

Section 7503.—Time for Performance of Acts Where Last Day Falls on Saturday, Sunday, or Legal Holiday

26 CFR 301.7503-1.

(Also Section 1.6511-1.)

Filing a timely claim for refund. This ruling holds that section 7503 of the Code does not affect the time for filing a timely claim for refund under section 6511 when the last day for filing a return falls on a Saturday, Sunday, or legal holiday, and the taxpayer does not file a return on the next succeeding day that is not a Saturday, Sunday, or legal holiday. Section 7503 provides an extension of time to file a return, within the meaning of section 6511(b)(2)(A), only when the due date (or

extended due date) for filing a return falls on a Saturday, Sunday, or legal holiday and the taxpayer actually files a return on the next succeeding day that is not a Saturday, Sunday, or legal holiday. Rev. Rul. 66-118 distinguished.

Rev. Rul. 2003-41

ISSUE

How does section 7503 of the Internal Revenue Code affect the limitation on the amount of a refund allowed under section 6511(b)(2)(A) when the last day for filing a return for the taxable year to which a claim for refund relates falls on a Saturday, Sunday, or legal holiday?

FACTS

Situation 1. The Taxpayers timely filed their 1994 joint income tax return on Wednesday, March 1, 1995. The due date for filing that joint income tax return was Saturday, April 15, 1995. Their sole source of income for 1994 was wages. On Friday, April 17, 1998, the Taxpayers filed a claim for refund of a portion of the income taxes withheld from their wages during 1994.

Situation 2. The Taxpayer timely filed a request for a four-month automatic extension to file an individual income tax return for the 1997 taxable year. The automatic extension extended the due date of the individual income tax return from Wednesday, April 15, 1998, until Saturday, August 15, 1998. The Taxpayer, however, did not file a 1997 individual income tax return until Friday, August 17, 2001, three years and two days later. That 1997 individual income tax return included a claim for refund of income taxes withheld from wages.

Situation 3. The Taxpayer filed a 1994 individual income tax return on Monday, April 17, 1995. On Friday, April 17, 1998, the Taxpayer filed a claim for refund for income taxes withheld from wages during the 1994 taxable year.

LAW

Section 6511(a) provides, in pertinent part, that a taxpayer shall file a claim for credit or refund of an overpayment within three years from the time of filing the rel-

evant return or two years from the time of payment of the tax, whichever period expires later.

Section 6511(b)(2)(A) limits the amount of refund or credit. If a taxpayer files a claim for refund or credit during the three-year period prescribed in section 6511(a), the amount of the refund or credit shall not exceed the portion of the tax paid within the period, immediately preceding the filing of the claim for refund or credit, equal to three years plus the period of any extension of time for filing the relevant return.

Section 6513(a) treats, for purposes of section 6511, any return filed before the last day prescribed for filing that return as filed on that last day. Section 6513(a) treats, for purposes of section 6511(b)(2), payment of tax before the last day prescribed for payment as paid on that last day.

For purposes of section 6511, section 6513(b)(1) deems any tax actually deducted and withheld at the source during any calendar year to have been paid by the recipient of the income on the 15th day of the fourth month following the close of the taxable year with respect to which the tax is allowable as a credit under section 31 (relating to credit for tax withheld on wages).

Section 7503 provides that, if the last day prescribed under authority of the internal revenue laws for performing any act falls on a Saturday, Sunday, or legal holiday, the act shall be considered timely if the act is performed on the next succeeding day that is not a Saturday, Sunday, or legal holiday. For purposes of section 7503, the last day for the performance of any act is determined by including any authorized extension of time.

Section 6072(a) provides that an individual income tax return is due on the fifteenth day of the fourth month following the end of the taxable year.

Treas. Reg. § 1.6081-4(a)(1) allows, for an individual who is required to file an individual income tax return, an automatic four-month extension of time to file upon meeting certain application requirements.

In Rev. Rul. 66-118, 1966-1 C.B. 290, the taxpayer filed his 1958 individual income tax return on or before the April 15, 1959, due date. On Monday, April 16, 1962, the taxpayer filed a claim for refund of taxes deemed paid pursuant to section 6513(b)(1) on April 15, 1959. Because the due date of the claim for refund for purposes of sec-

tion 6511(a) (three years from the filing date of the individual income tax return) fell on a Sunday, the claim was deemed timely by section 7503. Rev. Rul. 66-118 holds that, to prevent nullifying the effectiveness of section 7503, the Service will deem the filing of the claim for refund to have occurred, for purposes of section 6511(b), on April 15, 1962, so that section 6511(b)(2)(A) does not preclude a refund of amounts deemed paid on April 15, 1959.

In Rev. Rul. 76-511, 1976-2 C.B. 428, the taxpayer filed his 1972 individual income tax return on April 30, 1976. Rev. Rul. 76-511 holds that the taxpayer filed a claim for refund within the three-year limitation period under section 6511(a) because the limitation period runs from the date the taxpayer files his individual income tax return and the taxpayer included the claim on his individual income tax return. Rev. Rul. 76-511 further holds that section 6511(b)(2)(A) does not allow a credit or refund of amounts withheld from wages during the 1972 taxable year because those amounts were deemed paid by section 6513(b)(1) on April 15, 1973, which was more than three years before the April 30, 1976, filing of the late-filed individual income tax return.

