

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. 2000-26

SECTION 1. PURPOSE

This revenue procedure provides guidance regarding the application of § 6621(d) of the Internal Revenue Code to interest accruing on or after October 1, 1998. 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). 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. Rev. Proc. 99-43, 1999-47 I.R.B. 579, which modifies and supersedes Rev. Proc. 99-19, 1999-13 I.R.B. 10,

provides guidance on the conditions applicable to requests for the application of a net interest rate of zero to interest accruing before October 1, 1998. Section 3.02(1) of Rev. Proc. 99-43 states that the Service intends to provide further guidance for interest accruing for periods on or after October 1, 1998. This revenue procedure provides guidance on the application of § 6621(d) for interest accruing on or after October 1, 1998.

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. For interest accruing on or after January 1, 1999, § 6621(a)(1) provides that the overpayment rate is the federal short term rate (determined under § 6621(b)) plus 3 percentage points (2 percentage points in the case of a corporation). 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 by an additional 2 percentage points.

.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.

Further, 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).

.04 Interest accruing on or after October 1, 1998.

(1) Section 3301(c)(1) of the RRA states that § 6621(d) generally applies to interest for periods beginning after July 22, 1998 (i.e., interest accruing on or after October 1, 1998).

(2) In enacting § 6621(d), Congress anticipated that in situations in which interest is both payable and allowable by the same taxpayer for the same period, the Secretary will make all reasonable efforts to offset the liabilities, rather than process them separately using the net interest rate of zero. See H. R. Conf. Rep. No. 599, 105th Cong., 2d Sess. 257 (1998).

(3) Section 3301(c)(1) of the RRA does not impose preconditions to applying the net interest rate of zero in § 6621(d) to interest accruing on or after October 1, 1998. Thus, for interest accruing on or after October 1, 1998, there is no statutory requirement that the taxpayer request that the Service apply § 6621(d).

(4) The Service does not currently have the ability to automatically apply the net rate of zero in § 6621(d). Congress recognized this current limitation and intended that

until such time as procedures are implemented that allow for the automatic application of § 6621(d) by the Service, the Service will promptly and carefully consider any taxpayer's request to have interest charges recalculated in accordance with § 6621(d). See H. R. Rep. No. 364 (Part 1), 105th Cong., 1st Sess. 64 (1998); S. Rep. No. 174, 105th Cong., 2d Sess. 62 (1998).

SECTION 3. SCOPE

.01 Applicability. This revenue procedure applies to 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).

.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 before July 22, 1998 (i.e., interest accruing before October 1, 1998) (see Rev. Proc. 99-43 for guidance regarding interest accruing before October 1, 1998);

(2) interest accruing on or after January 1, 1999, for taxpayers other than corporations (the interest rate on underpayments and overpayments is equal for such taxpayers on or after January 1, 1999);

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

(4) the extent of an offset made pursuant to §§ 6402(a) and 6601(f), regarding

the crediting of an outstanding overpayment against an outstanding underpayment.

SECTION 4. IDENTIFYING PERIODS FOR WHICH THE NET RATE OF ZERO APPLIES

.01 In general. The Service will take reasonable steps to identify overlapping periods of tax overpayments and underpayments and apply the net interest rate of zero in § 6621(d) to interest accruing on or after October 1, 1998. In such instances, the Service will provide a copy of the interest computation to the taxpayer. However, because the Service is currently unable to automatically apply the net interest rate of zero in § 6621(d), there may be instances when the Service fails to identify periods of overlap and apply the net interest rate of zero. To ensure that taxpayers receive the benefit of the net interest rate of zero in all applicable situations, taxpayers should request the net interest rate of zero (or request the Service to recompute the net interest rate of zero if the taxpayer disagrees with a Service computation of the net interest rate of zero) on or before the date on which the last applicable period of limitation (as described in section 4.02 of this revenue procedure) closes and according to the procedures in section 5 of this revenue procedure. Requests will be required until such time as the Service can automatically apply the net interest rate of zero.

