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From:

Sent: Wednesday, August 12, 2009 11:04:44 AM

To:

Cc:

Subject: RE: Stat notice and carryback

I was unable to reach you on the phone yesterday. I have forwarded your question regarding the § 6662(h) penalty to our branch that handles penalties. Because you requested an immediate answer, I am sending you my response now with respect to the years to include on the stat. notice.

The stat. notice should list the years in which the Service is asserting a deficiency. In the situation you describe, the years listed should be , , and because those are the years in which the Service is asserting a deficiency. Should the taxpayer file a petition in Tax Court, the court would have jurisdiction to consider the transaction in that generated the loss but the Service would not be able to assert a deficiency for the tax year.

Please feel free to call me if you have any questions.