



Department of Treasury  
**Internal Revenue Service**  
4800 BUFORD HWY  
CHAMBLEE, GA 39901-0021

Notice: CP2501  
Notice Date: July 09, 2007

Social Security Number:

Form: 1040  
Tax Year: 2005

To call for assistance:  
1-800-829-3009 Toll Free  
between 7:00 AM - 8:00 PM

To FAX information:  
1-770-454-1742 Local Fax

Contact:  
Dennis Kidd

001144.146854.6009.001 2 MB 0.485 1446



HAROLD & SALLY [REDACTED]  
[REDACTED]

1144

**You Must Return the Response Form by August 08, 2007**

**1 Why are you getting this notice?**

In our review of your 2005 tax return, we found what appeared to be differences between some of the income and deduction information you reported on your tax return and amounts reported to us by others (employers, banks, and other payers).

**OPTION 3 | I Do Not Agree with Any of the Information Shown**

I've enclosed documentation to support the entries on my original return.

INTEREST - NO DIFFERENCE

DIV. DIVIDENDS - SEE LINE 9000 - 2040

SECURITIES - SEE AFFIDAVIT OF DISCRETION FOR  
THE MISTAKEN CLASSIFICATION OF "GROSS INCOME"  
IN CONNECTION WITH "TRADE OR BUSINESS"

NO PROCEEDS WERE RECEIVED FROM A "TRADE OR  
BUSINESS" AS DEFINED IN TITLE 26  
LETTER RULING IS ATTACHED.

Signature

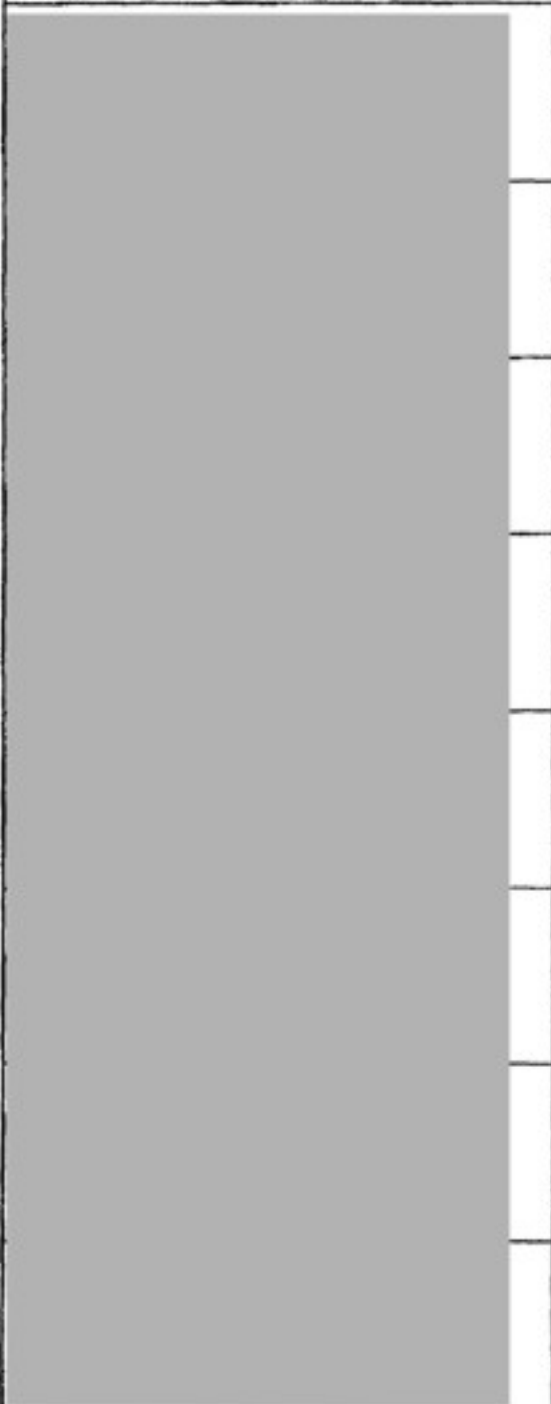
Date

Spouse's Signature

Date

INTEREST Account Information	Amount Reported to IRS by Others	Amount Included on Your Return	Difference
	\$ 56	\$ 56	\$ 0
<b>INTEREST Total</b>	<b>\$ 56</b>	<b>\$ 56</b>	<b>\$ 0</b>

