

United States, in consultation with the Secretary of the Treasury, to conduct a study of the operation and effectiveness of amendments by section 2653 of Pub. L. 98-369 on voluntary compliance with the income tax laws and, by Apr. 1, 1989, submit a report and recommendations to Congress.

#### § 6403. Overpayment of installment

In the case of a tax payable in installments, if the taxpayer has paid as an installment of the tax more than the amount determined to be the correct amount of such installment, the overpayment shall be credited against the unpaid installments, if any. If the amount already paid, whether or not on the basis of installments, exceeds the amount determined to be the correct amount of the tax, the overpayment shall be credited or refunded as provided in section 6402.

(Aug. 16, 1954, ch. 736, 68A Stat. 791.)

#### § 6404. Abatements

##### (a) General rule

The Secretary is authorized to abate the unpaid portion of the assessment of any tax or any liability in respect thereof, which—

- (1) is excessive in amount, or
- (2) is assessed after the expiration of the period of limitation properly applicable thereto, or
- (3) is erroneously or illegally assessed.

##### (b) No claim for abatement of income, estate, and gift taxes

No claim for abatement shall be filed by a taxpayer in respect of an assessment of any tax imposed under subtitle A or B.

##### (c) Small tax balances

The Secretary is authorized to abate the unpaid portion of the assessment of any tax, or any liability in respect thereof, if the Secretary determines under uniform rules prescribed by the Secretary that the administration and collection costs involved would not warrant collection of the amount due.

##### (d) Assessments attributable to certain mathematical errors by Internal Revenue Service

In the case of an assessment of any tax imposed by chapter 1 attributable in whole or in part to a mathematical error described in section 6213(g)(2)(A), if the return was prepared by an officer or employee of the Internal Revenue Service acting in his official capacity to provide assistance to taxpayers in the preparation of income tax returns, the Secretary is authorized to abate the assessment of all or any part of any interest on such deficiency for any period ending on or before the 30th day following the date of notice and demand by the Secretary for payment of the deficiency.

##### (e) Abatement of interest attributable to unreasonable errors and delays by Internal Revenue Service

###### (1) In general

In the case of any assessment of interest on—

- (A) any deficiency attributable in whole or in part to any unreasonable error or delay by an officer or employee of the Internal

Revenue Service (acting in his official capacity) in performing a ministerial or managerial act, or

(B) any payment of any tax described in section 6212(a) to the extent that any unreasonable error or delay in such payment is attributable to such an officer or employee being erroneous or dilatory in performing a ministerial or managerial act,

the Secretary may abate the assessment of all or any part of such interest for any period. For purposes of the preceding sentence, an error or delay shall be taken into account only if no significant aspect of such error or delay can be attributed to the taxpayer involved, and after the Internal Revenue Service has contacted the taxpayer in writing with respect to such deficiency or payment.

##### (2) Interest abated with respect to erroneous refund check

The Secretary shall abate the assessment of all interest on any erroneous refund under section 6602 until the date demand for repayment is made, unless—

- (A) the taxpayer (or a related party) has in any way caused such erroneous refund, or
- (B) such erroneous refund exceeds \$50,000.

##### (f) Abatement of any penalty or addition to tax attributable to erroneous written advice by the Internal Revenue Service

###### (1) In general

The Secretary shall abate any portion of any penalty or addition to tax attributable to erroneous advice furnished to the taxpayer in writing by an officer or employee of the Internal Revenue Service, acting in such officer's or employee's official capacity.

###### (2) Limitations

Paragraph (1) shall apply only if—

- (A) the written advice was reasonably relied upon by the taxpayer and was in response to a specific written request of the taxpayer, and
- (B) the portion of the penalty or addition to tax did not result from a failure by the taxpayer to provide adequate or accurate information.

##### (g) Suspension of interest and certain penalties where Secretary fails to contact taxpayer

###### (1) Suspension

###### (A) In general

In the case of an individual who files a return of tax imposed by subtitle A for a taxable year on or before the due date for the return (including extensions), if the Secretary does not provide a notice to the taxpayer specifically stating the taxpayer's liability and the basis for the liability before the close of the 36-month period beginning on the later of—

- (i) the date on which the return is filed; or
- (ii) the due date of the return without regard to extensions,

the Secretary shall suspend the imposition of any interest, penalty, addition to tax, or