



. The Year 2 refund claim was in the amount of . That refund did not go out because under I.R.C. § 6405(a), a Joint Committee report was required prior to issuing a refund in excess of \$1 million. The Examination Division reviewed the refund claimed for Year 2 and subsequently determined that it was not allowable.

The District Director's office requested your advice with regard to whether the Year 3 refund claim should have been aggregated with the Year 2 refund claim for purposes of the report required by I.R.C. § 6405(a), and if so, whether the failure to treat the Year 3 claim as a Joint Committee case prior to issuing the refund would provide the basis of an erroneous refund suit under I.R.C. § 7405(b).

#### CONCLUSION:

Your advisory memorandum to Person A correctly concludes that, although a refund of over \$1 million should not be made without a report to the Joint Committee, the failure to make the required report does not provide a basis for an erroneous refund suit by the Government. Further, you are correct in noting that I.R.C. § 6405 does not provide that a refund made without the report is erroneous per se.

With regard to the issue of whether the Year 3 refund claim should have been aggregated with the Year 2 refund claim for purposes of the Joint Committee report, it is our understanding from discussions with that their office will or has addressed this issue.