

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

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to: Clay Coleman  
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(Office of Servicewide Interest)

from: Adrienne Griffin  
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subject: Section 7508A(c) and the application of section 6611(b)(3) and (e), which limits overpayment interest, to taxpayers who qualify for relief under section 7508A because of a Presidentially declared disaster or terroristic or military actions

This memorandum responds to your request for assistance. This advice may not be used or cited as precedent.

ISSUE

Does section 7508A(c) provide an exception from the late return rule of section 6611(b)(3) and the 45-day rule of section 6611(e), which limit the payment of interest on any overpayment, when a taxpayer qualifies for relief under section 7508A because of a Presidentially declared disaster or terroristic or military actions?

CONCLUSION

Yes. Because section 7508A(c) incorporates the special rule for overpayments in section 7508(b), neither the late return rule of section 6611(b)(3) nor the 45-day rule of section 6611(e) applies when a taxpayer qualifies for relief under section 7508A.

FACTS

The following example illustrates the conclusion:

Example: An individual lives in a county affected by a Presidentially declared natural disaster that began on April 1, 2018. Pursuant to section 7508A(a), the Secretary announces that one year will be disregarded for purposes of determining, among other things, whether a return was timely filed for tax year 2017. Specifically, individual

taxpayers who reside in the county are granted additional time to file an individual tax return for tax year 2017 until April 15, 2019. An individual taxpayer who was affected by the disaster files its 2017 return on April 15, 2019, one year after the original deadline. The taxpayer made payments through withholding during 2017, which were deemed paid on April 15, 2018, and resulted in an overpayment for tax year 2017 as of that date. The Service pays a refund on May 15, 2019, 30 days after the return was filed.

Conclusion: The Service will pay interest on the overpayment. The 45-day rule of section 6611(e) does not bar the payment of interest even though the refund was paid in 30 days. Also, the late return rule of section 6611(b)(3) does not limit the time period for which overpayment interest will be calculated even though the return was filed after the original due date and without extension. Interest will be calculated from the date of overpayment (April 15, 2018) until the refund date on May 15, 2019. This includes the one year period that was disregarded for purposes of determining whether the return was timely filed.

### LAW AND ANALYSIS

Generally, interest is paid on any overpayment of tax from the date of overpayment to the refund date, subject to two relevant limitations. I.R.C. § 6611(a), (b)(2); IRM 20.2.4.7, Refunds. First, section 6611(b)(3) disallows the payment of interest on an overpayment for the period during which a return is late, taking into account any extensions. Second, section 6611(e) disallows the payment of interest on an overpayment if the refund is paid within 45 days after either the original due date for filing or, in the case of a return filed after the original due date, the date the return was filed.

Sections 7508 and 7508A provide relief to qualifying taxpayers from certain deadlines imposed by the internal revenue laws for performing certain acts, including filing a return. Relevant here, they do so by allowing the Secretary to provide that a certain period of time should be disregarded in determining whether a return was filed on time. See I.R.C. 7508(a); I.R.C. 7508A(a).

Relief under section 7508 is available to those who have served in combat zones. I.R.C. 7508(a). In addition to providing relief from the deadline to file in subsection (a), subsection (b) also provides for more favorable overpayment interest rules in two ways. Section 7508(b)(1) states that the period disregarded in subsection (a) will not be disregarded for purposes of calculating the amount of interest to be paid on any overpayment. And section 7508(b)(2) says that the limitations on payment of interest on overpayments found in section 6611(b)(3) and (e) do not apply to a taxpayer who qualifies for relief under section 7508 as long as a return is filed on time (determined after the application of the disregarded period in subsection (a)).

Section 7508A relief is available to those affected by a Presidentially declared disaster or terroristic or military actions. I.R.C. 7508A(a). Similar to section 7508(a), section 7508A(a) allows the Secretary to disregard a certain time period when determining

whether a taxpayer filed on time, among other actions. And similar to section 7508(b), section 7508A(c) provides for special treatment of interest on overpayments by simply stating, “[t]he rules of section 7508(b) shall apply for purposes of this section.”

A plain reading of the text of section 7508A(c) requires the provisions of section 7508(b) to be applied to those who qualify for relief under 7508A in the same manner as they apply to those who qualify for relief under section 7508. Nothing in the text, structure, or legislative history of section 7508A contradicts the plain meaning of section 7508A(c). As a result, the two limitations on overpayment interest in section 6611(b)(3) and (e) do not apply to those who qualify for relief under section 7508A. And the period for which interest is calculated on an overpayment should include the period disregarded in section 7508A(a) in determining whether the return was filed on time.

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Please call Taylor Huse at (202) 317-5428 if you have any further questions.