

Department  
of the  
Treasury

Internal  
Revenue  
Service

Office of  
Chief Counsel

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Statutory Changes Under the Economic  
Growth and Tax Relief Reconciliation Act  
of 2001 Concerning Issues Under the  
Jurisdiction of the Associate Chief Counsel

July 18, 2001

**Subject:** (Procedure & Administration)

**Cancellation Date:** July 06, 2002

## PURPOSE

This Notice advises all Chief Counsel attorneys of significant statutory changes to issues within the subject matter jurisdiction of the Associate Chief Counsel (Procedure & Administration), resulting from the enactment of the Economic Growth and Tax Relief Reconciliation Act (EGTRRA) of 2001, Pub. L. No. 107 -16, 115 Stat. 38 (2001). Questions concerning the statutory provisions discussed in this Notice should be directed to the Administrative Provisions & Judicial Practice Division branches identified below. Questions concerning other provisions of EGTRRA should be directed to the Associate Chief Counsel office that has subject matter jurisdiction over those provisions.

**Questions regarding changes to section 6428 and section 6655, as set forth below, should be directed to APJP Branch 1 at (202) 622-4910:**

### I.R.C. § 6428

Section 101(b) of EGTRRA adds section 6428, Acceleration of 10 Percent Income Tax Rate Bracket Benefit for 2001, to the Internal Revenue Code. This section provides for a rate reduction credit for 2001 in lieu of the new 10 percent income tax rate bracket. Under section 6428(a), eligible individual taxpayers are entitled to a credit in 2001 of 5 percent (the difference between the 15 percent rate and the 10 percent rate) of the amount of income that would have been eligible for the new 10 percent rate. Section 6428(b) provides that taxpayers may not receive a credit in excess of their income tax liability (determined after nonrefundable credits). The term "eligible individuals" is defined in

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section 6428(c) as individuals other than estates, trusts, nonresident aliens, or taxpayers who may be claimed as a dependent on another's return.

Section 6428(d) sets forth special rules coordinating the rate reduction credit with the advance payment provisions of section 6428(e). The credit also is treated as a credit that reduces the tax shown on the return for purposes of section 6654(f), thus affecting a taxpayer's required annual payment for determining any underpayment of estimated tax.

Section 6428(e) provides for advance refunds of the rate reduction credit in 2001 based on tax information included on a taxpayer's 2000 return. Taxpayers are treated as having made a payment in 2000 in an amount equal to the advance refund amount. The refunds must be made or allowed by December 31, 2001. No overpayment interest is payable on the refunds. Pursuant to section 6428(d)(1)(A), the credit allowed for 2001 must be reduced by the amount of the advance refund under section 6428(e).

The IRS has issued IRS News Release 2001-57 and IRS Fact Sheets 2001-8 and 2001-9, which notify taxpayers that the amount of the anticipated refund checks will be up to the \$300 for a single taxpayer, \$500 for a head of household, and \$600 for a married couple filing jointly. Also included in this guidance is the schedule for issuance of the refund checks, based on the last two digits of a taxpayer's social security number. The IRS also advised taxpayers that these refunds may be offset against other government obligations of the taxpayer, such as back taxes or student loans.

#### I.R.C. § 6655

Section 801 of EGTRRA amends section 6655 by providing that 100 percent of the amount of any required installment of corporate estimated tax which is otherwise due in September 2001 shall not be due until October 1, 2001. Section 801 of EGTRRA further provides that 20 percent of the amount of any required installment of corporate estimated tax which is otherwise due in September 2004 shall not be due until October 1, 2004. As a result, taxpayers are to make the equivalent of 2 third quarter installment payments of estimated tax, the first in the amount of 80 percent of the required third quarter installment payment in September 2004, and the second in the amount of 20 percent of the required third quarter installment payment on October 1, 2004.

**Questions regarding changes to section 6166 and section 7508A, as set forth below, should be directed to APJP Branch 2 at (202) 622-4940:**

#### I.R.C § 6166

Sections 571 and 572 of EGTRRA expand the availability of the election to pay estate tax in installments under section 6166. Amendments to section 6166 are effective for estates of decedents dying after December 31, 2001.

Section 6166(a) provides that, if the value of an interest in a closely held business included in determining the gross estate of a decedent exceeds 35 percent of the adjusted gross estate, the executor of the estate may elect to pay part or all of the tax imposed by section 2001 (estate tax) in two or more (but not exceeding ten) equal installments. In general, the first installment of tax must be paid on or before the date selected by the executor which is not more than 5 years after the date prescribed by section 6151(a) for payment of the tax. An executor electing to defer installments of estate tax must make annual payments of

interest during the period before the first installment of tax is due. Thereafter, interest must be paid at the same time, and as part of, each installment of tax.

Prior to amendment, section 6166(b)(1) defined the term “interest in a closely held business” to include a partnership interest in a partnership carrying on a trade or business having 15 or fewer partners and stock in a corporation carrying on a trade or business having 15 or fewer shareholders. Pursuant to section 571(a) of EGTRRA, the maximum number of partners in a partnership and shareholders in a corporation for purposes of section 6166(b)(1) is increased from 15 to 45.

Section 572(a) of EGTRRA adds new section 6166(b)(10), which provides that an estate may elect to treat all the assets used in a “qualifying lending and finance business” as assets used in carrying on a trade or business. Thus, none of the assets in a “qualifying lending and finance business” will be considered passive assets under section 6166(b)(9). An estate that makes the section 6166(b)(10) election is required to make its first installment of tax and interest thereon on the date prescribed by section 6151(a) for payment of the tax; the first installment cannot be deferred. In addition, estates that elect section 6166(b)(10) are allowed a maximum of 5 installments of tax, rather than the usual 10.

Section 572 of EGTRRA amends section 6166(b)(8)(B). Prior to the amendment, an estate could elect to treat stock in a holding company as stock in a corporation carrying on a trade or business. In order to make the election, however, all the stock in the chain of corporations (both that of the holding company and its operating subsidiaries) had to be non-readily-tradable stock. The amendment permits an election where only the stock of the holding company is non-readily-tradable; however, only 5 installments of tax, rather than the usual 10, will be allowed.

#### I.R.C. § 7508A

For taxpayers determined by the IRS to be affected by a Presidentially declared disaster, section 7508A postpones certain time-sensitive acts. See Treas. Reg. § 301.7508A-1. A postponement under section 7508A may be provided in addition to filing and payment extensions permitted under sections 6081 and 6161. Section 802 of EGTRRA amends section 7508A by increasing the maximum period of postponement from 90 days to 120 days. This amendment is effective as of June 7, 2001, the date of enactment of EGTRRA.

**Questions regarding changes to section 6213(g), as set forth below, should be directed to APJP Branch 3 at (202) 622-7940:**

#### I.R.C. § 6213(g)

Section 6213(b)(1) permits the IRS to assess a tax in excess of the amount shown on a return without the use of deficiency procedures where the amount of tax in excess of that on the return is on account of a mathematical or clerical error. Section 6213(g) defines the term “mathematical or clerical error.” Section 303(g) of EGTRRA amends section 6213(g) to include in the definition of “mathematical or clerical error” a credit

