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Number: **201302030**

Release Date: 1/11/2013

Office:

UILC: 6514.00-00

From:

Sent: Tuesday, October 16, 2012 8:12:10 AM

To:

Cc:

Subject: RE: Issue Coordination section 6511

Hi

Thanks for sending the notice of disallowance. After looking at it and the other facts, we conclude that IRC 6514(a)(2) would prevent the Service from making any refund based on the claim. Section 6514(a)(2) provides that a refund of any portion of an internal revenue tax shall be considered erroneous if it is made after the Service has disallowed the claim, and the period of limitation for filing suit has expired, unless within such period a suit was begun by the taxpayer. As you noted, the Service formally disallowed the taxpayer's claim as untimely on . You have confirmed that the Service did not agree to extend the 2-year period under IRC 6532(a)(2). The taxpayer therefore had until under IRC 6532(a)(1) to file a refund suit, but they have not done so. While both Appeals and Exam now think the original claim was timely, this does not matter because any consideration, reconsideration, or action by the Secretary with respect to a claim following the mailing of a notice of disallowance by certified mail shall not operate to extend the period within which suit may be begun. IRC 6532(a)(4).

If you have any additional questions about this, please let me know.

Thanks,