

ID: CCA_2021021007342944

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Release Date: 10/15/2021

From: [REDACTED]

Sent: Wednesday, February 10, 2021 07:34:29

To: [REDACTED]

Cc: [REDACTED]

Bcc:

Subject: RE: Forms 13308-14104-No Tax COP-Restitution Only- - - - WESTBROOKS CASE

This is a Westbrooks case. As you observe, conviction for a count under Title 18 can give rise to an independent restitution order under the MVRA, and where the same conduct that gave rise to the Title 18 count also gives rise to a Title 26 count, so that the restitution imposed can be said to be attributable to both the Title 18 count as much as the Title 26 count, the restitution could be attributed to the Title 18 count and thus imposed as an independent part of the sentence even if the same restitution would also have been due for the Title 26 count.

However, in this case, the conduct alleged in the indictment for the Title 26 counts is separate from the conduct alleged for the Title 18 counts. The conduct is related, but separate, and no tax loss was suffered for the Title 18 counts (for which the government suffered no loss for which restitution could be imposed). In addition, as you point out, the government's sentencing memorandum states that restitution may not be imposed as an independent part of the sentence for a Title 26 count; the government thus represented to the court that restitution could only be imposed as a condition of supervised release.

Please call if you have any further questions about this matter.