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From:

Sent: Wednesday, February 15, 2012 12:48:30 PM

To:

Cc:

Subject: RE: Transferee Liability - Tax Court Jurisdiction Question

In your case there was no deficiency assessed against the taxpayer, i.e., there was overstated withholding, subject to summary assessment, treated like a math error (except that the abatement/deficiency rule does not apply). You asked about the import of there being no deficiency. The absence of a deficiency is not dispositive. Note that section 6901 is not limited to deficiency situations. Section 6901(b) provides that "Any liability referred to in subsection (a) may be either as to the amount of tax shown on a return or as to any deficiency or underpayment of any tax."

Hopefully that answers your question. But perhaps your question was not so much about the presence or absence of a deficiency but rather whether a section 6201(a)(3) assessment is an assessment of a tax. Assessment under section 6201(a)(3) is assessment of a tax, as we concluded in an earlier advisory opinion, IRS CCA 199910042, 1999 WL 140640, (IRS CCA), March 12, 1999 (attached.)

If you would like to discuss this further, please let me know.