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From: [REDACTED]

Sent: Monday, May 23, 2016 5:06:47 PM

To: [REDACTED]

Cc: [REDACTED]

Bcc:

Subject: Question regarding Forms W-2c

You asked whether the IRS can assert the 6721/6722 penalties against a taxpayer for not filing a Form W-2c, Corrected Wage and Tax Statement, at the conclusion of an audit. Under the regulations, the employer will have until January 31 of the year following the year in which the audit concludes to file (PATH Act change in due date – was previously the last day of February for paper and March 31 for electronic filing) and January 31 to furnish Forms W-2c. See Treas. Reg. 31.6051-1(c), 31.6051-1(d), 31.6051-2(b), and 31.6071(a)-1. Thus, the IRS cannot assert the 6721/6722 penalties against the employer for failure to file and furnish Forms W-2c at the conclusion of an audit. However, the IRS can assert the penalties if the employer fails to file and furnish the Forms W-2c by the due date.

Note that some relevant background material can be found in IRM 4.23.9.12.6(1) (04-01-2011) Q&As 5-7, as well as IRM 4.23.8.10.2 (10-26-2015) Delinquent Forms W-2/W-2c Not Secured by Examiner and IRM 4.23.10.15 (09-25-2015) Securing Form W-2 or W-2c.

Please let me know if you have any questions.

Best,