tax Year Ended: 12/31/2003
FOIA - Supplementary Request
Sender: Ernest H. Mattison, Jr., CPA

YOU SHOULD RECEIVE 7 PAGES, INCLUDING THIS FAX COVER SHEET. IF THERE ARE ANY TRANSMISSION PROBLEMS, PLEASE CALL (909) 307-1100

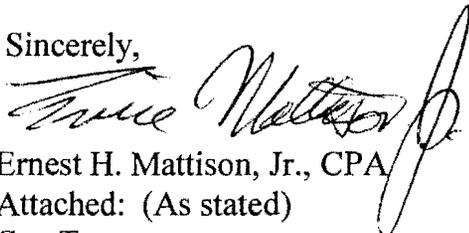
Dear Ms. Dorsey:

Let me thank you again, in the taxpayers' behalf, for your kind assistance earlier this afternoon regarding the above matter. As you requested, I have attached copies of the pertinent pages of my earlier request dated 8/1/2013 for your reference purposes. And as you suggested, the following restatement of the document most sought by my earlier FOIA Request follows.

A copy of the earliest IRS letter or communication to the California Franchise Tax Board advising of the Tax Adjustment changes following the agreement of the parties before the Riverside, CA Office of Appeals, as confirmed by IRS Appeals Officer letter to me dated 4/2/2009 (copy attached).

Of course, any further documentation or clarification that might further assist in this request will be promptly provided. Your assistance is, and has been most appreciated.

Sincerely,



Ernest H. Mattison, Jr., CPA

Attached: (As stated)

Cc: Taxpayer

Ernest H. Mattison, Jr., CPA
222 East Olive Avenue, Suite 3
Redlands, CA 92373
(909) 307-1100 Fax: (909) 307-1147

August 1, 2013

Internal Revenue Service
Disclosure Scanning
Operation – Stop 93A
Post Office Box 621506
Atlanta GA 30362-3006

RE: Carpio, Robert & Virginia
SSN [REDACTED] (Primary)
FOIA Request
2003 Form 1040 IRS Appeal Resolution – Form 870 (Agreement)
Date of “shared information” with California’s Franchise Tax Board

Dear Disclosure Manager:

This request is being made under the **Freedom of Information Act (FOIA)** by the undersigned as the above taxpayers’ authorized Power of Attorney. Accordingly, we now respectfully request copies of records pertaining to the final 1040 Audit Appeal Resolution which occurred **on or about 3/20/2009** at the Riverside, CA IRS Office of Appeals. (Please see enclosed copy of related Form 870 executed by the taxpayers on that date.) More specifically, the record(s) sought regarding the above referenced matter are as follows.

1. Copies of Administrative Staff manual sections and related staff instructions regarding procedural guidelines for timing of reporting to the California Franchise Tax Board of any tax return “changes” or “tax adjustments” in effect 3/20/2009.
2. Copy of any record indicating the date the above tax adjustments were formally “assessed” by the IRS pursuant to the enclosed Form 870 Waiver resolution.
3. Any record or records indicating the date these tax adjustments were forwarded or transmitted to the California Franchise Tax Board, the state taxing agency to which the above taxpayers were subject for state income tax purposes.
4. Copies of the actual information that was transmitted to the California Franchise Tax Board to satisfy the notification of that agency by the IRS of the tax changes.
5. Regardless of the form this notification took at the time it was transmitted (e.g. data tape), we now respectfully request it be reproduced in typed or printed paper format for our review if possible.)

My authority to request and receive this information from you is established and represented by the enclosed copies of both my Power of Attorney (Form 2848) and my driver's license.

Please send the requested document copies to the above captioned address, noting my telephone number of (909) 307-1100, should there be a need to contact me to review any aspect of this request.

I will pay the fees associated with retrieving and copying the records. However, please inform me in advance if it appears that the charges will exceed \$200.

