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**From:**

**Sent:** Wednesday, August 31, 2011 11:50:43 AM

**To:**

**Cc:**

**Subject:** Request for Advice,

Hi

The following represents a summary of our phone conversation yesterday:

The Internal Revenue Service retains the authority in this case to abate any unpaid liability to the extent that it is excessive. Section 6404(a)(1); see also Edelson v. Commissioner, 829 F.2d 828, 832 FN4 (9th Cir. 1987) (indicating that abatement may be appropriate under section 6404(a) in circumstances similar to the present case).

To the extent that payment has been made on the liability, however, no refund can be issued. Section 6512 prohibits a refund or credit for a year before the Tax Court unless the Court determines an overpayment, and in this case, the decision specifically determined that there was no overpayment. Additionally, nothing can be done to amend the final Tax Court decision.

Please feel free to contact me if you have any additional questions or concerns.

Thanks!