

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

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from: Hollie Marx
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subject: Tax Return in Processible Form under Section 6611(g)(2)

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

ISSUE

Is an individual income tax return that does not include the estimated tax payments made for the tax year “in processible form” for purposes of section 6611(g)(2) of the Internal Revenue Code?

CONCLUSION

No, an individual income tax return that does not include the estimated tax payments made for the tax year is not “in processible form” for purposes of section 6611(g)(2).

BACKGROUND

The Taxpayer Advocate Service has asked the Office of Servicewide Interest to implement a policy of paying interest on an overpayment reported on an individual income tax return that does not include the estimated tax payments made for the tax year if the overpayment is not refunded within 45 days after the return due date or within 45 days after the return is filed, if it is filed after the due date. As a result of that request, the Office of Servicewide Interest has asked us whether such a return is in processible form under section 6611(g)(2).

LAW AND ANALYSIS

Under section 6611 interest is allowed on overpayments of tax, with certain exceptions. Section 6611(b)(3) provides that when a return is filed late, no interest shall be allowed or paid for any day before the date on which the return is filed. Further, section 6611(e)(1) provides that no interest shall be allowed on an overpayment of tax if it is refunded within 45 days after the last day prescribed for filing the return for the tax (determined without regard to any extension of time for filing the return) or, in the case of a return filed after such last date, if it is refunded within 45 days after the date the return is filed. Section 6611(g)(1) provides that a return is not treated as filed for purposes of sections 6611(b)(3) and (e) until it is filed “in processible form.” Under section 6611(g)(2), a return is in processible form if: (1) it is filed on a permitted form; and (2) it contains the taxpayer’s name, address, and identifying number; the required signature; and “sufficient required information (whether on the return or on required attachments) to permit the mathematical verification of tax liability shown on the return.” I.R.C. § 6611(g)(2). As recognized by the Court of Appeals for the Federal Circuit, “tax liability” in section 6611(g)(2) “means underpayment or overpayment, and payments made by the taxpayer . . . are relevant to the mathematical verification of tax liability.” *Deutsche Bank AG v. United States*, 742 F.3d 1378, 1384 (Fed. Cir. 2014). As explained by the Federal Circuit, Congress used the term “tax liability” in section 6611(g)(2) “to encompass both overpayments and underpayments and intended that a processible return contain sufficient required information to permit the mathematical verification of the existence and amount of overpayment or underpayment.” *Id.* Since an overpayment arises when tax payments exceed the tax imposed by the Code, “the amount of overpayment . . . cannot be determined without calculating the amount of tax payments already made by the taxpayer.” *Id.*

Individual taxpayers are required to report their estimated tax payments for the tax year on their income tax returns. See, e.g. 2022 Form 1040, *U.S. Individual Income Tax Return*, line 26; 2022 Form 1040-SR, *U.S. Tax Return for Seniors*, line 26; 2022 Instructions for Form 1040 and Form 1040-SR, p.37 (directing taxpayers to enter any estimated federal income tax payments they made for the tax year on line 26); see also, 26 U.S.C. § 6011(a) and Treas. Reg. § 1.6011-1(a) (providing that returns must include the information required by the applicable forms); Treas. Reg. § 1.6012-1(a)(6) (providing that Form 1040 is the prescribed form for individual income tax returns). The estimated tax payments are used to determine the taxpayer’s total payments, which are, in turn, used to determine whether there is an overpayment or underpayment, and the amount thereof. See 2022 Forms 1040 and 1040-SR, lines 25-34, 37. The amount of estimated tax payments, is, therefore, required information which is necessary to permit the mathematical verification of the existence and amount of an overpayment or underpayment. See *Deutsche Bank*, 742 F.3d at 1384. If the amount of estimated tax payments made for the tax year is missing from a return, the return does not contain sufficient required information to mathematically verify the overpayment (or underpayment) reported on the return, and the return is not in processible form under section 6611(g)(2).

Under section 6611(g)(1), a return is not treated as filed for overpayment interest purposes until it is filed in processible form. Since a return that does not include estimated tax payments is not in processible form, it is not considered filed for purposes of sections 6611(b)(3) and (e). Under section 6611(b)(3), no overpayment interest is allowed prior to a return being filed in processible form. Under section 6611(e)(1), no interest is allowed on an overpayment if it is refunded within 45 days after the return due date or within 45 days after the return is filed, if it is filed after the due date. The return will not be in processible form for purposes of the 45-day period under section 6611(e)(1) until the taxpayer provides information regarding the estimated tax payments either in response to Letter 12C, *Individual Return Incomplete for Processing: Forms 1040 & 1040-SR*, or otherwise. Consequently, interest is only allowable on an overpayment reported on the return if the overpayment is not refunded within 45 days of receiving information from the taxpayer regarding the estimated tax payments for the tax year. If the information is not provided until after the return due date, the return will be treated as late filed for overpayment interest purposes.

Please call (202) 317-6844 if you have any further questions.