.02 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. A taxpayer's request for application of the net interest rate of zero under the procedures described in section 5 of this revenue procedure does not protect the taxpayer's rights with respect to suits against the government pursuant to 28 U.S.C. §§ 2401 and 2501. The only manner in which a taxpayer can fully protect its rights to additional overpayment interest is by filing a civil suit against the United States prior to the termination of the 6-year statutory period set forth in 28 U.S.C. §§ 2401 and 2501. See Rev. Rul. 57-242, 1957-1 C.B. 452.

.03 Net Rate of Zero. In general, the Service will apply the net rate of zero as follows:

(1) If the period of limitation for refunding underpayment interest (as described in section 4.02(1) of this revenue procedure) is open at the time a claim (as described in sections 5.01 through 5.04 of this revenue procedure) is filed or a written request (as described in section 5.06 of this revenue procedure) is made, the Service will apply the net rate of zero by decreasing underpayment interest owed by the taxpayer.

(2) If the period of limitation for refunding underpayment interest (as described in section 4.02(1) of this revenue procedure) is closed at the time a claim (as described in

sections 5.01 through 5.04 of this revenue procedure) is filed or a written request (as described in section 5.06 of this revenue procedure) is made, but the period for paying additional overpayment interest (as described in section 4.02(2) of this revenue procedure) is open, the Service will apply the net rate of zero by increasing overpayment interest owed to the taxpayer.

SECTION 5. PROCEDURES FOR REQUESTING THE NET RATE OF ZERO

.01 Form to file. Except as provided in section 5.06 of this revenue procedure, requests for the application of the net interest rate of zero in § 6621(d) with respect to interest accruing on or after October 1, 1998, should be made on Form 843, Claim for Refund and Request for Abatement.

.02 Where to file. A Form 843 requesting the net rate of zero solely with respect to interest accruing on or after October 1, 1998, should be sent to 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. 2000-26."

.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 and the overlapping amount. 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 5.04(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); however, if the full amount of the

overpayment or underpayment is not used in a netting calculation, the remaining portion may be used in another netting calculation; 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 generally should be made by applying § 6621(d) to reduce the taxpayer's underpayment interest payable to the Service. However, if the Form 843 is filed after December 31, 1999, and only the period of limitation for claiming additional overpayment interest is open on that filing date, the computation should be made by applying § 6621(d) to increase the taxpayer's overpayment interest payable by the Service.

.05 Verification. The amounts used in a computation provided under section 5.04(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 on or after October 1, 1998, is requested by a taxpayer in connection with a return (or returns) of the taxpayer under consideration by any function of the Service (including Examination, Appeals, or a case before a federal court that requires a computation of interest by any function of the Service). Rather than filing a Form 843, the taxpayer should provide the contact representative of such function a letter or written statement 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 5.06(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 5.06(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).

.08 Coordination of requests. If a taxpayer has made a request for the application of the net interest rate of zero for interest accruing before October 1, 1998, pursuant to either Rev. Proc. 99-19 or Rev. Proc. 99-43, then that taxpayer does not have to make a separate request pursuant to this revenue procedure for the portion of the overlapping period identified in that request that affects interest accruing on or after October 1, 1998. The Service will apply the net interest rate of zero to interest accruing for the entire overlapping period identified in the previously filed request at the time

such request is processed. Similarly, if a taxpayer anticipates that a request will be filed pursuant to Rev. Proc. 99-43, then the taxpayer may request the net interest rate of zero for the entire overlapping period and will not be required to make a separate request under this revenue procedure for the portion of the overlapping period that affects interest accruing on or after October 1, 1998. The Service will apply the net interest rate of zero to interest accruing for the entire overlapping period identified in the request at the time such request is processed.

SECTION 6. EFFECTIVE DATE

This revenue procedure is effective for the application of the net interest rate of zero in § 6621(d) to interest accruing on or after 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).