

(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 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.)

EFFECTIVE DATE

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

“(1) IN GENERAL.—The amendments made by this section [enacting this section] shall apply to deposits made after the date of the enactment of this Act [Oct. 22, 2004].

“(2) COORDINATION WITH DEPOSITS MADE UNDER REVENUE PROCEDURE 84-58.—In the case of an amount held by the Secretary of the Treasury or his delegate on the date of the enactment of this Act as a deposit in the nature of a cash bond deposit pursuant to Revenue Procedure 84-58, the date that the taxpayer identifies such amount as a deposit made pursuant to section 6603 of the Internal Revenue Code (as added by this Act) shall be treated as the date such amount is deposited for purposes of such section 6603.”

**Subchapter B—Interest on Overpayments**

Sec.	
6611.	Interest on overpayments.
6612.	Cross references.

**§ 6611. Interest on overpayments**

**(a) Rate**

Interest shall be allowed and paid upon any overpayment in respect of any internal revenue tax at the overpayment rate established under section 6621.

**(b) Period**

Such interest shall be allowed and paid as follows:

**(1) Credits**

In the case of a credit, from the date of the overpayment to the due date of the amount against which the credit is taken.

**(2) Refunds**

In the case of a refund, from the date of the overpayment to a date (to be determined by the Secretary) preceding the date of the refund check by not more than 30 days, whether or not such refund check is accepted by the taxpayer after tender of such check to the taxpayer. The acceptance of such check shall be without prejudice to any right of the taxpayer to claim any additional overpayment and interest thereon.

**(3) Late returns**

Notwithstanding paragraph (1) or (2) in the case of a return of tax which is filed after the last date prescribed for filing such return (determined with regard to extensions), no interest shall be allowed or paid for any day before the date on which the return is filed.

**[(c) Repealed. Pub. L. 85-866, title I, § 83(c), Sept. 2, 1958, 72 Stat. 1664]**

**(d) Advance payment of tax, payment of estimated tax, and credit for income tax withholding**

The provisions of section 6513 (except the provisions of subsection (c) thereof, applicable in determining the date of payment of tax for purposes of determining the period of limitation on credit or refund, shall be applicable in determining the date of payment for purposes of subsection (a).