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United States Court of Federal Claims  
Case No. 1:06-cv-00021-LB  
**SITEL CORPORATION v. USA et al**

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# The United States Court of Federal Claims

No: 06-21 T  
September 13, 2006

**SITEL Corp.,**

*Plaintiff,*

v.

**THE UNITED STATES OF AMERICA,**

*Defendant.*

## **ORDER GRANTING LEAVE TO FILE AMENDED COMPLAINT**

On August 2, 2006 plaintiff filed a Motion for Leave to File an Amended Complaint. In its motion, plaintiff seeks leave to add six tax quarters—from June 30, 2004 through September 30, 2005—to its claim for a refund of federal excise taxes. P. Mot. 2. On August 21, 2006 defendant filed an opposition to plaintiff’s motion. In its opposition, defendant argues that allowing the amendment would delay the current proceedings by requiring additional discovery. D. Opp. 1. Defendant also argues that IRS Notice 2006-50 provides plaintiff with an administrative remedy for the additional quarters, making the need to amend the complaint unnecessary. *Id.*

The court begins by noting that there exists a strong presumption that leave to amend a complaint is “freely given” to plaintiffs. *See* Rules of the Court of Federal Claims (“RCFC”) 15(a); *see also Foman v. Davis*, 371 U.S. 178, 182 (1962)(“In the absence of any apparent or declared reason—such as undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, futility of amendment, etc.—the leave sought should, as the rules require, be ‘freely given.’”). The court sees no compelling reason why leave should not be “freely given” to plaintiff in this matter.

First, allowing plaintiff to amend its complaint will not unduly delay the proceedings or prejudice defendant. Plaintiff has indicated that all supporting documents for the tax periods it seeks to include—June 30, 2004 through September 30, 2005—have already been produced to defendant, alleviating the need for any additional discovery. P. Reply 2.

Second, the court notes that IRS Notice 2006-50 does not provide plaintiff with an adequate administrative remedy. The Notice instructs taxpayers to request refunds on their regular income tax returns. The amounts claimed could be subject to audit and possible adjustment and the IRS might not allow the claims at all. P. Reply 10-11. Allowing plaintiff to amend its complaint now provides a means for resolving plaintiff's refund claims with finality.

Finally, matters of judicial economy favor granting plaintiff leave to amend its complaint. *See Forestry Surveys and Data v. United States*, 44 Fed. Cl. 485, 489 (1999) (observing that the court may consider judicial economy is considering a request to amend a complaint). Allowing plaintiff to amend its complaint avoids the potential drawbacks of having plaintiff file an addition claim, including the risk of inconsistent adjudication of issues, the burden on parties and available judicial resources posed by the potential for multiple lawsuits, the length of time required to conclude multiple suits as against a single one, and the relative expense to all concerned of a single suit verses multiple ones.

For the foregoing reasons, plaintiff's Motion for Leave to File an Amended Complaint is **GRANTED**.

**IT IS SO ORDERED.**

s/ Lawrence J. Block

Lawrence J. Block  
Judge