

ID: CCA-217310-11

Number: **20111012**

Office:

Release Date: 3/18/2011

UILC: 04.01.00-00

From:

Sent: Thursday, February 17, 2011 3:10 PM

To:

Cc:

Subject: Abatement question

This documents our telephone conversation of this morning, in which I responded to your earlier question of whether the IRS can abate an assessment, following the taxpayer's agreement to pay the assessed amount, so that the IRS can assess a fraud penalty against the taxpayer. You requested that I summarize my conclusions in an e-mail.

As discussed, I do not believe that the IRS has authority to abate under these circumstances. The circumstances under which the IRS can abate a tax are limited to those enumerated in IRC 6404(a), none of which exists in your case. Moreover, because there will be no "underpayment of tax" unless the liability is abated, the IRS cannot impose the fraud penalty under IRC 6663(a), which requires an underpayment of tax for assessment.

You indicated that you agreed with my analysis. However, if you wish to discuss this further, please feel free to call or e-mail me.