

**Office of Chief Counsel  
Internal Revenue Service**

**Memorandum**

Release Number: **20171801F**

Release Date: 5/5/2017

POSTU-102783-17

UILC: 6603.00-00; 7452.00-00; 81.11.00-00

date: February 27, 2017

to: LB&I Territory Manger

from:

Associate Area Counsel  
(Large Business & International)

subject:

**Request for Transfer of Deposits from Subsequent Transferees to Initial Transferee**

This memorandum responds to your request for assistance dated January 23, 2017.  
This advice may not be used or cited as precedent.

**ISSUES**

1. May a person making a deposit under I.R.C. § 6603 for a potential transferee liability direct the Service to apply all or a portion of its deposit against the liability of another person liable for the same underlying liability?
2. If a person making a deposit is permitted to apply all or a portion of the deposit to the liability of another person liable, under these facts, may an attorney-in-fact for a person making a deposit under I.R.C. § 6603 direct the Service to transfer the deposit to pay another person's tax liability?

**CONCLUSIONS**

1. While a person making a deposit may direct the Service to use the deposit as payment of other of his liabilities, Rev. Proc. 2005-18 does not authorize a person to direct the Service to apply a deposit to pay another person's liability.
2. As presented, the Forms 2848, Power-of-Attorney and Declaration of Representative, for the involved depositors do not permit the attorney-in-fact to direct the transfer of the deposit to pay another's tax liability.

FACTS

### LAW AND ANALYSIS

1. I.R.C. § 6603 was enacted by section 842(a) of the American Jobs Creation Act of 2004, Pub. L. No. 108-357, 118 Stat. 1418, effective for deposits made after October 22, 2004. As relevant here, it permits a taxpayer to make a cash deposit with the Service which may be used by the Service to pay certain types of tax (including income tax) that have not been assessed at the time of the deposit. Section 6603(a). To the