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Sent: Wednesday, January 12, 2011 2:28:50 PM

To:

Cc:

Subject: FW: RESPONSE: TAO issued on 12/15/2010

Per our discussion, I would like to clarify the following two sentences in advice:

The IRS effectively denied that refund claim when it instead credited the overpayment to . (A side question is whether the IRS notified the taxpayer of the denial so as to start the 2 year period for filing a refund suit?)

While the taxpayer may have thought the IRS denied his refund claim for tax year because he didn't receive a refund for that year, the IRS did not disallow the claim; rather, the IRS determined that an overpayment did exist for that year, and then applied that overpayment to the outstanding tax liability for tax year . (had used the words "*effectively* denied" to try to convey that point, but I wanted to be sure you weren't mislead by the sentence). In addition, because the IRS did not disallow the claim, the parenthetical with the side question is moot. (Note, however, that when the IRS does disallow a claim, IRC section 6402(I) requires that the IRS give the taxpayer a notice of claim disallowance to explain the disallowance).

[REDACTED]

Let me know if you have any questions.