

ID: CCA_2020092514215240

UILC: [7508A.00-00, 6511.00-00]

Number: **202053013**

Release Date: 12/31/2020

From: [REDACTED]

Sent: Friday, September 25, 2020 2:21:52 PM

To: [REDACTED]

Cc: [REDACTED]

Bcc:

Subject: interaction of section 7508A and section 6511(b)(2)(A) - follow-up from 9/24 RATA class

Hi . We wanted to follow-up on a question raised during the class yesterday. Someone asked how section 7508A works in the context of the 3-year lookback period of IRC § 6511(b)(2)(A), and we wanted to be sure everyone had the relevant analysis. Pursuant to Notice 2020-23, taxpayers had until July 15, 2020 to file their 2019 returns. Notice 2020-23 did not affect the date on which any withheld tax or estimated tax for 2019 is deemed paid. So any withheld tax or estimated tax for 2019 is deemed paid on April 15, 2020 for calendar year taxpayers. See IRC § 6513(b)(1) (withheld tax) and IRC § 6513(b)(2) (estimated tax). Under IRC § 6511(a), a taxpayer would have 3 years from the filing of the 2019 return to claim a refund. So suppose a taxpayer files the 2019 return pursuant to Notice 2020-23 on July 15, 2020. The taxpayer would have until July 17, 2023 (3 years would be July 15, but that is a Saturday, so under IRC § 7503, the taxpayer would have until Monday July 17) to file a timely claim for refund. Yet IRC § 6511(b)(2)(A) limits any refund to amounts paid within the 3 years prior to the filing of the claim plus any period of extension (the 3-year lookback period). Unfortunately, the additional time prescribed by Notice 2020-23 is not an “extension” within the meaning of the 3-year lookback period. Thus, if the taxpayer is trying to claim a refund of estimated tax or withheld tax for 2019, the taxpayer cannot wait until July 17, 2023 to file a claim, as those payments would be outside the 3-year lookback period. Instead, the taxpayer must file a claim for refund on or before April 17, 2023. (3 years from April 15, 2020 would be April 15, 2023, but that is a Saturday, so under IRC § 7503, the taxpayer would have until Monday April 17). (If, however, the taxpayer had filed an extension request and then filed on July 15, 2020, the taxpayer would have until July 17, 2023 to claim a refund of estimated tax or withheld tax, as then the payments would have been made within the period of extension). We recognize this is a harsh result for many taxpayers, but section 7508A operates as a “postponement” not an “extension.”

Would you mind distributing to the RATAs and then if anyone has further questions please let us know? Thanks so much.