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From: [REDACTED]

Sent: Monday, June 26, 2017 3:34:30 PM

To: [REDACTED]

Cc: [REDACTED]

Bcc:

Subject: "administrative error" in Instructions for Form 941-X

You asked for a clarification on the definition of "administrative error" as used in the Instructions for Form 941-X.

You indicated that employers are filing Form 941-X to correct federal income tax withheld in prior years, and stating "administrative error" on line 24 as the explanation for the correction and seeking a refund when it appears the reason is actually non-administrative. Employers are using Form 941-X to correct federal income tax withheld from an employee in a prior year after an employer discovers that it didn't withhold the right amount – including because employer incorrectly calculated the amount of federal income tax it paid in a prior year on behalf of the employee, rather than deducting it from the employee's pay (which resulted in additional wages subject to tax).

We agree with your conclusion – only transposition or basic math errors, such as addition-subtraction and multiplication computations, in which the amount reported on Form 941, line 3 (Federal income tax withheld from wages, tips, and other compensation), doesn't agree with the amount you withheld from an employee's wages are administrative errors.

Generally, an employer may correct non-administrative errors for federal income tax withholding on an adjusted employment tax return only if the errors are discovered in the same calendar year employer paid the wages. Moreover, for an overcollection, an employer may correct federal income tax withholding only if the employer also repaid or reimbursed the employees in the same year.

For prior years, an employer may correct federal income tax withholding errors **ONLY** if they are administrative errors.

If in a subsequent year an employer determines that it incorrectly calculated the amount of tax it withheld in the prior year, the employer can't correct the federal income tax withholding. The amount of Federal income tax withheld, shown in Box 2 on Form W-2, *Wage and Tax*

Statement, is used by the employee to claim a credit for withholding for individual income tax return purposes.

Here are a few specific examples of non-administrative errors. If in a subsequent year an employer determines that it incorrectly calculated the amount of tax it withheld in the prior year, the employer can't correct the federal income tax withholding just because the employer happened to have:

- used the wrong income tax withholding table in Pub. 15 or
- didn't treat a payment correctly as taxable or nontaxable or
- paid federal income tax on behalf of the employee, rather than deducting it from the employee's pay (which resulted in additional wages subject to tax).

See §31.6413(a)-1, §31.6413(a)-2, and Rev. Rul. 2009-39, 2009-52, I.R.B. 951 at www.irs.gov/irb/2009-52_IRB/ar14.html. For more details on how to complete Form 941-X to correct an administrative error, please go to "**Correcting federal income tax withheld**" under **Reminders** in the Instructions for Form 941-X at <https://www.irs.gov/pub/irs-pdf/i941x.pdf>