

**PENNSYLVANIA APPEALS OFFICE**

Internal Revenue Service

Mellon Independence Center  
701 Market Street, Suite 2200  
Philadelphia PA 19106  
Phone (215) 597-2177 ext. 116  
DATE 5/14/98

Mr. John E. Beekman, Esq.  
Springhouse Place  
2167 Pikeland Road  
Malvern, Pa. 19355

Dear Mr. Beekman:

IN RE: PA Tax Collectors  
Application of IRC 62(a)(2)(C)

As you know from our prior conversations, I requested legal advice from District Counsel regarding the application of IRC 62(a)(2)(C) as changed by Section 975 of the Taxpayer Relief Act of 1997 to the PA Tax Collectors. Specifically, your question regarding the meaning of "paid in whole or in part on a fee basis" as stated in Section 62(a)(2)(C) was addressed. Although I cannot forward a copy of District Counsel's response to you, I will summarize their response herein.

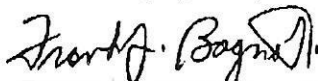
Your primary concern related to the definition of "fee" and whether the Internal Revenue Service would maintain the same definition of "fee" as used in Rev. Rul. 74-608, 1974-2 C.B. 276. District Counsel has concluded that the term "fee" used in section 62(a)(2)(C) is not the same as the definition used in Rev. Rul. 74-608, but rather has a more generic meaning. Further, it was concluded that the Pennsylvania local tax collectors, who are treated as employees of the local government, are allowed to deduct their business expenses from gross income under section 62(a)(2)(C) rather than as an itemized deduction subject to a 2 percent floor. The legislative history of section 62(a)(2)(C) suggests that Congress was attempting to remedy the perceived injustice to local public officials, such as tax collectors, who incurred business expenses and could not deduct them other than as miscellaneous itemized deductions.

Accordingly, it is concluded that section 62(a)(2)(C) allows local public officials, such as the Pennsylvania tax collectors to deduct their unreimbursed business expenses from gross income in arriving at adjusted gross income.

If you have any questions, please call me at the phone number shown at the top of this letter.

Thank you for your consideration.

Sincerely yours,



Frank J. Bagnato, Jr.  
Associate Chief