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From:

Sent: Tuesday, February 19, 2013 10:20:51 AM

To:

Cc:

Subject: RE: TETR claim

I confirmed what we discussed this morning. You asked whether the Service may issue a refund that is larger than the amount requested in a TETR situation in which the request was timely filed and the Service determines that the overpayment is larger than the amount in the request. As with a normal refund request, if the Service determines that the taxpayer is entitled to an amount that is larger than the request, it may go ahead and make the refund (for the larger amount). In a TETR matter, the analysis would be the same. Although the Service typically needs to both allow and make a refund within the section 6511(a) claim filing period (in any situation in which there is no timely filed claim), that problem is not unique to this situation in which the Service determines that the taxpayer has a larger overpayment than what it claimed. Indeed, in virtually all TETR situations in which a taxpayer timely filed a request by the July 27, 2012 due date, the making of any refund would not fall within the flush section 6511 limitation period, but this is allowed pursuant to Notice 2006-50. Accordingly, once a determination is made, the Service may refund the amount (subject to section 6402).

Feel free to give me a call directly if you want to discuss further.

Regards,