ANALYSIS

Situation 1. In order to satisfy section 6511(a), the Taxpayers must have filed their claim for refund for the 1994 taxable year within three years of the date they filed their joint income tax return for 1994, or two years from the time they paid the tax, whichever is later. Section 6513(b)(1) deems the wages withheld from the Taxpayers' income during 1994 as paid on April 15, 1995, more than two years before the April 17, 1998, claim for refund. Because April 15, 1995, is more than two years prior to the filing of the claim for refund, the April 17, 1998, claim for refund will not fall within the two-year period prescribed by section 6511(a).

The Taxpayers' claim for refund also fails to fall within the three-year period of section 6511(a). Although they filed their joint income tax return on March 1, 1995, section 6513(a) treats the joint income tax return as filed on April 15, 1995, the last day prescribed by section 6072(a) for filing that joint income tax return. Because the Taxpayers filed their claim for refund on Friday, April 17, 1998, two days more than

three years after April 15, 1995, section 6511(a) bars their claim for refund.

Section 7503 does not alter this result. Section 7503 applies only if (i) the last day prescribed under authority of the internal revenue laws falls on a Saturday, Sunday, or legal holiday and (ii) the taxpayer files on the next succeeding day that is not a Saturday, Sunday, or legal holiday. In those circumstances only, section 7503 deems timely what would otherwise be late. In this case, section 7503 does not apply to the filing of the joint income tax return on March 1, 1995, because that filing did not occur on the day next succeeding Saturday, April 15, 1995, that was not a Saturday, Sunday, or legal holiday. Nor does section 7503 apply to the filing of the claim for refund, because the last day prescribed under authority of the internal revenue laws to file the claim for refund was a Wednesday, April 15, 1998, not a Saturday, Sunday, or legal holiday. The three-year period within which the Taxpayers must have filed a claim for refund began immediately after the Taxpayers' deemed filing and payment date of April 15, 1995, and was expired after April 15, 1998.

Situation 2. The claim for refund included on the 1997 individual income tax return filed Friday, August 17, 2001, is timely. Rev. Rul. 76-511, 1976-2 C.B. 428. Section 6513(b)(1), however, deems the payment of the tax to which the claim for refund relates to have occurred on April 15, 1998, which is beyond the period of three years plus the four-month extension immediately preceding August 17, 2001, the filing date of the claim for refund. Therefore, although the claim for refund was timely, section 6511(b)(2)(A) specifically bars allowance of the refund.

Pursuant to Treas. Reg. § 1.6081-4(a)(1), the period of the automatic extension of time to file an individual income tax return is limited to four months. If the Taxpayer had filed a 1997 individual income tax return on Monday, August 17, 1998, section 7503 would have treated that individual income tax return as timely, because the extended due date of August 15, 1998, fell on a Saturday. Section 7503, however, does not provide this extension to the Taxpayer in Situation 2. By its terms, section 7503 has the effect of an extension only when a taxpayer performs an act on the next succeeding day that is not a Saturday, Sunday, or legal holiday after a Sat-

urday, Sunday, or legal holiday that would otherwise be the last day prescribed for performing the act. Because the Taxpayer did not file an individual income tax return on Monday, August 17, 1998, the Taxpayer does not enjoy the benefit of an extension from Saturday, August 15, 1998, to the following Monday, August 17, 1998.

The holding of Rev. Rul. 66-118 does not apply to Situation 2. Rev. Rul. 66-118 relies on section 7503 to deem the claim for refund as timely under sections 6511(a) and 6511(b)(2)(A) because the last day prescribed under authority of the internal revenue laws for filing the claim for refund was a Sunday and the taxpayer filed on the next succeeding day that was not a Saturday, Sunday, or legal holiday. In Situation 2, however, section 6511(a) prescribed Wednesday, April 15, 2001, as the last day for filing the claim for refund with respect to amounts deemed paid on April 15, 1998. Consequently, section 7503, by its terms, does not apply to the facts of Situation 2, and Rev. Rul. 66-118, which relies on the application of section 7503 to section 6511(a) as the basis for its rationale regarding section 6511(b)(2)(A), does not apply either.

Situation 3. The Taxpayer's April 17, 1998, claim for refund falls within the three-year period of limitations of section 6511(a) because the Taxpayer filed the claim for refund within three years of filing the individual income tax return. Section 6511(b)(2)(A) also allows payment of the claim for refund in full. Section 6511(b)(2)(A) permits a refund of taxes paid within the period immediately preceding the filing of the claim for refund equal to three years plus any extensions of time for filing of the individual income tax return. Because the otherwise applicable due date of the return in Situation 3 fell on a Saturday, April 15, 1995, and the Taxpayer filed on the next succeeding day that was not a Saturday, Sunday, or legal holiday, section 7503 extended the due date to Monday, April 17, 1995. Thus, taxes deemed paid pursuant to section 6513(b)(1) on April 15, 1995, were paid within the period of three years plus extensions immediately preceding the claim for refund.

HOLDING

Section 7503 does not affect the limitation on the amount of a credit or refund available under section 6511(b)(2)(A) if the

last day for filing a return falls on a Saturday, Sunday, or legal holiday, and the taxpayer does not file a return on the next succeeding day that is not a Saturday, Sunday, or legal holiday. Section 7503 provides an extension of time to file a return, within the meaning of section 6511(b)(2)(A), only if the due date (or extended due date) for filing a return falls on a Saturday, Sunday, or legal holiday and the taxpayer files a return on the next succeeding day that is not a Saturday, Sunday, or legal holiday.

EFFECT ON OTHER REVENUE RULINGS

Rev. Rul. 66-118, 1966-1 C.B. 290, is hereby distinguished.

DRAFTING INFORMATION

The principal author of this revenue ruling is Emly B. Berndt 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 Emly Berndt at (202) 622-4940 (not a toll-free call).