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From: [REDACTED]

Sent: Tuesday, February 20, 2018 2:16:56 PM

To: [REDACTED]

Cc: [REDACTED]

Bcc:

Subject: RE: Request for Advice re Barred Refund for ID Theft Victim

Per discussion:

IRM 5.19.21.2.3.1 provides guidance on repaying amounts to a person when that person's property was levied upon by the Service as a result of identity theft. Note that, per paragraph (3)(b), this IRM provision specifically addresses a person who does not have a filing obligation. Paragraph (2) explicitly provides that return of the levy proceeds here "falls under normal payment RSED procedures and time frames."

You have inquired about language at IRM 21.8.1.6.9. Please note that this provision is addressing section a 7654 "cover over", not a section 6402 refund of an overpayment. Section 7654 cover over does not appear to be applicable to this situation.

The regulations under section 6402 set forth the formal requirements for filing a refund claim. It has long been recognized by the courts, however, that an informal claim for refund may suffice. See, e.g., United States v. Kales, 314 U.S. 186, 194 (1941). If the Service believes the taxpayer could successfully show, based on records of communication with the Service, that the Service knew or should have known that the taxpayer was requesting a refund, it would be appropriate for the Service to consider those facts in its determination of whether there has been any informal claim for refund.

[REDACTED]

Please do not hesitate to contact me with any questions or concerns.