

ID: CCA\_2024042413474918

[Third Party Communication:

UILC: 6662.00-00, 6664.01-00,  
6676.00-00

Date of Communication: Month DD, YYYY]

Number: **202514003**

Release Date: 4/4/2025

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**From:** [REDACTED]

**Sent:** Wednesday, April 24, 2024 1:48:00 PM

**To:** [REDACTED]

**Cc:** [REDACTED]

**Bcc:**

**Subject:** RE: Request for advice on large erroneous refund and associated penalty

Hi [REDACTED],

The key question is whether the erroneously issued refund resulted in an underpayment. If it did, a section 6662 penalty would likely be appropriate instead of the section 6676 penalty.

Generally, section 6676 imposes a 20 percent penalty on the excessive amount of a claim for refund or credit that lacks reasonable cause. §6676(a). The penalty does not apply to any portion of the excessive amount which is subject to an accuracy-related penalty under sections 6662 or 6662A or a fraud penalty under section 6663. §6676(d).

A section 6662 penalty can exist only when there is an underpayment as defined in section 6664. §6662(a); §6664(a). The section 6664 regulations define an underpayment of income tax for purposes of section 6662 as the excess of the amount of income tax imposed under Subtitle A over the excess of (A) the sum of (i) the amount shown as the tax by the taxpayer on his return, plus (ii) amounts not so shown previously assessed (or collected without assessment), over (B) the amount of rebates made. Treas. Reg. §1.6664-2(a).

The mere fact of an underpayment, however, is not sufficient to impose a penalty under section 6662. Based on your email, we can assume that the erroneously issued refund resulted in an underpayment, and that the underpayment is attributable to negligence or disregard of the rules and regulations. In that case, the section 6662 negligence penalty should apply. However, if the underpayment is not attributable to negligence and similarly would not result in another section 6662 penalty, a section 6662A penalty, or a section 6663 penalty, then the section 6676 penalty should be imposed on the erroneous claim for refund.

Please let us know if you have any questions.

[Redacted]

[Redacted]