

ID: CCA_2012101509251324

Number: **201311027**

Release Date: 3/15/2013

Office:

UILC: 6103.02-08, 6103.08-04

From:

Sent: Monday, October 15, 2012 9:25:15 AM

To:

Cc:

Subject: RE: Disclosure section 6103(h)(4)(B) or (C)

As we discussed on Friday, section 6103(h)(4)(B) and (C) provide for the disclosure of third-party return information in a judicial or administrative proceeding pertaining to tax. Generally, courts hold that an IRS examination is an administrative proceeding pertaining to tax. Under section 6103(h)(4)(B), disclosure of third-party return information may be made in the proceeding if the treatment of an item reflected on such return is directly the resolution of an issue in the proceeding. Under section 6103(h)(4)(C), disclosure of third-party return information may be made in the proceeding if such return or return information directly relates to a transactional relationship between a person who is a party to the proceeding and the taxpayer which directly affects the resolution of an issue in the proceeding.

My review of the information you provide below finds that disclosure is not authorized. The regulation you cite does not provide for the taxpayer to claim the credit. Disclosure that the third-party taxpayer claimed the credit or that the IRS audit team allowed the third-party taxpayer to claim the credit would not directly resolve the issue in the proceeding of whether the retail company appropriately claimed the credit. The burden is on the retail company to establish its right to the credit.