

ID: CCA_2015082010042618

UILC: 6676.00-00

Number: **201538019**

Release Date: 9/18/2015

From: [REDACTED]
Sent: Thursday, August 20, 2015 10:04:26 AM
To: [REDACTED]
Cc: [REDACTED]
Bcc:
Subject:

:

You indicated that the Exam Team wishes to assert a section 6676 penalty. The tax returns for taxable years [REDACTED] and [REDACTED] of [REDACTED] ("taxpayer") are under examination. In the course of the examination, the taxpayer's representatives submitted a claim for refund based upon the IRC sec. 45O agricultural chemicals security credit. While it is unclear from the factual description you sent to our office whether the refund claims were included on completed amended returns, e.g. Form 1120X, or on some other document, i.e. as informal refund claims, we know that the taxpayer's returns under examination did not claim refunds. The taxpayer's subsidiary, [REDACTED], manufactures and leases railroad tank cars that may carry, among other things, specified agricultural chemicals; therefore, the taxpayer claimed, it constituted an eligible agricultural business, its activity consisting of distributing specified agricultural chemicals. The Exam Team determined that the taxpayer does not qualify for the credit, and a Technical Advice Memorandum from ACC ([REDACTED]) supported this determination. The examination will result in other adjustments which, if upheld, will generate a tax deficiency.

Our responses: Exam may determine the penalty under section 6676 against the taxpayer for making claims for refund in excessive amounts for the above-mentioned taxable years. The penalty will be 20% times the amount of the disallowed refund claims.

The penalty is not dependent upon a deficiency determination and the Service may immediately assess the penalties, without using the Code's deficiency procedures.

Please let me know if you have any questions.