

ID: CCA_2009051808344137

Number: **200927032**

Office:

Release Date: 7/2/2009

UILC: 1314.02-00

From:

Sent: Monday, May 18, 2009 8:34:45 AM

To:

Cc:

Subject: RE: Mitigation in TEFRA

Mitigation applies to TEFRA. Specifically, it applies to the partners since the partnership is not a party to a TEFRA proceeding. See Chef's Choice v. Commissioner, 95 T.C. 388 (1990). The correction need not necessarily apply in the TEFRA proceeding itself if the correction needs to apply to a year not subject to the TEFRA proceeding. We would simply abate and refund the double included income. If we failed to do so the partner could file a refund claim for the double included income under section 1314(b) within one year of the relevant "determination". The refund is made in this manner notwithstanding "any law or rule of law" that would otherwise prevent it, i.e., notwithstanding the TEFRA provisions that otherwise might prevent the refund.