

Part III

Administrative, Procedural, and Miscellaneous

26 CFR 601.105: Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability. (Also Part I, §§ 6601, 6611, 6621; 301.6601-1, 301.6611-1, 301.6621-1.)

Rev. Proc. 99-19

SECTION 1. PURPOSE

With respect to interest accruing before October 1, 1998, this revenue procedure provides guidance, and requests public comment, regarding the application of § 6621(d) of the Internal Revenue Code. Section 6621(d) was enacted by § 3301 of the Internal Revenue Service Restructuring and Reform Act of 1998 (RRA), Pub. L. No. 105-206, 112 Stat. 741, and was amended by § 4002(d) of the Tax and Trade Relief Extension Act of 1998, Pub. L. No. 105-277, 112 Stat. 2681. Section 6621(d) provides for a net interest rate of zero to the extent of overlapping tax underpayments and tax overpayments, and generally applies to interest for periods beginning after July 22, 1998 (i.e., interest accruing on or after October 1, 1998). However, the net interest rate of zero in § 6621(d) also applies to interest for periods beginning before July 22, 1998 (i.e., interest accruing before October 1, 1998), provided certain conditions are met. This revenue procedure provides guidance on, and how to comply with, those conditions.

SECTION 2. BACKGROUND

.01 Interest computations in general.

(1) Section 6601(a) provides, in general, that if any amount of tax imposed by the Code is not paid on or before the last date prescribed for payment, interest on such amount must be paid for the period from such last date to the date paid at the underpayment rate established under § 6621.

(2) Section 6611(a) provides that interest must be allowed and paid on any overpayment in respect of any internal revenue tax at the overpayment rate established under § 6621. Section 6611(b)(1) provides that, in the case of a credit, interest must be allowed and paid from the date of the overpayment to the due date of the amount against which the credit is taken. Section 6611(b)(2) provides that, in the case of a refund, interest must be allowed and paid from the date of the overpayment to a date preceding the date of the refund check by not more than 30 days.

.02 Interest rates in general.

(1) For interest accruing before January 1, 1999, § 6621(a)(1) provides that the overpayment rate is the federal short-term rate (determined under § 6621(b)) plus 2 percentage points. To the extent that an overpayment of tax by a corporation exceeds \$10,000, the overpayment rate is the federal short-term rate plus 0.5 percent.

(2) Section 6621(a)(2) provides that the underpayment rate is the federal short-term rate (determined under § 6621(b)) plus 3 percentage points. Special rules in § 6621(c) increase the underpayment rate on large corporate underpayments.

.03 Interest for overlapping periods.

(1) Section 6621(d), as enacted by the RRA on July 22, 1998, provides that, to the extent that for any period interest is payable under subchapter A (§§ 6601 and 6602) and allowable under subchapter B (§ 6611) on equivalent underpayments and overpayments by the same taxpayer of tax imposed by the Code, the net rate of interest under § 6621 on such amounts is zero for such period.

(2) The Conference Report, H. R. Conf. Rep. No. 599, 105th Cong., 2d Sess. 257 (1998), accompanying the RRA provides that the net interest rate of zero is applied without regard to whether the overpayment or underpayment is currently outstanding. However, each overpayment or underpayment is considered only once in determining whether equivalent amounts of overpayment and underpayment overlap for a particular period. That report also provides that the net interest rate of zero applies even when special rules increase the rate of interest for large corporate underpayments under § 6621(c), or decrease the rate of interest for large corporate overpayments under § 6621(a).

(3) Section 6621(d) generally applies to interest for periods (calendar quarters) beginning after July 22, 1998 (i.e., interest accruing on or after October 1, 1998). See H. R. Rep. No. 364 (Part 1), 105th Cong., 1st Sess. 64 (1998); S. Rep. No. 174, 105th Cong., 2d Sess. 62 (1998); H. R. Conf. Rep. No. 599, 105th Cong., 2d Sess. 257 (1998). However, § 3301(c)(2) of the RRA provides that § 6621(d) applies to interest for periods beginning before July 22, 1998 (i.e., interest accruing before October 1,

1998), provided certain conditions are met. First, both periods of limitation applicable to the tax underpayment and to the tax overpayment (as described in section 2.04 of this revenue procedure) must have been open on July 22, 1998. Second, the taxpayer must:

(a) reasonably identify and establish periods of tax overpayments and underpayments for which the net interest rate of zero applies, and

(b) not later than December 31, 1999, request the Secretary of the Treasury to apply § 6621(d) to such periods.

