

ID: CCA_2015030417141710

UILC: 6511.00-00, 6511.01-00

Number: **201515025**

Release Date: 4/10/2015

From: [REDACTED]

Sent: Wednesday, March 04, 2015 17:14:18

To: [REDACTED]

Cc: [REDACTED]

Bcc:

Subject: FW: FYI - Alert issued for General Welfare Claims

Dear ,

The quick and simple answer is this:

Absent unusual circumstances, claims for returns filed before 09/26/2011 may be denied.

Absent unusual circumstances, claims for returns filed after 09/26/2012 are timely and should be worked.

Also as a general rule, any payments made within 2 years of the refund claim are refundable. § 6511(a) and (b).

The more nuanced answer is:

First let's take claims for refunds for returns filed before 09/26/2011, which is the date three years before the enactment of the Act on 09/26/2014. Absent an agreement extending the period of assessment pursuant to §6501(c)(4) that would extend the period for claiming a refund under §6511(a) until 6 months after the end of the extended assessment period, pursuant to §6511(c), or a timely refund claim that has not been acted on by the Service, no refund will be allowed for these returns, except from payments made within 2 years of the date of the refund claim (as above). In most circumstances, this would mean that claims for refund for timely 2010 Forms 1040 that were not filed on extension could be safely denied.

Next are returns filed on or after 09/26/2012. Provided that the taxpayer files a claim by 09/26/2015, which is the extended date provided in § 2(d)(2) of the Act, payments made within 3 years of the date of the claim, plus the period of any filing extension, would be creditable or refundable. This would capture 2011 returns filed on extension on or after 09/26/2012 and returns for 2012, 2013, and 2014, but it would not cover timely 2011 returns filed without an extension.

The middle ground is where the facts will have to be scrutinized: For returns filed between 09/26/2011 and 09/26/2012, amounts paid within 2 years of the refund claim will be creditable or refundable (as always). Whether any other amounts can be refunded will turn on whether the claim were filed within 3 years of the date the taxpayer filed the return. If not, then the standard 2 years before claim filing look-back period would apply. § 6511(b)(2)(B). If the claim were filed within 3 years of the return, then the look-back period will be 3 years plus the duration of any filing extension. § 6511(b)(2)(A).

raised the question of the 45-day interest rule, which I don't believe we discussed at length on the call on Monday. Where an overpayment is refunded within 45 days after a claim for refund is made, no interest is allowable for the period from the date the claim is filed until the date the refund is made. § 6611(e)(2). If the Service is unable to pay refunds allowable under the Code and the Act within 45 days of the claim, then the Service will be liable for overpayment interest, generally from the date of the overpayment to a date not more than 30 days before the refund issues. § 6611(b)(2). But if the Service makes the refunds within 45 days of the claim, then the Service may stop accruing overpayment interest on the date of the claim.

I hope this is helpful, but please let me know if there are questions.

Thanks,