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Matters of Interest

Strategies to Consider When Reporting an Overpayment on Form 1120

Most corporations, when filing Form 1120, will either credit overpaid estimated payments to the next period's tax, ask the IRS to refund a reported overpayment or pursue some combination of the two options. However, it may be advantageous to apply an overpayment to any outstanding deficiencies, or, in the case of an ongoing IRS examination of prior tax years, to any periods in examination with respect to which you are reasonably certain that deficiencies will be assessed. Factors to consider in weighing such a decision are:

1. What is our current cash position? Do we need a refund now to be able to pay ongoing operating expenses?
2. If we have surplus cash on hand, what is the return on any investment of the surplus? The current IRS interest rate payable on deficiencies is 4%, or 6% in certain cases in which the large corporate underpayment rate applies. If our rate of return on investments is lower than the interest expense on an outstanding or anticipated deficiency, we may be better served by applying a tax overpayment to the anticipated deficiency year to stop the accrual of interest therein. Conversely, if our rate of return exceeds the deficiency interest rate, it makes more sense to seek a refund of overpaid tax and pay any pending deficiencies when actual assessments are made.
3. Do we need the overpayment available in the prior period to satisfy any estimated payments due for the current tax year to avoid a Code Section 6655 penalty? Obviously, there is no advantage in avoiding interest on a prior tax year only to incur a similar liability in a subsequent year.

Assuming all estimated tax payments were timely, a calendar year 2009 overpayment that is offset to a prior tax period should be applied by the IRS to the other period with an effective date of March 15, 2010, the due date of 2009 without regard to extensions. Fiscal year filers can expect similar results, with the obvious difference of their annual due date being the applicable date of the offset. Adding a footnote to page 1 of Form 1120, and also adding a cover letter requesting an offset, should alert IRS staff to move your overpayment as instructed. In the case of an ongoing examination of prior tax periods, you may want to request assistance from your IRS Case Manager to insure proper offset of the overpayment. Should the IRS ignore your request and issue a refund, return the uncashed check with a cover letter explaining the proper application of the overpayment. Include a copy of the pages of your original filing on which you requested the offset.

Finally, consider this strategy with respect to any state income or franchise tax filings as well. Numerous states utilize aggressive interest rates on deficiencies that may make them fertile ground for offsetting of overpayments even when it makes more sense to receive a refund of a federal overpayment for the same tax year.

It's Time to File Form 1120 but Your Estimated Tax Payments are Inadequate

Hopefully your estimated payments for 2009 were reasonably accurate and you will not be making an additional payment when you file Form 1120. However, if your final tax liability exceeds total estimated payments plus any credit of a prior year's overpayment, you may want to consider requesting the IRS to offset a portion of your April 15 and/or June 15, 2010 estimated payments to 2009. Of course, such a strategy is beneficial only if you have determined that your 2010 estimated payments were in excess of the amounts needed to satisfy your required deposit liabilities. Otherwise, you should make a payment with your 2009 return, estimating interest due on the deficiency from March 15, 2010 to September 15, 2010 and including an estimated interest payment if possible.

IRS Interest Rates Remain The Same for Fourth Quarter, 2010

The rates that the IRS allows on overpayments and charges on deficiencies shall remain unchanged in the fourth calendar quarter of 2010. The underpayment rate for corporations shall be 4%, with the large corporation underpayment set at 6%. The normal overpayment rate shall be 3%, while the rate paid on overpayments in excess of \$10,000 shall be 1.5%. Both underpayment and overpayment interest are compounded daily.

September 21-22 TEI Sponsored IRS Financial Services Industry Conference in New York

The New York Chapter of the Tax Executives Institute will sponsor the Tenth Annual IRS Financial Services Industry Conference on September 21-22 in New York at the Westin Times Square. Interested participants can register online at <https://www.acteva.com/go/teiny> with an early registration discount available for credit card registrations made by August 31, 2010. Numerous industry leaders and high-ranking IRS officials (including Heather Maloy, Paul DeNard and Michael Danilack) will be panel members and/or speakers at this important event. William Wilkens, IRS Chief Counsel, will be the luncheon keynote speaker.

Please send any questions or requests for further information to us at info@iprg.net.