



OFFICE OF
CHIEF COUNSEL

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224
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MEMORANDUM FOR ASSOCIATE DISTRICT COUNSEL,
DISTRICT

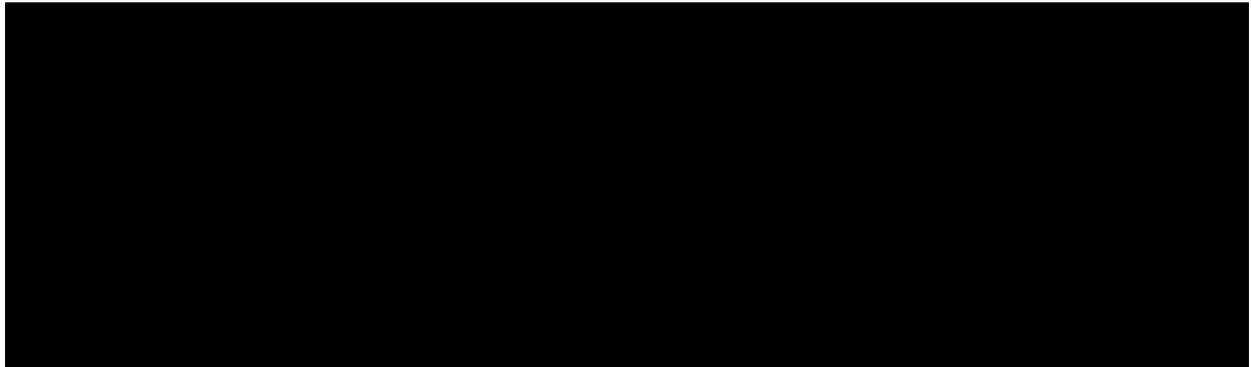
FROM: Joseph W. Clark
Senior Technical Reviewer, Branch 2 (General Litigation)

SUBJECT: Remedies available for erroneous abatements and credits

By way of a memorandum dated _____, you asked that we post-review an advisory opinion from your office regarding the remedies available for erroneous abatement of tax that results in credits to unpaid tax liabilities in this case. This document is not to be cited as precedent.

FACTS

This is a case in which taxpayers filed in _____ of _____ an amended return for _____ with the _____ Service Center. The amended return requested a tax decrease of \$ _____. Since the taxpayers had not fully paid the tax for _____, a refund of only \$ _____ was requested. The taxpayer requested this amount be applied to another tax year liability. The amended return was evaluated by a classifier in the Examination Branch of the Service Center. The classifier generally makes facial evaluations of the merits of refund claims, then determines whether the claim should be allowed or should be forwarded to the District Examination Division for further evaluation. In the instant case, the classifier forwarded the amended return to the District Examination Division.



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[REDACTED]

[REDACTED]

By this time, the statute of limitations on assessment had expired.

CONCLUSION

Clerical errors can be reversed in appropriate cases. See *Matter of Bugge*, 99 F.3d 740 (5th Cir. 1996); *Crompton-Richmond Co., Inc. v. United States*, 311 F. Supp. 184 (S.D.N.Y. 1970). However, in *Crompton-Richmond* the court distinguished between “a substantive reconsideration of the taxpayer’s liability by the IRS and a clerical error committed by the IRS that has the same effect.” 311 F. Supp. 1184 (S.D.N.Y. 1970).

[REDACTED]

[REDACTED]

We have coordinated with Field Service, and they concur on both issues. If you have any further questions, please call the attorney assigned to this matter at (202) 622-3620.