

Part IV - Items of General Interest

The Service announces three actions as a result of the Ninth Circuit=s opinion in Boyd Gaming Corporation v. Comm=r, ___ F.3d ___ (9th Cir. 1999), rev=g T.C. Memo 1997-445 T.C. Dkt Nos. 3433-95, 3434-95. The Service (1) acquiesces in the opinion, (2) withdraws proposed training materials relating primarily to the application of section 119 of the Internal Revenue Code to employer-provided meals in the hospitality industry, and (3) terminates the settlement initiative related to this issue.

Announcement 99-77

The Internal Revenue Service (Service) announces three actions as a result of the opinion of the United States Court of Appeals for the Ninth Circuit in Boyd Gaming Corporation v. Comm=r, ___ F.3d ___ (9th Cir. May 12, 1999), reversing T.C. Memo 1997-445 T.C. Dkt. Nos. 3433-95, 3434-95 (1997).

First, the Solicitor General has decided not to file a petition for a writ of certiorari with the United States Supreme Court with respect to the Ninth Circuit=s opinion. Accordingly, the Service announces today that it acquiesces in the Ninth Circuit=s opinion in Boyd Gaming Corporation. The acquiescence will appear in 1999-32 I.R.B. (August 9, 1999), and a copy of the Action on Decision memorandum in support of that acquiescence accompanies this announcement.

Second, the Service withdraws the proposed training materials described in Announcement 98-77, 1998-34 I.R.B. 30. See also Announcement 98-100, 1998-46 I.R.B. 42. These materials relate primarily to the application of section 119 of the

Internal Revenue Code to meals provided to employees in the hospitality industry.

Finally, the Service terminates the settlement initiative relating to employee meals described in Announcement 98-78, 1998-34 I.R.B. 30. Pending cases involving this issue will be resolved on the basis of their particular facts in light of the Ninth Circuit's opinion in Boyd Gaming Corporation and the Service's acquiescence in that opinion.

The principal author of this announcement is Thomas Burger, Director, Office of Employment Tax Administration and Compliance (OETAC). For further information regarding this announcement contact Mr. Burger at (202) 622-3650 (not a toll-free call).