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From:

Sent: Tuesday, November 18, 2008 3:57:32 PM

To:

Cc:

Subject: RE: Question(s) re Interest Netting

My thoughts follow your questions. (I've numbered them.)

1. "Would interest netting be allowed under 6402?"

In the circumstances described, yes, I think the overpayment could be offset against the underpayment, including interest.

2. "if the overpayment including the interest has already been paid by the IRS and Group B acquires group A for the sole purpose of netting overpayment interest with underpayment interest is this allowable assuming they are the same taxpayer under Section 6621(d)? YES"

Agree. Section 6621(d) netting may be available even if either the underpayment or overpayment (or both), including interest thereon, has been paid.

3. "Would interest netting be allowed under 6621(d) even if their not the "same taxpayer" (ie some the former members of the A group are not part of B group)? No because there not the same taxpayer."

Agree.

4. "Conclusion all the members of Group A must be liable for the Tax of Group B to be considered the "Same Taxpayer" . True?"

Agree.

5. "If only half the members of Group A are liable for the tax of Group B Interest netting would not be allowed under 6621(d) because there not considered the same taxpayer. Even though these former members of Group A are both liable for B Group Tax and entitled Group A overpayment? However, if the Agent of Group A requests the overpayment (paid or unpaid) to be netted with Group B underpayment interest offset would be allowed. True?"

Agree.