

## **Section 6407.—Date of Allowance of Refund or Credit**

*26 CFR 301.6407-1: Date of allowance of refund or credit*

This revenue ruling modifies Revenue Ruling 78-127 by clarifying when the Internal Revenue Service allows a refund or credit of an overassessed tax.

### **Rev. Rul. 2001-40**

#### **PURPOSE**

This revenue ruling modifies the discussion of section 6407 of the Internal Revenue Code (the Code) in Rev. Rul. 78-127 (1978-1 C.B. 436). Specifically, this revenue ruling clarifies when the Internal Revenue Service (the Service) allows a refund or credit of an overassessed tax.

#### **LAW AND ANALYSIS**

Section 6407 of the Code states: “The date on which the Secretary first authorizes the scheduling of an overassessment of any internal revenue tax shall be considered as the date of allowance of refund or credit in respect of such tax.”

Congress adopted the rule defining the scheduling date as the allowance date in the Revenue Act of 1926. See section 1116 of the Act, the predecessor of current section 6407 of the Code. The rule was designed to reflect Service processing practice. The legislative history explains:

In the case of refunds, interest is allowed “to the date of the allowance of the refund.” In practice, the Commissioner first signs a schedule of over-

assessments, which is sent to the collector, in order to determine whether the overpayment should be credited or refunded. The committee amendment proposes to fix as the date on which the refund is allowed the date on which the Commissioner signs the schedule of overassessments. (S. Rep. No. 52, 69th Cong., 1st Sess. 38 (1926).)

Section 301.6407-1 of the Regulations on Procedure and Administration reflects the legislative intent that the Secretary would delegate authority to allow refunds and credits to Internal Revenue Service officials. Over the years, different certifying officers have been authorized to schedule overassessments and allow refunds and credits.

In addition, the Service has revised the method of scheduling overassessments and allowing refunds and credits. For example, the Service does not currently use Form 1166 to schedule overassessments. It may use different paper forms or electronic entries to schedule and allow refunds and credits. Regardless of processing method, the taxpayer’s account will reflect the date that the certifying officer schedules the overassessment.

#### **HOLDING**

Consequently, references to the Form 1166 and other processing forms are removed from Rev. Rul. 78-127. The two paragraphs beginning “Section 6407 of the Code...” are modified to read as follows:

Section 6407 of the Code provides that the date on which the Secretary first authorizes the scheduling of an over-

assessment of any internal revenue tax shall be considered the date of allowance of any refund or credit of the tax. Section 301.6407-1 of the regulations delegates scheduling authority to a certifying officer. The certifying officer authorizes a credit or refund by signing a schedule of overassessments identifying the taxpayer and the amount of the overassessment.

The date the summary record of assessment is signed, and the date on which the schedule of overassessments is signed are dates of authorization for the purpose of section 301.6521-1(c) of the regulations.

#### **EFFECT ON OTHER REVENUE RULING(S)**

Rev. Rul. 78-127 is modified.

#### **DRAFTING INFORMATION**

The principal author of this revenue ruling is Tiffany P. Smith of the Office of the Associate Chief Counsel (Procedure and Administration), Administrative Provisions and Judicial Practice Division. For further information regarding this revenue ruling, contact Tiffany Smith at (202) 622-4910 (not a toll-free call).