



OFFICE OF
CHIEF COUNSEL

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

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MEMORANDUM FOR DIRECTOR, OFFICE OF INTEREST AND PENALTY
ADMINISTRATION

Attn: Cathy Wides

FROM:

David Auclair

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Assistant to the Chief, Branch 1
Income Tax and Accounting Division

SUBJECT: Processing Returned Refund Checks

This responds to your April 6, 1999, inquiry regarding the proper treatment of returned refund checks relating to interest abated under § 6404(h) of the Internal Revenue Code (Code). Apparently, some taxpayers, who were located in presidentially declared disaster areas and were granted extensions to file and pay under §§ 6081 and 6161 (but were unaffected by the disaster), returned their refund checks to the Service. TEBB No. 99122, Disaster Procedures, provides processing instructions for this situation. These instructions provide for: (1) posting the credit back to the account; (2) inputting an adjustment to reverse the previous adjustment (the taxpayer's account is restored to its pre-abatement status); and (3) sending a letter to the taxpayer that acknowledges receipt of the refund check. We were asked to comment on the legality of this procedure.

Section 6404(h) provides that if the Service grants an extension of time for filing income tax returns under § 6081 and the time for paying federal income tax with respect to such returns under § 6161 due to the fact that the taxpayer is located in a presidentially declared disaster area, the Service will abate for the extension period the assessment of any interest prescribed under § 6601 on that income tax. Section 6404(h) does not limit abatement of interest relief only to those taxpayers affected by a disaster.

Section 6402(a) provides, in general, that in the case of any overpayment, the Service, within the applicable period of limitations, may credit the amount of the overpayment, including any interest allowed thereon, against any liability in respect

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of an internal revenue tax on the part of the person who made the overpayment and will refund any balance to such person.

Under the facts presented, the Service properly abated interest under § 6404(h) and issued a refund under § 6402(a). No Code provision prescribes the treatment of a returned refund check. Therefore, the question of how to treat a returned refund check is not a legal matter, but a business decision.



If you have questions regarding this memorandum, please contact Sara Shepherd at (202) 622-4910.