

§ 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.)

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”.

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 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).

(e) Disallowance of interest on certain overpayments**(1) Refunds within 45 days after return is filed**

If any overpayment of tax imposed by this title is refunded within 45 days after the last day prescribed for filing the return of such tax (determined without regard to any extension of time for filing the return) or, in the case of a return filed after such last date, is refunded within 45 days after the date the return is filed, no interest shall be allowed under subsection (a) on such overpayment.

(2) Refunds after claim for credit or refund

If—

(A) the taxpayer files a claim for a credit or refund for any overpayment of tax imposed by this title, and

(B) such overpayment is refunded within 45 days after such claim is filed,

no interest shall be allowed on such overpayment from the date the claim is filed until the day the refund is made.

(3) IRS initiated adjustments

If an adjustment initiated by the Secretary, results in a refund or credit of an overpayment, interest on such overpayment shall be computed by subtracting 45 days from the number of days interest would otherwise be allowed with respect to such overpayment.

(4) Certain withholding taxes

In the case of any overpayment resulting from tax deducted and withheld under chapter 3 or 4, paragraphs (1), (2), and (3) shall be applied by substituting “180 days” for “45 days” each place it appears.

(f) Refund of income tax caused by carryback or adjustment for certain unused deductions**(1) Net operating loss or capital loss carryback**

For purposes of subsection (a), if any overpayment of tax imposed by subtitle A results from a carryback of a net operating loss or net capital loss, such overpayment shall be deemed not to have been made prior to the filing date for the taxable year in which such net operating loss or net capital loss arises.

(2) Foreign tax credit carrybacks

For purposes of subsection (a), if any overpayment of tax imposed by subtitle A results from a carryback of tax paid or accrued to foreign countries or possessions of the United States, such overpayment shall be deemed not to have been made before the filing date for the taxable year in which such taxes were in fact paid or accrued, or, with respect to any portion of such credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such overpayment shall be deemed not to have been made before the filing date for such subsequent taxable year.

(3) Certain credit carrybacks**(A) In general**

For purposes of subsection (a), if any overpayment of tax imposed by subtitle A results from a credit carryback, such overpayment shall be deemed not to have been made before the filing date for the taxable year in which such credit carryback arises, or, with respect to any portion of a credit carryback from a taxable year attributable to a net operating loss carryback, capital loss carryback, or other credit carryback from a subsequent taxable year, such overpayment shall be deemed not to have been made before the filing date for such subsequent taxable year.

(B) Credit carryback defined

For purposes of this paragraph, the term “credit carryback” has the meaning given such term by section 6511(d)(4)(C).

(4) Special rules for paragraphs (1), (2), and (3)**(A) Filing date**

For purposes of this subsection, the term “filing date” means the last date prescribed for filing the return of tax imposed by subtitle A for the taxable year (determined without regard to extensions).