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[Third Party Communication:

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**From:** [REDACTED]

**Sent:** Friday, October 17, 2014 2:47:49 PM

**To:** [REDACTED]

**Cc:** [REDACTED]

**Bcc:**

**Subject:** RE: Underpayment interest on Excise Recapture

Section 6427 permits certain taxpayers to receive a payment generally equal to the tax imposed on the purchase of certain fuels if such fuel is actually used for an exempt purpose. Alternatively, under section 6427(k) taxpayers can choose to claim a refundable income tax credit under section 34(a)(3) on the taxpayer's income tax return. Section 34 claims are made on Form 4136 as an attachment to an income tax return.

In the situation described to us, the taxpayer claimed refundable fuel credits under section 34(a)(3) of and for tax years and , respectively. In both years at issue, a portion of the credit was used to reduce the taxpayer's income tax liability, and the remainder was refunded to the taxpayer. We understand that the Service intends to recapture some or all of these credits, and as a result the taxpayer will have an underpayment of income tax for tax years and .

Section 6601 provides that interest will accrue on an underpayment of tax from the due date to the date paid. Generally, when taken as a credit against income tax, a taxpayer receives a benefit to the extent of a reduction in the income tax it would otherwise have to pay. When the credit is reduced, the taxpayer becomes underpaid on its income taxes. Thus, an underpayment arises when the credit is reduced, and interest accrues on the underpayment under section 6601. In this case, Service intends to recapture some or all of the fuel credits the taxpayer previously claimed on its income tax return. As indicated above, this taxpayer will become underpaid and be liable for interest under section 6601 on any underpayment created by the recapture of these fuel credits.

Please let us know if you have any questions.

Kind regards,