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To: [REDACTED]

Cc: [REDACTED]

Bcc:

Subject: FW: CF5710718 - RSED issue

After much additional research and discussion with one of the section 6511 experts in Counsel, it turns out that the TAS point of view is correct – because the refund claim and the return were one and the same, the refund claim was filed within 3 years from the return and therefore timely under section 6511(a). Then under section 6511(b)(2)(A), the look-back period is the 3 years and 4 months. Consequently, payments collected via levy between (3 years and 4 months) can be recovered. It doesn't matter if the taxpayer actually filed within the 4-month extension period – the taxpayer still gets the benefit of the extension period for purposes of the look-back.

The SFR was a red herring – notwithstanding that section 6020(b) says the SFR is good and sufficient for legal purposes, there is caselaw that says you ignore the SFR for section 6511 purposes.

The relevant entry in IRM 25.6.1.10.2.7 says:

Return filed after the due date and claim filed within 3 years from filing of return – refund is limited to “[t]ax paid during the period immediately preceding filing of claim equal 3 years plus any extensions of time for filing can be refunded. Section 6511(b)(2)(A).”

Sorry for any confusion I may have caused. I have let original advice was incorrect.

Counsel know that their