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From: [REDACTED]
Sent: Friday, April 30, 2021 11:15:38 AM
To: [REDACTED]
Cc:
Bcc:
Subject: FW: Possible 105C letter discrepancy

Hi [REDACTED]. Here is guidance from [REDACTED]. Let me know if you still have questions, and then perhaps we should have a call.

If the claim asks for a refund, then it is a claim for refund. A balance-due at the time of the claim is irrelevant. What matters is if there *would be* a balance-due even if the claim is allowed.

Example I

\$10k liability reported and assessed.
\$8k paid
\$2k balance-due
Claim filed alleging the liability is actually \$7k

This is a claim for refund. If allowed, the \$2k balance -due would be abated as being excessive. Further, \$1k would be refunded as an overpayment (\$8 paid - \$7k liability = \$1k overpayment)

Example II

\$10k liability reported and assessed.
\$8k paid
\$2k balance-due
Claim filed alleging the liability is \$8k

This is a claim for abatement. If allowed, \$1k of the \$2k balance -due would be abated as being excessive. The claim does not seek any refund.

In both situations there was a balance-due. That is not relevant. The distinguishing feature between the two claims is that in the first, the taxpayer is asking for a refund. The denial of this claim can form the basis of jurisdiction in a later court

action. In the second, the taxpayer is not asking for a refund. This second claim would not form the basis of a justiciable controversy. However, that is not a problem. The taxpayer will ALWAYS be able to sue for refund if he/she/it is ever put into an overpayment situation, because that could only happen prospectively, and there will be new claim-filing deadlines with respect to any claims that seek the return of prospective payments (whether voluntary or not).