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From: [REDACTED]

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Subject: RE: Assistance on Section 6501 Issue

Question:

Following the end of the period during which section 7507(a) bars assessment because a bank was insolvent, what is the period for assessment of the tax that the Service was previously prohibited from assessing?

Conclusion:

Following the end of the period during which section 7507(a) bars assessment, the Service has the number of days remaining in the assessment period before the bar on assessment became effective, plus the additional 90-day suspension of the limitations period specified in section 7507(c)(4), to assess the tax previously barred from assessment. If section 7507(a) barred assessment as of the deemed filing date of the return, then beginning when assessment becomes allowed, the Service has the full three years under section 6501(a) plus the 90 days under section 7507(c)(4) to assess.

Analysis:

The running of the statute of limitations on assessment and collection is “suspended during, and for 90 days beyond, the period for which, pursuant to [section 7507], assessment or collection may not be made” I.R.C. 7507(c)(4).

When the running of the statute of limitations is suspended, the unexpired portion of the period of limitations is “held in abeyance”. *Olds & Whipple v. United States*, 22 F. Supp. 809, 819 (Ct. Cl. 1938). “[W]hen the period of suspension ceases the limitation period again commences to run.” *Id.* See, e.g., Treas. Reg. § 301.6503(j)-1(d)(4)(ii)(Ex.1)); IRM 25.6.1.9.6.2(5); see also *Ramirez v. United States*, 538 F.2d 888, 893 n.10 (Ct. Cl. 1976); *In re Depasture*, 419 B.R. 518, 522-24 (Bankr. M.D. Ga. 2009); *Aura Grimes Bales v. Commissioner*, 22 T.C. 355, 358-59 (1954). Thus, the unexpired portion of the period of limitations is in effect tacked onto the suspension period and remains to be used after the suspension period ends. This “tacking” principle applies generally and is no different in the context of section 7507.

For example, suppose that section 7507(a) barred the assessment of income tax of the 2015 tax year, and the bar was effective as of the deemed filing date of the 2015 income tax return and ended on March 1, 2021. The assessment period would not expire until three years and 90 days after March 1, 2021.