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From: ▮▮▮▮▮▮▮▮▮▮
Sent: Monday, December 08, 2014 13:37
To:
Cc:
Bcc:
Subject: RE: Rand case penalty calculation

Mike,

As we discussed, the Rand penalty calculator result of $1,000 for the underpayment is correct.

§1.6662-4 says that the underpayment = $W - (X + Y - Z)$

W is the amount of tax imposed on the return, taking into account <u>allowable</u> refundable tax credits as negative amounts of tax, but not less than zero.
X is the amount of tax shown on the return, less (1) <u>claimed</u> refundable credits, but not below zero and then less (2) excess withholding credits, which can drive it below zero.
Y and Z are both zero in this hypo.

The takeaway from the Rand case is the rule that refundable credits reduce both tax owed and tax shown, but not below zero. Thus in this hypo, the allowable credits do reduce the tax imposed as a result of the omitted income.

The amount of tax imposed after exam's adjustments is $1,000 ($1,500-$500), the tax shown originally is $0 (not reduced below zero by claimed refundable credits), so the underpayment is $1,000 ($1,000 – $0), and that's the amount against which the §6662 penalty is properly applied.

This can get tricky, so please let me know if you have any further questions.

Thanks,