

Abatement of Interest for Individual Taxpayers in Presidentially Declared Disaster Areas

Notice 99-2

PURPOSE

This notice informs taxpayers of the Internal Revenue Service's application of interest abatement relief provided under § 915 of the Taxpayer Relief Act of 1997, Pub. L. No. 105-34, 111 Stat. 788, 879 ("TRA 1997"), as clarified by § 4003(e) of the Tax and Trade Relief Extension Act of 1998, Pub. L. No. 105-277, 112 Stat. 2681 ("TTREA 1998"), and under § 6404(h) of the Internal Revenue Code, as added by § 3309 of the Internal Rev-

enue Service Restructuring and Reform Act of 1998, Pub. L. No. 105-206, 112 Stat. 685, 745 (“RRA 1998”). In particular, it advises certain individual taxpayers who may be eligible for interest abatement how the Service intends to administer such relief. Individual taxpayers who may be eligible for such relief include those who: (a) were located in any area that the President has determined during 1998 warrants assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121–5204c (1994) (“Stafford Act”); and (b) were granted extensions of time to file federal income tax returns for taxable years beginning before January 1, 1998, and to pay federal income tax with respect to such returns.

BACKGROUND

As originally enacted, § 915 of TRA 1997 provided that if any individual taxpayer located in a Presidentially declared disaster area is granted an extension of time to file federal income tax returns under § 6081 of the Internal Revenue Code and to pay federal income tax under § 6161, the Service will abate, for the period of an extension, the assessment of any interest prescribed under § 6601 on that income tax. The term “individual” excludes estates and trusts. The term “Presidentially declared disaster area” is defined as any area that the President has determined during 1997 warrants assistance by the Federal Government under the Stafford Act.

Similarly, § 6404(h), enacted as part of RRA 1998, provides that if any taxpayer located in a Presidentially declared disaster area is granted an extension of time to file federal income tax returns under § 6081 and to pay federal income tax under § 6161, the Service will abate, for the period of an extension, the assessment of any interest prescribed under § 6601 on that income tax. Unlike § 915 of TRA 1997, § 6404(h) applies to any taxpayer (including, for example, trusts, estates, and corporations) and is not limited to individual taxpayers. The term “Presidentially declared disaster area” is defined as any area that the President has determined warrants assistance by the Federal Government under the Stafford Act.

As originally enacted, § 915 of TRA 1997 applied only to disasters declared during 1997. Section 6404(h) applies to disasters declared after December 31, 1997, but only with respect to taxable years beginning after December 31, 1997. Thus, it was unclear whether abatement of interest was authorized for disasters declared after December 31, 1997, with respect to taxable years beginning before January 1, 1998. For example, if the President declared Area A to be a disaster area in March 1998, and the due date for filing 1997 federal income tax returns and for paying federal income tax was extended accordingly by the Service, it was unclear whether the Service would have been authorized under either provision to abate interest for an individual taxpayer located in Area A with respect to that individual’s 1997 federal income tax return.

However, Congress specifically intended that no gap in interest abatement relief for individual taxpayers exist between the two provisions. See H.R. Conf. Rep. No. 599, 105th Cong., 1st Sess. at 262 (1998). Therefore, Congress clarified that no gap exists by enacting § 4003(e) of TTREA 1998. This provision amends § 915 of TRA 1997 by defining the term “Presidentially declared disaster area” to include disasters declared in 1998 as well as 1997.

ABATEMENT OF INTEREST

In accordance with the provisions described above, the Service will abate interest in the following circumstances:

1. *Taxable years beginning before January 1, 1998.* The Service will abate, for the period of an extension, the assessment of interest on federal income tax for individual taxpayers (excluding trusts and estates) who: (a) were located in any area that the President has determined during 1997 or 1998 warrants assistance by the Federal Government under the Stafford Act; and (b) were granted extensions of time to file federal income tax returns for taxable years beginning before January 1, 1998, and to pay federal income tax with respect to such returns. The authority for abating interest in such circumstances is § 915 of TRA 1997, as clarified by § 4003(e) of TTREA 1998.

Because of the potential gap in interest abatement relief that existed before the

clarification made by § 4003(e) of TTREA 1998, some individual taxpayers may have been assessed interest with respect to returns for taxable years beginning before January 1, 1998, if they were located in areas the President determined in 1998 to be disaster areas. Such taxpayers may be eligible for the abatement of such interest. The Service will, to the extent possible, identify such taxpayers, make appropriate adjustments to their accounts, notify the taxpayers of any such adjustments, and where appropriate, refund interest paid. The Service expects that the majority of these adjustments will be completed by the end of 1999. Individual taxpayers who are eligible for abatement of interest, but who are not notified by the end of 1999 that interest has been abated, should call IRS Customer Service at 1-800-829-1040 (toll-free) to request abatement of interest. Eligible taxpayers may also file a Form 843, *Claim for Refund and Request for Abatement*, with the Service Center where the taxpayer’s tax return was filed. Taxpayers should note that, generally, they must file a claim for refund of interest within three years of the filing of a tax return, or within two years of the payment, whichever period expires later. See § 6511(a).

2. *Taxable years beginning after December 31, 1997.* The Service will abate, for the period of an extension, the assessment of interest on federal income tax for all taxpayers who: (a) were located in any area that the President has determined after December 31, 1997, warrants assistance by the Federal Government under the Stafford Act; and (b) were granted extensions of time to file federal income tax returns for taxable years beginning after December 31, 1997, and to pay federal income tax with respect to such returns. The authority for abating interest in such circumstances is § 6404(h).

DRAFTING INFORMATION

The principal author of this notice is Sara Shepherd of the Office of Assistant Chief Counsel (Income Tax and Accounting). For further information regarding this notice, contact Sara Shepherd at (202) 622-4910 (not a toll-free call).