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From:

Sent: August 25, 2008

To:

Cc:

Subject: RE: Trade Promotions

I read through the outline- I have no comments to add. I also agree with _____ comments. I forwarded a copy to _____ and I'll let you know if he has any comments.

I also made sure that my statements were correct and that _____ agreed. He agreed that in order for a liability to be fixed, the item has to be scanned within the promotional period before 12/31. If it's scanned after 12/31 and in the same promotional period, the liability is fixed in the second year. The t/p can use an estimate to determine the amount of liability in the first year for those items scanned because the liability is fixed, but it has to reconcile the estimate with the amount actually scanned when those numbers are knowable.

Assuming the t/p files its return in September, how does it not know the amount of liability/amount of scanned product by that time? This is what confuses me- the amount should be knowable by the time the return is filed, so why isn't the t/p reconciling? And if they are not reconciling the amounts, then that is clearly an incorrect application of the CAM and section 461. I understand their argument that by estimating the amount of the liability, they are inherently estimating the fixing of the liability- but the amount should be clearly knowable by the end of January and well before the return is filed. So I don't think the issue is that they are estimating the liability, but that they aren't reconciling the amounts.

Regarding the operator rebates, we are a little confused as to what the t/p is arguing so I'm interested to hear what they have to say about that. I agree with _____ position, as long as the t/p reconciles the amounts after the estimation.

What time is the call tomorrow? _____ may be able to join if he's free.

Thanks, (and sorry for the narrative),