QUALIFIED DIVIDENDS Account Information	Amount Reported to IRS by Others	Amount Included on Your Return	Difference
	\$ 26	\$ 0	\$ 26
<b>QUALIFIED DIVIDENDS Total</b>	<b>\$ 26</b>	<b>\$ 0</b>	<b>\$ 26</b>

SECURITIES Account Information	Amount Reported to IRS by Others	Amount Included on Your Return	Difference
	\$ 34,654	\$ 0	\$ 34,654
	\$ 34,203	\$ 0	\$ 34,203
	\$ 4,299	\$ 0	\$ 4,299
	\$ 4,299	\$ 0	\$ 4,299
	\$ 36,077	\$ 0	\$ 36,077
	\$ 24,676	\$ 0	\$ 24,676
	\$ 28,357	\$ 0	\$ 28,357
	\$ 27,388	\$ 0	\$ 27,388
	<b>SECURITIES Total</b>	\$ 193,953	\$ 0

Internal Revenue Service  
Atlanta IRS Center  
4800 Buford Hwy.  
Chamblee, GA 39901-0021

July 13, 2007

RE: TIN , CP2501 dated 07/09/2007 for tax year 2005

Attn: Dennis Kidd

Dear Mr. Kidd:

Please find enclosed our response to your CP2501 inquiry referenced above. We agree with none of the changes to our return.

The first two items, Interest and Qualified Dividends were reported on the return. Please refer to lines 8a and 9a.

The figures on the list of items labeled "Securities" were corrected by affidavits which were attached to the return, copies enclosed. We considered using Form 4852 instead of the affidavits, but decided that the form's title limited its use to that of corrections to Forms W-2 and 1099R only. If there is a form we should have used to correct F1099-B we are unaware of it. If we need to use a specific form to make those corrections please send us a copy or instructions on where we can get the form. Failing that, our affidavits will serve as our correction of the mistaken 1099-Bs.

The fact is that if the correct basis for those transactions were used, the resulting figures would show a considerable loss. However, as the amounts reported on the Forms 1099-B are mistaken as to the nature of the "income" being reported, the basis is irrelevant.

If we read Code Sec. 6045 - Returns of Brokers, without reference to the implementing regulations it appears as though brokers such as Schwab and the others who sent us 1099-Bs were acting properly. However, when we look at the regulations at:

*CFR Sec. 1.6045-1 Returns of information of brokers and barter exchanges.*

*(a) Definitions. The following definitions apply for purposes of this section and section 1.6045-2:*

*(1) The term broker means any person (other than a person who is required to report a transaction under section 6043), U.S. or foreign, that, in the ordinary course of a **trade or business** during the calendar year, stands ready to effect sales to be made by others.*

As I'm sure you are aware, the term "trade or business" has a custom definition for the purposes of Title 26 which is found at Sec. 7701(a)(26). The code defines a "Trade or business" as "...the performance of the functions of a public office."

As none of the brokers who sent 1099-Bs to us is engaged in the "performance of the functions of a public office" and as we are also not so engaged, the "income" they reported was reported in error. It was not generated in "...the ordinary course of a trade or business...". Nor is it income generated from any revenue taxable activity. It is, therefore, not subject to reporting by them or us. Neither is it subject to taxation by your agency.

We have enclosed copies of the original return and the attached affidavits for your reference. If you need original signed copies please let us know.

Sincerely,

Harold X [REDACTED]

Sally [REDACTED]



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE-UR  
CHAMBLEE, GA 39901-0021

NOTICE NUMBER: CP-2005  
DATE OF THIS NOTICE: 09/11/2007  
SOCIAL SECURITY NUMBER: 1  
TAX FORM: 1040 TAX YEAR: 2005  
AUR CONTROL NUMBER: 96001

106001.90759V.0016.001 1 09 4,119 N70



HAROLD & SALLY [REDACTED]  
[REDACTED]

FOR ASSISTANCE CONTACT THE  
OFFICE OF:  
Office of J Kidd

Toll Free Number: 1-800-829-3009

#### CLOSING NOTICE

Thank you for providing us with additional information about the issue we recently wrote to you about. We are pleased to tell you that, with your help, we were able to clear up the differences between your records and your payers' records. If you sent us a payment based on our proposed changes, we will refund it to you if you owe no other taxes or have no other debts the law requires us to collect.

If you have already received a notice of deficiency, you may disregard it. You won't need to file a petition with the United States Tax Court to reconsider the tax you owe. If you have already filed a petition, the Office of the District Counsel will contact you on the final closing of this case.

If you have questions about this notice, please write to us at the address shown above. Include your telephone number and the best time to call you if we need additional information.

Thank you for your cooperation.