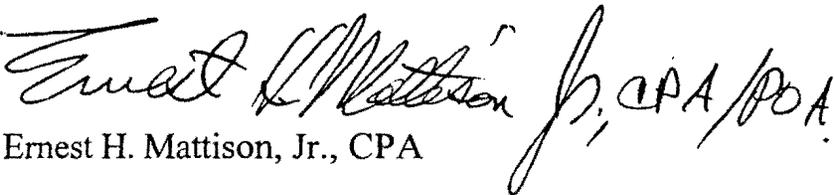
Also, the taxpayers have asked that I request you consider this request on an **"expedited processing"** basis. The **compelling need** for same is based upon the fact that the California Franchise Tax Board requires this further clarification within the next 30-60 days or a final decision will be rendered on the taxpayers' considerable additional tax liability without the benefit of an absolute determination that they were liable under the California Tax Code. Your consideration of this additional request is greatly appreciated.

I believe this request category to be "Other", but defer to your classification correction if incorrect.

I do not wish to inspect the documents being requested first.

I sincerely thank you, in the taxpayers' behalf, for your kind review and assistance with this important request. We will await your reply.

Sincerely,


Ernest H. Mattison, Jr., CPA

Enclosures: (As stated)

Cc: Robert & Virginia Carpio (Taxpayers)

TRANSMISSION VERIFICATION REPORT

TIME : 11/15/2013 12:47
NAME : ERNEST MATTISON CPA
FAX : 9093071147
TEL : 9093071100
SER. # : 000M5J442640

DATE, TIME	11/15 12:45
FAX NO./NAME	19046651809
DURATION	00:02:43
PAGE(S)	07
RESULT	OK
MODE	STANDARD ECM

Ernest H. Mattison, Jr., CPA

222 E. Olive Ave. Suite #3
Redlands, CA 92373
(909) 307-1100
Fax: 307-1147

FAX TRANSMISSION COVER SHEET

Date: Friday, November 15, 2013
To: **Ms. C. Dorsey, Senior Disclosure Specialist**
Disclosure Scanning Operation
Internal Revenue Service, Atlanta, GA
Fax: (904) 665-1809
Re: **Robert & Virginia Carpio**
SSN [REDACTED] **(Primary)**
Tax Year Ended: 12/31/2003
FOIA - Supplementary Request
Sender: Ernest H. Mattison, Jr., CPA

YOU SHOULD RECEIVE 7 PAGES, INCLUDING THIS FAX COVER SHEET. IF THERE ARE ANY TRANSMISSION PROBLEMS, PLEASE CALL (909) 307-1100

Dear Ms. Dorsey:

Let me thank you again, in the taxpayers' behalf, for your kind assistance earlier this afternoon regarding the above matter. As you requested, I have attached copies of the pertinent pages of my earlier request dated 8/1/2013 for your reference purposes. And as you suggested, the following



PRIVACY, GOVERNMENTAL
LIAISON AND DISCLOSURE

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

December 19, 2013

DEC 23 REC'D

DEC 23 REC'D

Ernest Mattison, Jr.
222 East Olive Avenue, Suite 3
Redlands, CA 92373

Dear Ernest Mattison, Jr.:

I am responding to your Freedom of Information Act (FOIA) request dated November 15, 2013 that we received on November 19, 2013 on behalf of your client Robert Carpio.

You asked for copies of the earliest letter to the California Franchise Tax Board advising of tax adjustment changes pertaining to tax year 2003. I have reviewed the above referenced individuals 2003 Examination Files and I found no documents specifically responsive to your request. The Service shares bulk Income Tax Examination Changes Forms 4549 (RARs) electronically with Departments of Revenue through a FED State exchange program.

I have enclosed Notice 393 explaining your appeal rights.

If you have any questions please call Senior Disclosure Specialist C. Dorsey ID # 0228563, at 904-665-1174 or write to: Internal Revenue Service, Disclosure Scanning Operation – Stop 93A, PO Box 621506, Atlanta, GA 30362. Please refer to case number F14323-0001.

Sincerely,

Paula M Curren
Paula M Curren
Disclosure Manager
Disclosure Office 07

Enclosure
Notice 393

FILE COPY

Ernest H. Mattison, Jr., CPA
222 East Olive Avenue, Suite 3
Redlands, CA 92373
(909) 307-1100 Fax: (909) 307-1147

May 9, 2014

Disclosure Office MS A181
Franchise Tax Board
P.O. Box 1468
Sacramento, CA 95812-1468

Regarding:

Requester's Name & Address:

Ernest H. Mattison, Jr., CPA, (Authorized POA)
222 E. Olive Ave., Ste 3
Redlands, CA 92373

Taxpayers' Name & Address:

Carpio, Robert & Virginia

Tax Year Ended: 12/31/2003

Dear Sir/Madam:

Under the California Public Records Act Sec 6250 et seq., I am requesting an opportunity to inspect or obtain copies of the following public records.

