Office of Chief Counsel
Internal Revenue Service

memorandum

CC:MSR:ILD:TL-N-4207-99
HBDow (312) 886-9225 x. 403 (FAX) 886-9244
G:\CASES\[redacted]\Research Credit SOL.wpd

date: July 13, 2000

to: District Director, Illinois
Attn: Ray Kotecki E:1203

from: District Counsel, Illinois CC:MSR:ILD

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subject: Statute of Limitations for Research Credit Claim

Taxpayer: [redacted]
EIN: [redacted]
Years: [redacted]

This is in response to your request for an opinion concerning what year controls the statute of limitations in connection with a claim for refund based on research credits for the taxable year [redacted]

The taxpayer filed its return for [redacted], which was examined and closed with no changes. The normal statute of limitations on that return expired on [redacted].

At some point after that date, apparently in [redacted] or [redacted][1], you opened an audit of the [redacted] through [redacted] returns. In [redacted], the taxpayer advised you that it intended to file a claim for additional research credits, without specifying the source years for the claim. Thereafter, in [redacted], the taxpayer made a claim for additional research credits for [redacted] through [redacted]

Part of the claim made by the taxpayer included a carryover of unused research credit of $[redacted] from [redacted]. You have asked whether this claim is timely, or barred by the statute of limitations. You point out that Rev. Rule 83-49, 1982-1 C.B. 5, concludes, under facts similar to those in the present case, that a taxpayer can claim a carryover of IRC § 46(a) investment tax credit from a barred year, even if the credit was not reported on the bar year return.

The investment credit provided by IRC § 46(a), was in 1982 and remains today a component of the general business credit under § 38. Likewise, the research credit under § 41(a) was and is a component of the general business credit. We can see no basis on which it would be proper to treat

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[1] Your memorandum of May 30, 2000, states that opening conference was on [redacted] obviously a typographical error. .

the statute of limitations for the carryforward of the investment credit any differently than the carryforward of the research credit. Therefore, the analysis of Rev. Rul. 82-49 should be applied in the case of the research credit, and consequently, the taxpayer's claim for a carryforward from [redacted] is timely.

This conclusion in no way precludes you from examining the [redacted] research credit to make such adjustments as may be necessary to correct the carryforward. These adjustments would include making sure that the carryforward is calculated taking into account the amount that should have been absorbed in [redacted] even though refund of any tax for [redacted] is barred. Furthermore, you can make adjustments to the base year computations relating to the [redacted] credit as well, just as if the [redacted] year were an open year, including consistency adjustments under IRC § 41(c)(5).

Finally, if you should determine that adjustments to the research credits originating in any of the years [redacted] are such that the consistency rule under would come into play for the base years relating to those years, please contact us for an opinion whether the base years relating to credits originating in [redacted] can also be adjusted to be consistent with the [redacted] determination.

This opinion is subject to post review in our National Office, which normally should be completed within ten working days from the date this opinion is issued. We will advise you of comments or corrections, if any, made as a result of that review.

Richard A. Witkowski
District Counsel

By: _____
HARMON B. DOW
Special Litigation Assistant

cc: Assistant Regional Counsel (TL) CC:MSR:TL
Associate Chief Counsel (Procedure and Administration) CC:ACC:P&A