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From: [REDACTED]
Sent: Thursday, September 27, 2018 3:29:30 PM
To: [REDACTED]
Cc: [REDACTED]
Bcc:
Subject:

You stated that the Appeals Officer assigned to a deficiency appeal wants to “ask Exam to (1) attach the referenced LS501 to the Civil Penalty Form and (2) to fix Workpaper 1.2 so that it has section 6663 checked and not section 6651(f).” You asked whether the Appeals Officer’s contact with Exam would be a prohibited ex parte communication and if there are any rules in Rev. Proc. 2012-18 applicable to this situation.

Rev. Proc. 2012-18, section 2.03(6), makes clear that returning the case to Exam for these purposes is not a prohibited ex parte communication as long as the request and explanation does not go beyond the types of ministerial, administrative, or procedural matters set forth in section 2.03(2). However, Rev. Proc. 2012-18, section 2.03(6) requires Appeals to notify the taxpayer or the taxpayer’s representative that the case is being returned in part for further development. The supplemental report prepared by the originating function, which in this case would be the properly signed approval by the Exam manager, must be shared with the taxpayer or representative.

Based on this advice, I do not believe your other questions require answering. If you disagree, please let me know and I will ask and to respond.

Let me know if you have any questions.