A copy of the earliest IRS letter or communication (regardless of the form that communication took) to the California Franchise Tax Board advising of the Tax Adjustment changes following the agreement of the parties before the Riverside, CA Office of Appeals, as confirmed by the IRS Appeals Officer letter to me dated 4/2/2009 (copy enclosed).

If there are any fees for searching or copying these records, please inform me if the cost will exceed \$100. However, I would also like to request a waiver of all fees in that the disclosure of the requested information is in the public interest and will contribute significantly to the public's understanding of the sharing of tax information between the Federal and California income tax agencies. This information is not being

sought for commercial purposes, only to assist in determining if the taxpayers owe additional FTB income tax and related penalties and interest for the above tax year.

I am aware that the California Public Records Act requires a response within ten business days, but if it is anticipated that the records I am requesting will take longer to identify, copy, and transmit to me, please contact me with the information about when I might expect copies or the ability to inspect the requested records. (A copy of my Power of Attorney is also enclosed for your authorization to release the requested information.)

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law.

Thank you for your consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Ernest H. Mattison, Jr., CPA". The signature is fluid and cursive, with the initials "E.H.M." and "CPA" clearly visible.

Ernest H. Mattison, Jr., CPA

Enc: (As stated)

Cc: Taxpayer

Ernest H. Mattison, Jr., CPA

222 E. Olive Ave. Suite #3
Redlands, CA 92373-5268
(909) 307-1100
Fax: (909) 307-1147

FAX TRANSMISSION COVER SHEET

Date: Monday, May 12, 2014
To: **Ms. Robin Ross, Staff Assistant**
Office of Government Information Services
National Archives and Records Administration
College Park, MD
Fax: (202) 741-5769
Re: **Request for Status Update - OGIS Mediation**
Case Number: 201400386
Taxpayers: Carpio, Robert & Virginia
SSN: [REDACTED] (Primary)
Denial of FOIA Appeal
Disclosure Case Number: F14323-0001
Sender: Ernest H. Mattison, Jr., CPA

YOU SHOULD RECEIVE 5 PAGES, INCLUDING THIS FAX COVER SHEET. IF THERE ARE ANY TRANSMISSION PROBLEMS, PLEASE CALL (909) 307-1100.

Dear Ms. Ross:

Thank you for your letter of 3/31/2014 (copy attached). We appreciate your office's willingness to assist in resolving the IRS' refusal of our requested information. Because the State of California Board of Equalization appeals body has scheduled this matter for formal hearing on 6/16/2014, our need for your help is increasingly urgent. (Also see attached copy of that hearing notice letter dated 3/18/2014.) Any encouraging status update at your earliest convenience would be helpful and most appreciated.

I thank you again, in the taxpayers' behalf, for accepting this matter and for your much anticipated progress reply, and (hopefully) subsequent information package from the IRS.

Sincerely,



Ernest H. Mattison, Jr., CPA, EA

Attached: (As stated)

Cc: Taxpayer



OFFICE of GOVERNMENT INFORMATION SERVICES

FAX

NATIONAL
ARCHIVES
and RECORDS
ADMINISTRATION

8601 ADELPHI ROAD
COLLEGE PARK, MD
20740-6001

web: www.ogis.archives.gov

e-mail: ogis@nara.gov

phone: 202-741-5770

toll-free: 1-877-684-6418

fax: 202-741-5769

To: Ernest Mattison, Jr.

From: Kirsten Mitchell

Fax: 909-307-1147

Pages: 3, including cover

Phone: 909-307-1100

Date: 9 June 2014

Re: OGIS Case No. 201400386

CC:

Comments:

Mr. Mattison,

Here is a letter in response to your request for OGIS assistance. I apologize for the delay in responding to you. A copy of this letter is in the mail; I am faxing it given your June 16, 2014 formal hearing.

Regards,

A handwritten signature in black ink, appearing to read "Kirsten Mitchell", written over a horizontal line.

