

ID: CCA_2020111814425340

UILC: 6514.00-00

Number: **202125017**

Release Date: 6/25/2021

From: [REDACTED]

Sent: Wednesday, November 18, 2020 2:42:53 PM

To: [REDACTED]

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Subject: RE: TAS Case Guidance Memo 07/28/2020 on 907 Agreements

Hi . Take a look at IRC section 6514(a)(2). Here's the language:

(A) CREDITS OR REFUNDS AFTER PERIOD OF LIMITATION

A refund of any portion of an internal revenue tax shall be considered erroneous and a credit of any such portion shall be considered void-

2) Disallowance of claim and expiration of period for filing suit

In the case of a claim filed within the proper time and disallowed by the Secretary, if the credit or refund was made after the expiration of the period of limitation for filing suit, unless within such period suit was begun by the taxpayer.

The taxpayer in this case is out of luck based on my reading of the facts below. Yes, it appears the IRS was wrong in denying the claim, as your facts suggest the claim was timely because of the impact of IRC § 7503. But IRC § 6514(a)(2) is clear – if the IRS issues the refund after the period for filing suit has expired and the taxpayer didn't file a timely suit, then such refund is erroneous. So it doesn't matter if the IRS was wrong in its interpretation of IRC § 6511 regarding the timeliness of the claim. The only way I could see issuing a refund after the period for filing suit has expired is if somehow the 2-year period for filing suit wasn't actually triggered (e.g., the 105C was invalid because it wasn't sent by certified or registered mail as required by IRC § 6532).

Can you send me the case guidance memo to which you are referring, as I don't recall seeing any such memo.

Sorry but I think this is a case where TAS can't provide any help.