



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
Washington, D.C. 20224

SMALL BUSINESS/SELF-EMPLOYED

December 10, 2015

Control Number: SBSE-25-1215-0075
Expiration Date: 12-10-2016
Affected IRM: 25.1.4

MEMORANDUM FOR ALL SB/SE, LB&I, TE/GE and W&I FIRST-LINE MANAGERS

FROM: Charles Pillitteri */s/ Charles Pillitteri*
Acting Director, Servicewide Operations, SB/SE

SUBJECT: Interim Guidance on IRC § 6501(e), 25% Omission of Income

This memorandum issues guidance on the determination of gross income for purposes of IRC § 6501(e). Please ensure this information is distributed to all affected employees within your organization. This guidance is effective immediately.

The purpose of this interim guidance is to make examiners aware of a recent legislative change affecting the determination of gross income for purposes of extending the normal three-year period of limitations on assessment to six years under IRC § 6501(e).

Background/Source of Authority:

Section 2005 of the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, P.L. 114-41, 129 Stat. 443 (2015), added language to IRC § 6501(e)(1)(B) providing that an understatement of gross income by reason of an overstatement of unrecovered cost or other basis is an omission from gross income.

This legislation effectively overrules the Supreme Court's holding in U.S. v. Home Concrete & Supply, 566 U.S. ___, 132 S. Ct. 1836 (2012), which held that overstated basis did not constitute an understatement of income for purposes of IRC § 6501(e). This legislation applies to returns filed after July 31, 2015. It also applies to returns filed on or before July 31, 2015, if the period of limitations under IRC § 6501 (determined without regard to the legislation) has not expired as of that date.

IRM 25.1.4, *Fraud Handbook, Administrative Joint Investigation*, will be revised to incorporate this guidance.

If you have any questions or need additional information, please contact Joe Rosa, Senior Program Analyst, Fraud Policy Office.

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