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From: [REDACTED]
Sent: Thursday, April 1, 2021 3:19:43 PM
To: [REDACTED]
Cc: [REDACTED]
Bcc:
Subject: RE:

We agree with your conclusion that the issuance of a Letter 627 to [REDACTED] does not preclude the IRS from examining the return.

There is no legal prohibition on the IRS's examination of the return. There was no examination of the return (either original or supplemental) for purposes of section 7605(b) and, by extension, Rev. Proc. 2005-32. Prior to the issuance of the opening letter to the estate, the IRS never inspected [REDACTED] books of account (nor did the IRS even request such records); thus, the prohibition of "only one inspection" in section 7605(b) does not apply. Rather, the IRS accepted the return as filed, issued a refund, and sent a Letter 627. Acceptance of a return as filed does not constitute an examination. See Rev. Proc. 2005-32, § 4.03(1)(a) (looking at a return is not an examination). The minimal contacts/communications between the IRS and [REDACTED] here easily fall into the category of "narrow, limited contacts between the Service and a taxpayer that do not involve the Service inspecting the taxpayer's books of account" that do not constitute an examination or inspection. See Rev. Proc. 2005-32, §§ 4.03, 4.03(1).

In response to the opening letter, [REDACTED] attorney contends that the IRS has not followed the reopening procedures in Rev. Proc. 2005-32, § 5. However, these procedures apply only to the reopening of a closed examination. See Rev. Proc. 2005-32, § 5.01 (the IRS "will not reopen a case closed after examination to make an adjustment to liability unfavorable to the taxpayer unless" at least one of three criteria is met) (emphasis added); see *also* Treas. Reg. § 601.105(j) (same). Because there was no examination in the first place, the opening letter is not a reopening of a closed examination.

The prior advice from P&A that a Letter 627 is not a closing agreement supports our conclusion here that the IRS is not legally prohibited from examining the return.

It is the IRS's business decision to determine the factors that should or must be considered when examining a return that was previously accepted as filed. That said,

there's a consideration about IRM 4.25.14.8.1 and Letter 627 that we'd like to discuss with you. Please let _____ know your availability for this and next week and we will send a meeting invitation.

Thanks,