

AMENDED RETURNS AND THE TIMELY MAILED/TIMELY FILED RULE

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A recent Chief Counsel Advice reveals the quirky nature of the timely mailed/timely filed rule as to amended returns. The CCA notes that the rule which treats a return as filed as of the date of mailing under Code Section 7502 will NOT apply to an amended return that shows an increase in tax due. This is because Section 7402 only applies to returns that are “required to be filed” and such returns are not required. Thus, under the CCA, a taxpayer who submitted an amended return that was timely when mailed, but beyond the statute of limitations for assessment of taxes when received by the IRS, could not be assessed taxes for the increased tax amount shown on the return.

However, the CCA notes that if the amended return included a claim for refund, then the timely mailed/timely filed rule WOULD apply since the law requires a claim to be filed in such case.

Thus, this is quite a quirky situation where the timely mailed rule should be available to help taxpayers submitting amended returns seeking a refund (to save them from a late filing based on the day the IRS receives the return), but will not be applied to help the IRS when such a return shows additional tax due.

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