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From:

Sent: Thursday, April 12, 2012 1:45:50 PM

To:

Cc:

Subject: RE: Claim for Refund Question

Take a look at Rev. Rul. 76-511. There are two parts of section 6511 that have to be satisfied. Omohundro, Miller, and the revenue ruling confirm that for purposes of a claim for refund made on a late-filed income tax return, the claim satisfies the three-year period under section 6511(a). However, section 6511(b) provides a limit on the amount of the refund that is allowable. Section 6511(b)(2)(A) provides that when the three-year period of section 6511(a) is satisfied, the amount of the refund that is allowable is the amount of tax paid within the three-year period (plus the period of any extension of time to file) preceding the filing of the claim ("lookback period"). Thus for a claim filed on _____, only amounts paid on or after _____ (assuming there was no extension of time to file) may be refunded. You state that the year at issue is _____. I'm assuming the tax at issue is withholding and/or estimated tax, which pursuant to section 6513(b) would be deemed paid on _____, which would be well outside of the three-year lookback period. Accordingly, the taxpayer would not be entitled to a refund of any of those payments. Of course, if the taxpayer made any other payments that fell within the lookback period then the taxpayer might be entitled to a refund of those payments (assuming the taxpayer actually overpaid their taxes).

Please let me know if you have any questions.