

ID: CCA-218202-09

Number: **201004026**

Office:

Release Date: 1/29/2010

UILC: 01A.26.00-00

From:

Sent: Wednesday February 18, 2009 2:02 pm

To:

Cc:

Subject: 1204 Advice

This is to confirm our telephone conversation of last week in which I concurred with your conclusion that the highlighted statements in the narratives appeared to be qualitative appraisals of the employee's professional judgment regarding the appropriate action to be taken in a particular case, and were not ROTERs. 26 CFR 801.6(d)(2), which defines ROTERs, specifically excludes "tax enforcement results of individual cases when used to determine whether an employee exercised appropriate judgment in pursuing enforcement of the tax laws based upon a review of the employee's work on that individual case." While the regulation states that a manager cannot use a tax enforcement result to evaluate an employee or suggestion production goals or quotas, the manager is allowed to discuss an employee's exercise of judgment in achieving a particular TER in a case based on a review of the employee's work on that individual case.

-