

Office of Chief Counsel
Internal Revenue Service
memorandum

CC:PA:02
POSTN-146385-07

UILC: 6662.00-00

date: October 22, 2007

to: Paul Petrella
Program Analyst
SB/SE Compliance
Document Matching
SE:S:CCS:CRC:DM

from: Ashton Trice
Chief, Branch 2
Procedure and Administration
CC:PA:2

subject: Accuracy Related Penalties and the Automated Underreporter Program

This Chief Counsel Advice responds to your request for assistance. This advice may not be used or cited as precedent.

ISSUE

Is the Automated Underreporter (AUR) program accurately applying the accuracy-related penalty for negligence to taxpayers [REDACTED]

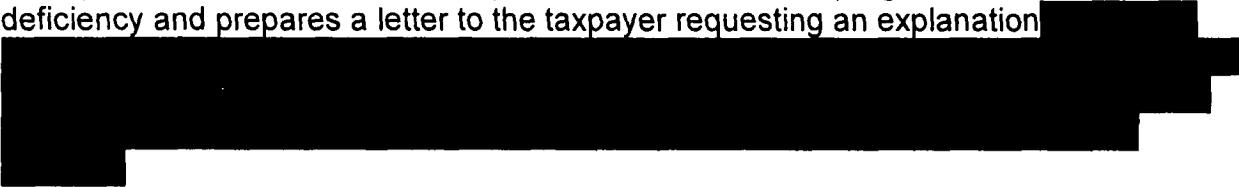
CONCLUSION

For penalty purposes, negligence includes failure to exercise ordinary and reasonable care in the preparation of a tax return. Regulations under section 6662 specifically state that negligence is strongly indicated where a taxpayer fails to include on an income tax return an amount of income shown on an information return. Absent any additional information submitted by the taxpayer to explain why that income was omitted, it is appropriate to apply the accuracy-related penalty for negligence to taxpayers who omit that income. [REDACTED]

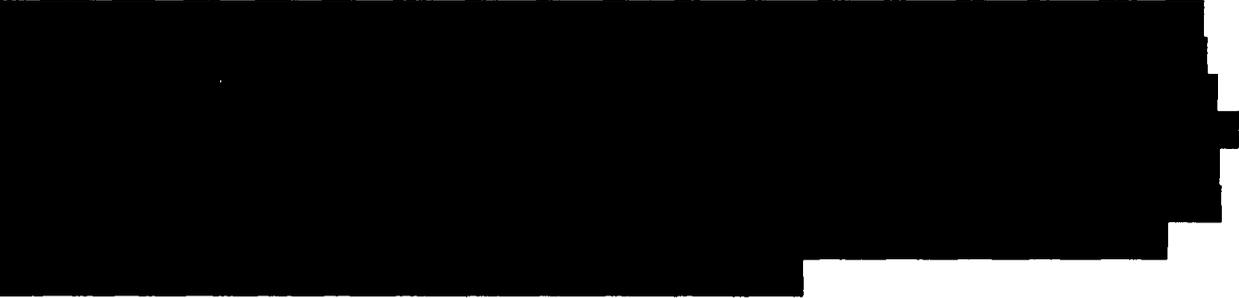
PMTA: 01249

FACTS

The AUR program is a document matching program that compares a taxpayer's return with third party information returns. If the program finds a discrepancy between the taxpayer's return and the third party information return, the program calculates a deficiency and prepares a letter to the taxpayer requesting an explanation

LAW AND ANALYSIS

Section 6662(a) and section 6662(b)(1) impose a penalty for any portion of underpayment of tax required to be shown on the return that is attributable to negligence. Negligence includes any failure to make a reasonable attempt to comply with the provisions of the internal revenue laws or to exercise ordinary and reasonable care in the preparation of a tax return. Treas. Reg. §1.6662-3(b)(1). Regulations expressly state that negligence is strongly indicated where a taxpayer fails to include on an income tax return an amount of income shown on the information return. Treas. Reg. §1.6662-3(b)(1)(i). Accordingly, in the absence of any other evidence suggesting that the failure was not negligent, it is appropriate to propose and subsequently assess an accuracy-related penalty for negligence when a taxpayer does not include on an income tax return an amount of income shown on an information return.



This writing may contain privileged information. Any unauthorized disclosure of this writing may undermine our ability to protect the privileged information. If disclosure is determined to be necessary, please contact this office for our views.

Please call (202) 622-6940 if you have any further questions.