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From: [REDACTED]
Sent: Friday, July 21, 2017 9:01 AM
To: [REDACTED]
Cc: [REDACTED]
Bcc:
Subject: 7422 question

It's a good question. I thought it has an easy answer, but it's come up three times in the last few weeks. I think the way it works is as follows: you start with section 7422(d) (as you indicate in your e-mail), which provides that the credit of an overpayment is deemed to be the "payment" for refund suit purposes. Then, take a look at section 6407, which provides the date on which a credit is deemed made (it's the date on which the Secretary first authorizes the scheduling of the overassessment). Accordingly, I agree that the "payments" applied to [REDACTED] and [REDACTED] were made when the [REDACTED] return was processed and the [REDACTED] overpayment was approved (note that there was no "refund" approved, but rather an "overpayment" – a refund only results from an overpayment after all of section 6402 is applied).

I do not know if you are asking this question because of a potential refund suit involving [REDACTED] and/or [REDACTED], or, conversely, if you are still dealing with [REDACTED]. The advice I gave recently (and with which I still maintain) is that the "payments" made on the [REDACTED] and [REDACTED] modules do indeed have a "refreshed" lookback period for purposes of section 6511(b). But I am not sure if that is your question. In other words, if the taxpayer sues for refund of an overpayment in the [REDACTED] module, the date of payment would not be the date on which the money was actually remitted to the Service with respect to the liability, but, rather would be the later date on which money was moved from one pocket to the other.

I skimmed the 9th Circuit case ([Reynoso](#)) and it seems to address the situation when the Service erroneously credits money. I think it says that the erroneous "credit" is essentially void, meaning there is no "refreshed" lookback period. So I am not sure how its applicable to your situation.

Here is the GL-1 discussion (with my new placeholder comment). I think it is not complete and likely needs revisions to make this all clearer, so be on the lookout for the next version.

A. *Credit of an Overpayment.*

1. A tax is considered paid when an overpayment of one tax is credited against an unpaid liability for another type of tax. Section 6402(a). A tax is also considered paid when an overpayment in one year is credited against a deficiency in tax for a different tax year. Section 6513(d).

2. Where an overpayment in one year is credited to a deficiency for another year, the date of payment is the date the Service credits the overpayment against the deficiency, and the two-year-from-payment period begins to run on that date. Section 7422(d).

3. Where a taxpayer, reporting an overpayment for a tax year (the first year), elects to credit the overpayment to estimated tax for the next tax year (the second year), the amount credited constitutes a payment for the second year and is considered paid on the filing date for the second year's return. The overpayment ceases to exist for the first year and the taxpayer can only file a claim for refund with respect to payment in the second year, not the first year. Section 6513(d).

FYI, I will be out of the office for the next two weeks. I hope this answers your question(s), but, if not, we might need to loop in another attorney. Accordingly, I am cc'ing some managers (both to make them aware of my advice and also to provide further assistance if needed).

Regards!