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From: [REDACTED]

Sent: Thursday, October 15, 2020 1:13:24 PM

To: [REDACTED]

Cc: [REDACTED]

Bcc:

Subject: FW: interaction of section 7508A and section 6511(b)(2)(A)

Hi [REDACTED]. Thanks for your patience while I confirmed with the section 6511 experts in Counsel that the taxpayer in this fact pattern is entitled to a refund:

Taxpayer had withholding from 2016 deemed paid on 4/15/2017

Taxpayer late filed 2016 return in June of 2020, and claimed a refund of the withholding that was deemed paid on 4/15/17

The taxpayer's 2016 refund claim (in this case on a delinquent return) was due by 4/15/20 in order to claim the withholding deemed paid on 4/15/17. Yet Notice 2020-23 postponed the due date to 7/15/20. So when the taxpayer filed in June of 2020, the refund claim was timely. And the postponement operated to disregard the period of 4/15/20 to the date of filing in June of 2020 for purposes of the section 6511 look-back period. Take a look at this example from Treas. Reg. 301.7508A-1, as it illustrates the same principle:

Example 5. (i) H and W, residents of County D in State G, intend to file an amended return to request a refund of 2008 taxes. H and W timely filed their 2008 income tax return on April 15, 2009. Under section 6511(a), H and W's amended 2008 return must be filed on or before April 16, 2012 (because April 15, 2012 falls on a Sunday, H and W's amended return was due to be filed on April 16, 2012).

(ii) On April 2, 2012, an earthquake strikes County D. On April 6, 2012, certain counties in State G (including County D) are determined to be disaster areas within the meaning of section 1033(h)(3) that are eligible for assistance by the Federal government under the Stafford Act. Also on April 6, 2012, the IRS determines that County D in State G is a covered disaster area and publishes guidance announcing that the time period for affected taxpayers to file returns, pay taxes, and perform other time-sensitive acts falling on or after April 2, 2012, and on or before October 2, 2012, has been postponed to October 2, 2012.

(iii) Under paragraph (c) of this section, filing a claim for refund of tax is one of the taxpayer acts for which the IRS may disregard a period of up to one year. The postponement period for this disaster begins on April 2, 2012, and ends on October 2, 2012. Accordingly, H and W's claim for refund for 2008 taxes will be timely if filed on or before October 2, 2012. Moreover, in applying the lookback period in section

6511(b)(2)(A), which limits the amount of the allowable refund, the period from October 2, 2012, back to April 2, 2012, is disregarded under paragraph (b)(1)(iii) of this section. Thus, if the claim is filed on or before October 2, 2012, amounts deemed paid on April 15, 2009, under section 6513(b), such as estimated tax and tax withheld from wages, will have been paid within the lookback period of section 6511(b)(2)(A).

Let me know if you have any further questions. Again, sorry for the delay in getting back to you.