

TAX LETTER

A Chance For Refund

Dear Clients and Friends:

It was reported by Christopher Rugaber of Associated Press that on August 6, 2008, the **Court of Federal Claims** in Washington D.C. ruled against the Internal Revenue Services and ordered a full refund to the Taxpayer.

The significance of this case is that the IRS for a long time considered that the income tax basis of the stock received by the policy holders of a mutual insurance company upon demutualization and going public was “**zero**”. This way, the taxpayers must pay tax on the net proceed from the sales of the stocks issued to them by their life insurance company in exchange for their rights as owners of the mutual insurance company.

The decision rendered by Judge Allegra of the Court of Federal Claims may be cited as the legal foundation for million of American Taxpayers to ask for their refunds. For taxpayers who sold their stocks from demutualized insurance companies and paid taxes within the recent three years may want to file for their refunds. If the IRS decided to further appeal the ruling, taxpayers will be allowed to file a “Protective Claim” for refund pending on the outcome of the Appeal. For taxpayers whose refunds may be barred by the Statute of Limitation may want to discuss the situation with legal experts in this area should the amount of the refunds are sizeable.

The background of this case, “Eugene Fisher v. United States”, is that Mr.Eugene Fisher, as a trustee, acquired certain life policy from a mutual insurance company on behalf of the Trust. Subsequently, the mutual insurance company decided to demutualize and went public. Upon such time, the Trust as a policy holder received certain distribution of common stock of the “now” publicly traded, demutualized, life insurance company. The Trust sold the stock but kept the life policy. According to the IRS position that the Trust must pay tax on the sales proceed because the stock had no income tax basis. At the advice of Charles Ulrich, the Accountant, Mr. Fisher paid the tax and filed a law suit for refund claiming that the fair market value at the time of the stock distribution should be the income tax basis of the stock received. The Court agreed with him and ordered the refund.

If you need further information, please give us a call at (415) 381-0681, or visit our web site at www.chochan.com.

Sincerely,

CHO F CHAN, CPA, INC.