

## DEPARTMENT OF THE TREASURY

## INTERNAL REVENUE SERVICE WASHINGTON, D.C. 20224 March 31, 1999

Number: **199935005** CC:EL:GL:Br2 Release Date: 9/3/1999 GL-710323-98

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MEMORANDUM FOR ASSOCIATE DISTRICT COUNSEL, DISTRICT

FROM: Joseph W. Clark

Senior Technical Reviewer, Branch 2 (General Litigation)

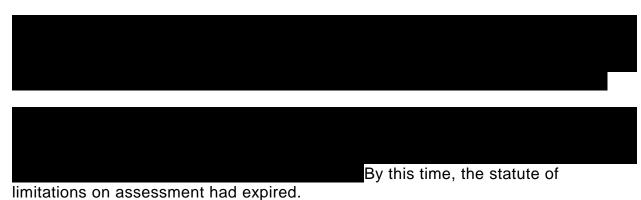
SUBJECT: Remedies available for erroneous abatements and credits

By way of a memorandum dated , you asked that we postreview 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

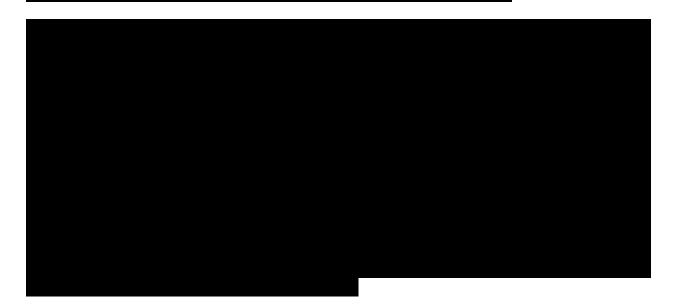
This is a case in which taxpayers filed in of an amended return for with the Service Center. The amended return requested a tax decrease of \$ . Since the taxpayers had not fully paid the tax for , a refund of only \$ was requested. The taxpayer requested this amount be applied to another tax year liability. 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.





## **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).



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.