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From:

Sent: August 25, 2008

To:

Cc:

Subject: Estate case

I spoke with _____ in _____. JCT does not generally look at refunds arising from original returns, e.g., return of withholding or estimated taxes. IRS reports refunds arising from amended returns or claims for refund. Section 6405 limits review by JCT to certain types of taxes including estate taxes. IRM 4.36.2.3 provides that certain situations are not "reported" to the JCT. The _____ case appears to fall into the first category:

- a. A refund or credit of estimated or withheld income tax, made without first examining the return.
- b. A refund or credit of an unassessed advance payment or deposit made before determining a taxpayer's tax liability, or a refund or credit of an amount paid on a tentative return in excess of the amount of the tax liability reported by the taxpayer on a final return. A final return is defined as the last return filed by the due date for that return.
- c. Prior reports submitted to the JCT are not considered in determining whether the case meets Joint Committee criteria. In addition, if a case, which was previously closed, did not exceed \$ 2,000,000, such amount should not be combined with any subsequently determined refund or credit in computing Joint Committee jurisdiction.
- d. A case of any type involving overassessments (as distinguished from overpayments) in excess of \$ 2,000,000. For example, an abatement of an unpaid portion of an assessment under IRC section 6404 regardless of the amount is not a "refund or credit" under IRC section 6405.
- e. An overpayment determined by the United States Tax Court or any other court of competent jurisdiction as a result of the trial of a case (rather than by a stipulation of settlement).