Kirsten Mitchell

OGIS Facilitator





OFFICE of GOVERNMENT INFORMATION SERVICES

June 9, 2014— Sent via U.S. mail & facsimile

Mr. Ernest Mattison, Jr., CPA
222 E. Olive Ave., Suite No. 3
Redlands, CA 92373-5268
909-307-1147

Re: Case No.: 201400386
MN: NG: KM

NATIONAL
ARCHIVES
and RECORDS
ADMINISTRATION

8601 ADELPHI ROAD
OGIS
COLLEGE PARK, MD
20740-6001

web: www.ogis.archives.gov
e-mail: ogis@nara.gov
phone: 202-741-3770
toll-free: 1-877-684-6448
fax: 202-741-5769

Dear Mr. Mattison:

This responds to your March 27, 2013 request for assistance from the Office of Government Information Services (OGIS), which we received on March 28, 2013 via facsimile. Your request for assistance pertains to Freedom of Information Act (FOIA) Request No. F14323-0001 to the Internal Revenue Service (IRS) seeking access to the earliest letter to the California Franchise Tax Board advising of tax adjustment changes pertaining to your clients, Robert and Virginia Carpio, for tax year 2003.

I apologize for the delay in responding to you; OGIS is short-staffed and we are not responding to requests for assistance as quickly as we would like.

Congress created OGIS to complement existing FOIA practice and procedure; we strive to work in conjunction with the existing request and appeal process. The goal is for OGIS to allow, whenever practical, the requester to exhaust his or her remedies within the agency, including the appeal process. OGIS has no investigatory or enforcement power, nor can we compel an agency to release documents. OGIS serves as the Federal FOIA Ombudsman and our jurisdiction is limited to assisting with the FOIA process.

OGIS Facilitator Kirsten Mitchell carefully reviewed your request and discussed it with IRS Senior Disclosure Analyst Rhonda O'Reilly who re-reviewed the agency's response to your request. I note that the IRS, in response to your appeal, affirmed the agency's response that it searched for but did not locate any records responsive to your request.

We learned from Ms. O'Reilly that the IRS routinely shares information electronically with state agencies such as the California Franchise Tax Board under memorandums of understanding between the agency and the states. The information sharing is automated and in bulk form; as such, a letter such as the one you seek does not exist. Ms. O'Reilly informed us that when the IRS contacts a state agency regarding an individual or entity that contact sometimes is documented in an individual's examination file. The IRS conducted a search



Mr. Ernest Mattison

June 9, 2014

Page 2 of 2

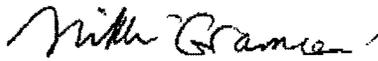
of Mr. Carpio's examination file and did not find information regarding such contact.

Please know that the Federal courts have long settled that in regard to a search for documents, the crucial issue is whether an agency conducted an adequate search for a document, not whether a document might exist. An adequate search is conducted when the search is reasonably calculated to uncover all relevant documents. *See Weisberg v. Dep't of Justice*, 705 F.2d 1344, 1351 (D.C. Cir. 1983).

In cases such as this where an agency is firm in its position, there is little for OGIS to do beyond providing more information about the agency's actions. I hope that this information is useful to you.

At this time, there is no further assistance OGIS can offer and we will close your case. Thank you for bringing this matter to OGIS.

Sincerely,



bn
Miriam Nisbet, Director
Office of Government Information Services (OGIS)

cc: Rhonda O'Reilly, Senior Disclosure Analyst, IRS, via email

We appreciate your feedback. Please visit <https://www.surveymonkey.com/s/OGIS> to take a brief anonymous survey on the service you received from OGIS.

Ernest H. Mattison, Jr., CPA

222 E. Olive Ave. Suite #3
Redlands, CA 92373-5268
(909) 307-1100
Fax: (909) 307-1147

FAX TRANSMISSION COVER SHEET

Date: Tuesday, June 10, 2014
To: **Mr. Patrick J. Bittner, Director, Settlement Bureau**
Franchise Tax Board, Sacramento, CA
Fax: (916) 845-4747
Re: **Carpio, Robert & Virginia**
SSN: [REDACTED] **(Primary)**
Settlement Proposal (Advanced Copy Attached)
Sender: Ernest H. Mattison, Jr., CPA

YOU SHOULD RECEIVE 16 PAGES, INCLUDING THIS FAX COVER SHEET. IF THERE ARE ANY TRANSMISSION PROBLEMS, PLEASE CALL (909) 307-1100.