.04 Applicable periods of limitation. The applicable periods of limitation are as follows:

(1) Underpayment interest. A claim for credit or refund of interest paid on an underpayment pursuant to § 6601 or 6602 generally must be filed within 3 years from the time the tax return was filed or 2 years from the time the interest was paid, whichever period expires later, pursuant to § 6511.

(2) Overpayment interest. A claim for payment of additional interest allowable on an overpayment pursuant to § 6611 must be filed within the 6-year period in which a suit must be filed pursuant to 28 U.S.C. §§ 2401 and 2501. See Rev. Rul. 56-506, 1956-2 C.B. 959.

SECTION 3. SCOPE

.01 Applicability. This revenue procedure applies to a taxpayer that requests the application of the net interest rate of zero in § 6621(d) to interest for periods beginning

before July 22, 1998 (i.e., interest accruing before October 1, 1998), provided:

(1) both applicable periods of limitation described in section 2.04 of this revenue procedure were open on July 22, 1998;

(2) the periods of tax overpayments and underpayments for which the net interest rate of zero applies are reasonably identified and established (as described in section 4 of this revenue procedure); and

(3) the request is made not later than December 31, 1999.

.02 Inapplicability. This revenue procedure does not apply to:

(1) the application of the net interest rate of zero in § 6621(d) to interest for periods beginning after July 22, 1998 (i.e., interest accruing on or after October 1, 1998). The Service intends to provide further guidance for those periods;

(2) an overpayment or underpayment for any period during which interest on the overpayment or underpayment was not allowable or payable by law (e.g., the 45-day interest disallowance rule under § 6611(e)); or

(3) an offset made pursuant to §§ 6402(a) and 6601(f), regarding the crediting of an outstanding overpayment against an outstanding underpayment.

SECTION 4. APPLICATION PROCEDURES

.01 Form to file. Except as provided in section 4.06 of this revenue procedure, requests for the application of the net interest rate of zero in § 6621(d) to interest accruing before October 1, 1998, should be made on Form 843, Claim for Refund and Request for Abatement.

.02 Where to file. Form 843 should be filed with the Internal Revenue Service Center where the taxpayer filed its most recent federal income tax return.

.03 Label. The taxpayer should label the top of the Form 843: "Request for Net Interest Rate of Zero Under Rev. Proc. [INSERT NUMBER OF REV. PROC.]."

.04 Filing requirements for Form 843.

(1) Line 1 should be left blank.

(2) The taxpayer may, but is not required to, place a dollar amount on Line 2.

(3) Line 3 should indicate the type of tax and type of return covered by the request. More than one box may be checked if more than one type of tax or return is covered by the request. In addition, any taxes imposed by the Code (or returns for those taxes) for which there is no box on Line 3 should be written in on that line.

(4) Line 4 should be left blank.

(5) Line 5 should:

(a) identify the taxable periods for which the taxpayer overpaid and underpaid its tax liability. A separate Form 843 is not required for each separate taxable period involved in the request;

(b) state when the taxpayer paid the tax if the underpayment is no longer outstanding;

(c) state when the taxpayer received a refund of tax if the overpayment is no longer outstanding;

(d) identify and establish the period(s) for which the taxpayer's overpayment and underpayment overlapped. For this purpose, the taxpayer should provide any

background material (such as copies of examination reports, notices, or prior interest computations provided by the Service) relating to the overpayments and underpayments. The background material is needed to assist the Service in determining the period(s) for which the overpayment and underpayment overlap, and the amount of such overlap;

(e) state that, to the extent of equivalent amounts of underpayment and overpayment for the period(s) identified and established under section 4.04(5)(d) of this revenue procedure, the period(s) has (have) been used only once in a request to obtain the net interest rate of zero under § 6621(d); and

(f) provide a computation, to the extent possible, of the amount of interest to be credited, refunded, or abated to provide a net interest rate of zero for the period(s) of overlap. This computation should be made by applying § 6621(d) to an underpayment year to reduce the taxpayer's liability for underpayment interest.

.05 Verification. The amounts used in a computation provided under section 4.04(5)(f) of this revenue procedure are subject to verification by the Service and may be subject to adjustment for purposes of computing the net interest rate of zero pursuant to § 6621(d).

