

§ 6602. Interest on erroneous refund recoverable by suit

Any portion of an internal revenue tax (or any interest, assessable penalty, additional amount, or addition to tax) which has been erroneously refunded, and which is recoverable by suit pursuant to section 7405, shall bear interest at the underpayment rate established under section 6621 from the date of the payment of the refund. (Aug. 16, 1954, ch. 736, 68A Stat. 818; Pub. L. 93-625, §7(a)(2)(B), Jan. 3, 1975, 88 Stat. 2115; Pub. L. 99-514, title XV, §1511(c)(12), Oct. 22, 1986, 100 Stat. 2745.)

Editorial Notes

AMENDMENTS

1986—Pub. L. 99-514 substituted “the underpayment rate established under section 6621” for “an annual rate established under section 6621”.

1975—Pub. L. 93-625 substituted “an annual rate established under section 6621” for “the rate of 6 percent per annum”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable for purposes of determining interest for periods after Dec. 31, 1986, see section 1511(d) of Pub. L. 99-514, set out as a note under section 47 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93-625 effective July 1, 1975, and applicable to amounts outstanding on such date or arising thereafter, see section 7(e) of Pub. L. 93-625, set out as an Effective Date note under section 6621 of this title.

§ 6603. Deposits made to suspend running of interest on potential underpayments, etc.

(a) Authority to make deposits other than as payment of tax

A taxpayer may make a cash deposit with the Secretary which may be used by the Secretary to pay any tax imposed under subtitle A or B or chapter 41, 42, 43, or 44 which has not been assessed at the time of the deposit. Such a deposit shall be made in such manner as the Secretary shall prescribe.

(b) No interest imposed

To the extent that such deposit is used by the Secretary to pay tax, for purposes of section 6601 (relating to interest on underpayments), the tax shall be treated as paid when the deposit is made.

(c) Return of deposit

Except in a case where the Secretary determines that collection of tax is in jeopardy, the Secretary shall return to the taxpayer any amount of the deposit (to the extent not used for a payment of tax) which the taxpayer requests in writing.

(d) Payment of interest

(1) In general

For purposes of section 6611 (relating to interest on overpayments), except as provided in paragraph (4), a deposit which is returned to a taxpayer shall be treated as a payment of tax

for any period to the extent (and only to the extent) attributable to a disputable tax for such period. Under regulations prescribed by the Secretary, rules similar to the rules of section 6611(b)(2) shall apply.

(2) Disputable tax

(A) In general

For purposes of this section, the term “disputable tax” means the amount of tax specified at the time of the deposit as the taxpayer’s reasonable estimate of the maximum amount of any tax attributable to disputable items.

(B) Safe harbor based on 30-day letter

In the case of a taxpayer who has been issued a 30-day letter, the maximum amount of tax under subparagraph (A) shall not be less than the amount of the proposed deficiency specified in such letter.

(3) Other definitions

For purposes of paragraph (2)—

(A) Disputable item

The term “disputable item” means any item of income, gain, loss, deduction, or credit if the taxpayer—

- (i) has a reasonable basis for its treatment of such item, and
- (ii) reasonably believes that the Secretary also has a reasonable basis for disallowing the taxpayer’s treatment of such item.

(B) 30-day letter

The term “30-day letter” means the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Independent Office of Appeals.

(4) Rate of interest

The rate of interest under this subsection shall be the Federal short-term rate determined under section 6621(b), compounded daily.

(e) Use of deposits

(1) Payment of tax

Except as otherwise provided by the taxpayer, deposits shall be treated as used for the payment of tax in the order deposited.

(2) Returns of deposits

Deposits shall be treated as returned to the taxpayer on a last-in, first-out basis.

(Added Pub. L. 108-357, title VIII, §842(a), Oct. 22, 2004, 118 Stat. 1598; amended Pub. L. 116-25, title I, §1001(b)(1)(D), July 1, 2019, 133 Stat. 985.)

Editorial Notes

AMENDMENTS

2019—Subsec. (d)(3)(B). Pub. L. 116-25 substituted “Internal Revenue Service Independent Office of Appeals” for “Internal Revenue Service Office of Appeals”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 108-357, title VIII, §842(c), Oct. 22, 2004, 118 Stat. 1599, provided that: