

INTERNAL REVENUE SERVICE
NATIONAL OFFICE TECHNICAL ADVICE MEMORANDUM
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CASE MIS No.: TAM-111464-99/CC:DOM:IT&A:B6

District Director

Taxpayer's Name:
Taxpayer's Address:

Taxpayer's Identification No:
Year Involved:
Date of Conference:

LEGEND:

Taxpayers=
Year 1=
A\$=
B\$=
C\$=
D\$=
E\$=
F\$=
G\$=

ISSUE(S):

Whether the term 'regular tax liability' includes the separate tax paid under § 402(d) of the Internal Revenue Code¹ on lump-sum distributions for purposes of the Minimum Tax Credit under § 53.

CONCLUSION:

The term 'regular tax liability' includes taxes paid on lump sum distributions under § 402(d) for purposes of the Minimum Tax Credit under § 53.

FACTS:

¹ Unless provided otherwise, all section references refer to sections of the Internal Revenue Code (the Code) as in effect for the appropriate tax year or years under discussion.

In Year 1, Taxpayers filed their federal individual income tax return on a Form 1040, reporting A\$ of taxable income on Line 37. The federal income tax liability with respect to this income amounted to B\$. Taxpayers reported additional taxes under § 402(d) in Year 1 as a result of a lump-sum distribution of C\$ from a qualifying retirement plan. The tax on the lump-sum distribution amounted to D\$ and was reported on Form 4972, Tax on Lump-Sum Distribution. This amount was properly included on Line 39 of the Taxpayers' Year 1 federal income tax return. Combining the regular income tax liability of B\$ and the lump-sum distribution tax of D\$ gave the Taxpayers a total tax liability of E\$ for line 40 of the Year 1 Form 1040.

In Year 1, Taxpayers also filed a Form 6251 (Alternative Minimum Tax) and Form 8801 (Credit for Prior Year Minimum Tax). Taxpayers properly identified unapplied AMT credit carryforwards to Year 1 of F\$. Taxpayers reported current year tentative minimum tax on Form 6251 in the amount to G\$. Per the instructions for Form 8801, Taxpayers compared the current year tentative minimum tax of G\$ to the total tax liability of E\$ reported on line 40 of the Year 1 1040 and determined that the entire credit carryforward of F\$ could be applied against the current year regular tax of E\$.

LAW AND ANALYSIS:

Section 55 of Chapter 1 Part VI imposes an alternative minimum tax (AMT) on all taxpayers in addition to a taxpayer's regular tax liability. Section 55(a) provides that the AMT for a taxpayer shall equal the excess (if any) of the tentative minimum tax for the taxable year over the regular tax for the taxable year.

Section 55(c)(1) provides that "for purposes of this section, the term 'regular tax' means the regular tax liability for the taxable year (as defined in section 26(b)) reduced by the foreign tax credit allowable under § 27(a), the § 936 credit allowable under § 27(b), and the Puerto Rico economic activity credit under § 30A." Section 55(c) further provides that 'regular tax', for purposes of § 55, shall not include any tax imposed by § 402(d). Section 402(d) imposes a tax on lump-sum distributions.

Section 53(a), found in Chapter 1 Part IV, allows taxpayers a credit against the tax imposed by Chapter 1 of the IRC for any taxable year in an amount equal to the minimum tax credit for such taxable year. Section 53(b) provides that, for purposes of § 53(a), the minimum tax credit for any taxable year is the excess (if any) of (1) the adjusted net minimum tax imposed for all prior taxable years beginning after 1986, over (2) the amount allowable as a credit under subsection (a) for such prior taxable years.

Section 53(c) provides that the credit allowable under § 53(a) for any taxable year shall not exceed the excess (if any) of (1) the regular tax liability of the taxpayer for such taxable year reduced by the sum of the credits allowable under subparts A, B, D, E, and F of this part, over (2) the tentative minimum tax for the taxable year.

Section 26, found in Chapter 1, Part IV of the Code, defines 'regular tax liability'. Specifically, § 26(b)(1) provides that "for purposes of this part, the term 'regular tax liability' means the tax imposed by this chapter for the taxable year." Section 26(b)(2) limits the definition of 'regular tax liability' by providing a list of tax provisions that shall not be treated as imposed by Chapter 1. The list of taxing provisions in § 26(b)(2) does not include the tax on lump-sum distributions provided in § 402(d) of Chapter 1. Therefore, for purposes of § 26 and Chapter 1, Part IV of the Code (which includes § 53), the definition of 'regular tax liability' shall include the tax under § 402(d) on lump-sum distributions.

Thus, under the specific language of § 55 of the Code, the term 'regular tax liability' for purposes of determining the amount of AMT imposed does not include the tax on lump-sum distributions under § 402(d). However, the term 'regular tax liability' for purposes of the minimum tax credit of § 53 does include the tax imposed under § 402(d) because § 53 uses the definition of regular tax liability under § 26 and does not specifically exclude the tax under § 402(d) from this definition.

In addition, the appropriate tax form required to be filed due to the application of the AMT credit follows the language of the Code. Specifically, Form 8801 Credit for Prior Year Minimum Tax (1994) requires the taxpayer to enter his or her regular income tax liability minus allowable credits on line 22. The instructions for Form 8801 refer the taxpayer to his or her 1994 Form 1040 U.S. Individual Income Tax Return to determine the proper regular income tax liability amount to include on line 22 of Form 8801. The amount of regular income tax liability from Form 1040 includes any tax on lump-sum distributions paid by the taxpayer from Form 4972 Tax on Lump-Sum Distributions.

In this case, the plain language of the Code is clear and supports the result reached by Taxpayers. In addition, the applicable tax forms and instructions associated with the Code provisions at issue also support Taxpayers' conclusion.

CAVEAT(S)

A copy of this technical advice memorandum is to be given to the taxpayer(s). Section 6110(j)(3) of the Code provides that it may not be used or cited as precedent.