Dear Mr. Bittner:

Pursuant to my telephone conference with Ms. Kate Warren of your office yesterday, and the controlling FTB Notice 2007-2 to which she carefully referred me, we would now respectfully request you consider the attached Settlement Proposal, the original of which has been mailed to your office.

We thank you for your consideration of this package, and we will await your office's review and further response.

Sincerely,



Ernest H. Mattison, Jr., CPA, EA

Attached: (As stated)

Cc: Taxpayer

10/9/12	.25*	<p><u>Brief telcon w/FTB's Laticia Torres re pending NPA Formal Protest now assigned to her. EM to call her back this week to start negotiations & possibly resolve our pending Appeal.</u></p> <p>Literally while meeting with another client, I took this call today, but had to be abbreviated, postponing a comprehensive phone appt to later this week. Her normal contact number is there @ FTB's Sac office: (916) 845-7286. [For today only she gave me her number as (530) 391-6073.]</p>
10/11/12	.25*	<p><u>Brief updating, pre-FTB telcon file review. Called for FTB's Ms. Torres. Could only leave VM for her call back.</u></p>
10/16/12	.50* .25 NC	<p><u>Multiple efforts in last week to contact Ms. Torres of FTB to begin discussions/negotiations in re our long-pending Appeal. They were all in vain thus far.</u></p>
10/17/12	1.75*	<p><u>Finally held critical telcon w/our assigned FTB Appeals rep, Ms. Torres this AM. Revd controlling statute and filtered issue(s) down to exactly when FTB must be considered to have recd IRS "notification" of the RAR-accepted Tax Adjustments. She will forward her related docs w/letter narrative on FTB position.</u></p> <p>Confirming above, I was finally able to reach Ms. Torres this morning to have our first careful discussion of the issues before us and our respective positions.</p> <p>We first discussed (and agreed) upon the controlling CA statute: That being that IF notification was rec'd by FTB from EITHER the TP or the IRS w/in 6 mos of the IRS changes, the S/L for the NPA was only 2 years. HOWEVER, if >6 mos, the S/L was then extended to 4 years. OK . . .</p> <p>Then upon my further quizzing/press, she claimed that the FTB did not receive a cc the IRS Form 5278(?) (apparently w/attached cc of RAR) until 6/6/2011, and then issued their</p>

		<p>\$30K NPA on 1/21/2012.</p> <p>HOWEVER, upon still further press by me and discussion, she surprised me by informing/admitting:</p> <ol style="list-style-type: none"> 1. The RAR FTB rec'd was dated 3/21/2007(?) I told her that had to be the same IRS RAR we had appealed, NOT the one generated by our Riverside AO, Heidi. 2. And possibly most importantly, she also admitted that the FTB had actually rec'd some sort of "mystery" notice of major IRS changes much earlier(?) than any IRS Report details were received!?! <p>On this last point is where we MUST press our position. Did whatever notice/information they DID receive much earlier come w/in the 6 mos AND what the heck was it. (Does it actually satisfy the statute regarding "notification"?)</p> <p>As we wound down, we discussed possibility of abatement of penalties and/or interest, noting that this is actually NOW A 7+ YEAR OLD TAX YEAR, and much of the delay in getting to this point WAS NOT THE TPS' FAULT!!! And on this point, she was not helpful, suggesting that we try an OIC. Not a helpful suggestion from my past FTB OIC experience.</p> <p>We'll now await her ltr w/accompanying docs she thinks may support her position. We do now know <i>that there may be an earlier IRS "Notification" for the statute!!</i></p> <p>I will now fu to update the TPs. Maybe some hope after all.</p> <p>Administrative File updated.</p>
11/7/12	2.25* PLUS .50 Travel Plus \$6.60 PO	<p><u>Recd/revd yet another "delay" letter from Ms. Torres in re our pending Formal NPA Protest/Req for formal hearing/HO.</u> <u>Further case file rev w/drafting of another Response Ltr pressing hard for honoring our Hearing/HO request now 7+</u></p>

		<u>mos old. Updating status telcon w/TP. Traveled to PO for mailing via Certified Mail.</u>
--	--	---