Office of Chief Counsel Internal Revenue Service **Memorandum**



date:

2010

to:

Supervisory Revenue Officer Office of Appeals - Field Operations West (Area 11)

from:

Associate Area Counsel (SBSE), 1

subject: Remanded CDP Hearing

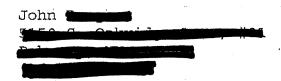
John (()

U.S. Tax Court Docket No. 09L

Tax Years: 2003, 2004, and 2006

This collection due process case concerning a lien and levy action for the above-referenced taxpayer's 2003, 2004, and 2006 tax years is being remanded to the Office of Appeals. We are returning the case administrative files to you. The original notice of determination was issued on January, 2009, by Settlement Officer Michael Freitag in the Las Vegas Appeals Office.

Attached please find an Order from Judge More has of the U.S. Tax Court, dated 2010 (served on 2010). Pursuant to Judge Cohen's Order, the taxpayer is to be offered an administrative hearing, at a reasonable and mutually agreed upon date and time, by 2011. The taxpayer can be reached at the following address and telephone number:



By way of background, following a hearing before Judge on bottom, 2010, the Court found that the taxpayer did not actually receive a notice of deficiency for taxable



years 2003, 2004, and 2006, and therefore, Appeals erred in not allowing the taxpayer to challenge his underlying tax liabilities during the original CDP hearing pursuant to I.R.C. 6330(c)(2)(B). The Court began a de novo proceeding on the underlying tax liabilities. The taxpayer represented that he was not prepared to address his liabilities at that time, but admitted for the record that he received the items of income upon which the notices of deficiency for 2003, 2004 and 2006 were based and generally does not dispute the amounts reported by third-party information reports. The Court wanted the case remanded to Appeals so that the taxpayer would have an opportunity to present information regarding his cost basis in real property sold during the tax years at issue as well as other permissible deductions. The taxpayer may also raise collection alternatives. Therefore, the remand may be limited to the consideration of the taxpayer's underlying tax liabilities and/or collection alternatives.

Transcripts from the National, 2010 hearing have not yet been received, but will be forwarded to Appeals when they are received as they should be part of the administrative files in this case.

Following the further administrative hearing on remand, a Supplemental Notice of Determination (Letter 3978) should be issued to the taxpayer.

This case is assigned to Counsel attorney Wesley Towns who can be reached at Please have the assigned Settlement Officer contact Mr. Please have the assigned provide a status on the case so that Mr. Can file a joint status report with the Court by 2011.

Your assistance is greatly appreciated.



Associate Area Counsel (Small Business/Self-Employed)

CC: John