

Department
of the
Treasury

Internal
Revenue
Service

Office of
Chief Counsel

N o t i c e

N(35)000-159

January 14, 1999

IRS Restructuring
And Reform Act of 1998

Subject: Section 3464 Implementation

Cancellation Date: July 13, 1999

The purpose of this Notice is to provide district counsel and appeals with processing instructions for issuing refunds or credits of undisputed overpayments while an appeal is pending. These refunds or credits are authorized by section 3464 of the Internal Revenue Service Restructuring and Reform Act of 1998 (RRA), Pub. L. No. 105-206, 112 Stat. 685 (1998). The changes made by RRA § 3464 are effective as of July 22, 1998, the date of enactment.

Section 3464 of the RRA amended section 6512(b)(1) of the Internal Revenue Code to authorize the Service to refund or credit an overpayment determined by the Tax Court that is not contested on appeal. Section 3464 of the RRA also amends section 6213(a) of the Code to give the Tax Court jurisdiction to order this refund or credit.

Before the enactment of the RRA, the Service was not authorized to refund or credit undisputed overpayments when an appeal was pending. The litigation freeze code, the "W freeze," remained on the taxpayer's account until the appeal and any subsequent resulting litigation involving the tax year were completed. Because of the changes made by RRA § 3464, Appeals will now issue manual refunds or credits of undisputed overpayments when authorized by district counsel, regional counsel, or, in some instances, by the national office. Attached as Exhibit A is a form memorandum that may be used in authorizing Appeals to issue a refund or credit of these overpayments.

When Appeals receives written authorization, it will issue a manual refund or credit and place a code TC 840 on the taxpayer's account. Although the W freeze code will have to be removed for the purpose of making the refund, it will be reinstated immediately after the manual refund has been issued. The W freeze will still be in effect on the tax module, so no additional refunds or credits will be inadvertently issued.

Any closing document or decision document should reflect that a refund or credit was made pursuant to RRA § 3464. For instance, if, after appeal, the case is remanded to the Tax Court, the stipulation portion of any new decision document must reflect that the refund or credit was issued while the appeal was pending. If the case is not

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remanded, closing instructions sent to Appeals should clearly indicate that the interim refund or credit was made.

Nothing in these rules affects the running of interest. For purposes of interest computations, the date of payment or credit will be determined according to the usual rules.

These procedures will be included in the next series of revisions to the CCDM.

Questions regarding this notice may be referred to Sara M. Coe, Chief, Procedural Branch, Field Service Division, at 202-622-7940.

/s/ Daniel J. Wiles
for JUDITH C. DUNN
Associate Chief Counsel
(Domestic)

Attachments (2)



OFFICE OF
CHIEF COUNSEL

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

MEMORANDUM FOR

FROM:

SUBJECT: Refund pursuant to section 3464 of the IRS Restructuring and Reform Act of 1998 (I.R.C. § 6512(b)(1))

RE: [Taxpayer's Name; SSN or EIN]
[Tax Court case name, docket number, and citation]

The Tax Court has determined a deficiency of \$x for [Year] and an overpayment of \$y for [Year]. The taxpayer is appealing the court's determination of the deficiency [and \$z of the overpayment / and is not contesting any portion of the overpayment]. Pursuant to I.R.C. § 6215(b)(1), we authorize and request you to issue a manual [credit / refund] of [\$y - \$z] to the taxpayer.

Undisputed Overpayment Refunded Pending Appeal Pursuant to RRA § 3464

STIPULATION

It is hereby stipulated that the following statement shows the petitioner's income tax liability for the taxable year 1999:

Net income tax assessed:		\$12,000.00
Payment:		
April 15, 2000	\$12,000.00	
Income tax liability:		<u>\$16,000.00</u>
Deficiency in income tax:		<u>(\$4,000.00)</u>
Negligence penalty assessed:		\$3,000.00
Payment:		
August 1, 2000	\$3,000.00	
Liability for negligence penalty:		<u>-0-</u>
Overpayment of negligence penalty:		<u>\$3,000.00</u>

It is further stipulated that the overpayment of the negligence penalty was not disputed during the appeal of this case and was refunded to the petitioner on March 31, 2001, pursuant to I.R.C. § 6512(b)(1), as amended by section 3464 of the Internal Revenue Service Restructuring and Reform Act of 1998.

DECISION

Pursuant to the stipulation of the parties filed in the above-entitled case, and incorporating herein the facts stipulated by the parties as the findings of the Court, it is

ORDERED and DECIDED: That there is a deficiency in income tax in the amount of \$4,000 and an overpayment in the amount of \$3,000.

Judge.

Entered:

* * * * *

It is hereby stipulated that the Court may enter the foregoing decision in the above-entitled case in accordance with the stipulation of the parties submitted herewith.