

Brett W. Lackey & Tori A. Martindale-Lackey

July 10, 2023

Department of the Treasury

Internal Revenue Service

Kansas City, MO 64999-0025

Certified Mail #:

Regarding IRS Notice CP24 received July 7, 2023

To Whom it May Concern:

We received IRS Notice CP24 (copy attached) regarding a partial refund of our 2022 tax withholdings on July 7, 2023. We received \$7435.36 (via direct deposit) of the full \$27,188.64 amount due as a refund that can be seen in the screenshot taken from our account statement below:

JUN 23

Early Pay: IRS Treas 310 Tax Ref XXXXX2545200909 062823

\$7,435.36

However, as alluded to above, we are still owed a balance of **\$19,825.64** (**\$27,188.64 - \$7,435.36 + \$72.36 interest added back = \$19,825.64**). We do not agree with the IRS's calculations provided in the Payments and Credits section of Notice CP24, nor do the IRS's calculations found in our Account and Tax Return Transcripts properly reflect the withheld amounts we provided on our 2022 1040 filing.

On Notice CP24, you have entered \$7363 as the amount of Income Tax Withheld from Form 1040 line 25d. *This number is incorrect and not what we entered on our 1040 filing.* The correct amount submitted by us on Form 1040 line 25d is **\$27,188.64**, which is the sum of lines 7(e), 7(h), 7(i) from Form 4852 Substitute W-2 and line 8(f) from Form 4852 Substitute 1099-R (**\$10,775.92 + \$7,333.87 + \$1,715.18 + \$7,363.67 = \$27,188.64**) respectively. We provided this same information and supporting documents to the IRS a second time in our response to LTR12C that was delivered to your office on May 3, 2023 via Certified Mail #7022 3330 0001 0446 9277.

Our 1040 filing, Form 4852 Substitute W-2, Form 4852 Substitute 1099-R, and all relevant correspondence with the IRS since March are in your records and all constitute sufficient evidence and support of our claim.

Your proposed change correctly acknowledges that everything withheld from us under the provisions of Chapter 24 of 26 U.S.S. (and denominated "federal income tax" withheld on forms such as W-2's and 4852s) constitutes an overpayment, and by the same token acknowledge that I received no statutorily-defined "wages" upon which a tax can have arisen. By virtue of those same facts, it is beyond dispute that everything withheld from us under the provisions of Chapter 21 of 26 U.S.C. (denominated on forms W-2 and 4852 as "Social Security tax withheld and Medicare tax withheld) also constitute overpayments (or amounts that **should not have been withheld**), since what are (or are not) "wages" for purposes of Chapter 24 are (or are not) also the "wages" upon which withholding under Chapter 21 can arise. See *Rowan Co. s v. United States*, 452 US 247 (1981).

If no Chapter 24 "wages" were received—as you acknowledge to be the case—then no Chapter 21 "wages" can have been received. Under these circumstances and the provisions of 26 U.S.C. § 3503, you are required to return to us **all amounts withheld under Chapter 21 as well as the amount withheld from us under Chapter 24.**

I trust that considering our proper calculations, facts, and illuminations presented, the IRS will *promptly correct their records* to reflect the data we provided on our 1040 tax return for 2022, and *equally as promptly refund the remaining \$19, 825.64 due to us in full.*

Thank you for your time and swift action.

Respectfully,

Brett W. Lackey - Executor & Tori - Alexis; Martindale-Lackey - Executing

Brett W. Lackey & Tori A. Martindale-Lackey