.06 Special procedure. No Form 843 is required when a computation of interest using the net interest rate of zero under § 6621(d) for interest accruing before October 1, 1998, is requested by a taxpayer in connection with a return (or returns) of the taxpayer under consideration by any office of the Service. The taxpayer must furnish a letter or written statement to such office that:

(1) states that the taxpayer is requesting the net interest rate of zero under § 6621(d);

(2) indicates the type of tax and type of return that affects the interest computation for the taxable period under consideration;

(3) states when and for what period(s) the refund or payment (that affects the interest computation for the taxable period under consideration) was made; and

(4) states that, to the extent of equivalent amounts of overpayment or underpayment, the period(s) set forth under section 4.06(3) of this revenue procedure has (have) not previously been applied to obtain a net interest rate of zero under § 6621(d).

.07 Special procedure verification. The refund or payment provided under section 4.06(3) of this revenue procedure is subject to verification by the Service and may be subject to adjustment for purposes of computing the net interest rate of zero pursuant to § 6621(d).

SECTION 5. EXAMPLES

.01 Example 1. X is a calendar year corporation. The Service examined X's Form 1120, Corporation Income Tax Return, for the 1992 and 1994 taxable years. For the 1994 taxable year, the Service determined that X was entitled to a refund of \$30,000. This Service-initiated refund was made on September 21, 1997, with interest computed from March 15, 1995, to July 29, 1997. For the 1992 taxable year, the Service determined that X underpaid its income tax by \$80,000. The Service sent X a notice and demand for payment dated May 3, 1998, which X paid on May 12, 1998, with

interest computed from March 15, 1993, to May 3, 1998. On April 27, 1999, X filed a Form 843 requesting the application of § 6621(d) for the overlap period from March 15, 1995, to July 29, 1997. On July 22, 1998, both the 6-year period of limitation for claiming additional overpayment interest on X's 1997 refund and the 2-year period of limitation for claiming a refund of underpayment interest paid in 1998 were open. X will be refunded the difference between the underpayment interest paid on \$30,000 for the period from March 15, 1995, to July 29, 1997, and the overpayment interest computed and paid on \$30,000 for that period.

.02 Example 2. The facts are the same as in Example 1, except that the Service sent X a notice and demand for payment dated May 3, 1996, which X paid on May 12, 1996, with interest computed from March 15, 1993, to May 3, 1996. On April 27, 1999, X filed a Form 843 requesting the application of § 6621(d) for the overlap period from March 15, 1995, to May 3, 1996. On July 22, 1998, the 6-year period of limitation for claiming additional overpayment interest on X's 1997 refund was open, but the 2-year period of limitation for claiming a refund of underpayment interest paid in 1996 was not open. Therefore, the net interest rate of zero under § 6621(d) does not apply to the overlap period and no adjustment will be made.

SECTION 6. REQUEST FOR COMMENTS

.01 For the application of the net interest rate of zero in computing interest accruing before October 1, 1998, taxpayers must reasonably identify and establish periods of overlapping overpayments and underpayments for which the net interest rate of zero applies, and not later than December 31, 1999, request that § 6621(d) be

applied. The Treasury Department and the Service recognize that by December 31, 1999, some taxpayers may not be able to provide a final computation of how the net interest rate of zero applies to interest accruing before October 1, 1998. For example, a taxpayer may not be able to provide this final computation by December 31, 1999, because the Service's examination of the taxable years involved has not been completed or commenced.

.02 Written comments are requested regarding the level of specificity necessary to reasonably identify and establish on or before December 31, 1999, the period(s) for which an equivalent amount of overpayment and underpayment of tax overlap when the taxpayer cannot provide by December 31, 1999, a final computation of how the net interest rate of zero applies to interest accruing before October 1, 1998. Comments should be submitted by May 14, 1999, either to:

Internal Revenue Service
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044
Attn: CC:DOM:CORP:R (IT&A, Branch 1) Room 5228

or electronically via:

http://www.irs.ustreas.gov/prod/tax_regs/comments.html

(the Service's internet site).

SECTION 7. EFFECTIVE DATE

This revenue procedure is effective for taxpayer requests made not later than December 31, 1999, for the application of the net interest rate of zero in § 6621(d) to

interest accruing before October 1, 1998.

DRAFTING INFORMATION

The principal author of this revenue procedure is John J. McGreevy of the Office of Assistant Chief Counsel (Income Tax and Accounting). For further information regarding this revenue procedure, contact Mr. McGreevy on (202) 622-4910 (not a toll-free call).