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From: [REDACTED]

Sent: Thursday, May 15, 2014 8:42:01 AM

To: [REDACTED]

Cc: [REDACTED]

Bcc:

Subject: RE: LCU Rate - Form 1042 W/H Tax

We've considered your question about whether the large corporate underpayment rate applies to withholding taxes required by sections 1441/1442 and 1461 and reported on Form 1042, when the Service issues a stat notice. We've concluded that it does, as long as the other requirements of 6621(c), such as threshold amount owed by a C-corporation, are met.

Our general advice with respect to the LCU rate is that the statute doesn't restrict the type of tax that it applies to, because section 6621(c)(3)(A) says "large corporate underpayment means any underpayment of tax by a C Corporation." The LCU regulation, Treas Reg 301.6621-3, also does not restrict the type of tax the rate applies to. The regulation contains several examples, including ones that address FICA and FUTA taxes, but none for the withholding taxes you are asking about. However, in keeping with the plain language of the statute, we concluded that section 1441/1442 and 1461 taxes are subject to the LCU.

If you have any further questions or would like to discuss this advice, please let me know.

Thanks,