

**Office of Chief Counsel
Internal Revenue Service
memorandum**

CC:PSI:B07:RSmith
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Third Party Communication: None
Date of Communication: Not Applicable

UILC: 6675.00-00, 6206.00-00

date: January 16, 2015

to: Darren Lefebvre
Excise Fuel Policy Program Manager

from: Stephanie Bland
Branch Chief, Branch 7
Office of the Associate Chief Counsel
(Passthroughs & Special Industries)

subject: Section 6675 Penalties

This Chief Counsel Advice responds to your request for assistance dated September 14, 2014. This advice may not be used or cited as precedent.

ISSUE

Whether the IRS may combine § 6675 penalties imposed for excessive fuel excise tax claims in multiple quarters within a specific calendar or fiscal year into a single annual assessment.

LAW

Section 6675(a) provides that in addition to any criminal penalty provided by law, if a claim is made under § 6416(a)(4) (relating to certain sales of gasoline), § 6420 (relating to gasoline used on farms), 6421 (relating to gasoline used for certain nonhighway purposes or by local transit systems), or 6427 (relating to fuels not used for taxable purposes) for an excessive amount, unless it is shown that the claim for such excessive amount is due to reasonable cause, the person making such claim shall be liable to a penalty in an amount equal to the greater of: (1) two times the excessive amount; or (2) \$10.

Section 6675(b) provides that for purposes of § 6675, the term "excessive amount" means in the case of any person the amount by which-- (1) the amount claimed under § 6416(a)(4), 6420, 6421, or 6427, as the case may be, for any period, exceeds (2) the amount allowable under such section for such period.

Section 6675(c) provides that for assessment and collection of the penalty provided by § 6675(a), see § 6206.

Section 6206 provides, in part, that any civil penalty provided by § 6675, may be assessed and collected as if it were a tax imposed by § 4081 (with respect to refunds under § 6416(a)(4) and payments under §§ 6420 and 6421), or 4041 or 4081 (with respect to payments under § 6427) and as if the person who made the claim were liable for such tax. The period for assessing any such penalty is 3 years from the last day prescribed for the filing of the claim under § 6416(a)(4), 6420, 6421, or 6427, as the case may be.

Rev. Rul. 79-298, 1979-2 C.B. 5, holds that the civil penalty under § 6675 does not apply to an excessive credit taken on an income tax return.

ANALYSIS & CONCLUSION

The period for assessing a § 6675 penalty is 3 years from the last day prescribed for the filing of the claim under § 6416(a)(4), 6420, 6421, or 6427. There is nothing in the Code, the regulations or in case law that suggests that penalties must be assessed separately. Therefore, we conclude that § 6675 penalties for excessive fuel excise tax claims from multiple quarters may be combined into a single annual assessment to the extent the period of assessment under § 6675 is open for the quarters in question at the time of the annual assessment. This is the case for all excise tax returns, including Schedule C of Form 720, Quarterly Federal Excise Tax Return, and Form 8849, Claim for Refund of Excise Taxes.

Please call Rachel Smith at (202) 317-6855 if you have any further questions.