

ID: CCA\_2019110508593544

UILC: 3402.00-00

Number: **202129007**

Release Date: 7/23/2021

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**From:** [REDACTED] **Sent:** Thursday, October 31, 2019 1:46 PM

**To:** [REDACTED]

**Cc:** [REDACTED] **Subject:** Designating Payments/ROTA call

Hi

During our ROTA call earlier this month, a question was raised about whether a taxpayer can designate the payment allocation when the taxpayer makes a quarterly federal tax deposit, attributable to a specific payroll, or whether the payment must be applied in the best interests of the government. Please share the response below with your staff.

A taxpayer *is* permitted to designate a voluntary payment, but in order for such designation to be proper the request or designation for the application of the payment must be specific, in writing, and made at the time of the payment. A taxpayer has no right of designation of payments resulting from enforced collection measures.

If a taxpayer submits a voluntary partial payment when there are assessments for more than one taxable period, and does *not* provide specific written instructions as to the application of the partial payment, then the payments will be applied in a manner serving the best interests of the government. The payment will generally be applied to satisfy the liability for successive periods in descending order of priority until the payment is absorbed and is applied to non-trust fund taxes first.

Pursuant to Policy Statement 5-14 (found at IRM 1.2.1.6.3), to the extent partial payments exceed the nontrust fund portion of the tax liability, they are deemed to be applied against the trust fund portion of the tax liability (*e.g.*, withheld income tax, employee's share of FICA, collected excise taxes). Once the nontrust fund and trust fund taxes are paid, the remaining payments will be considered to be applied to assessed fees and collection costs, assessed penalty and interest, and accrued penalty and interest to the date of payment.

For more information, see the following resources:

Rev. Proc. 2002-26, 2002-1 C.B. 746

*Salazar v. Comm'r*, 338 Fed. Appx. 75, 79 (2d Cir. 2009) (and cases quoted therein)  
IRM 5.7.4.3  
IRM 8.25.2.4.4

Thanks