

Part III. Administrative, Procedural, and Miscellaneous

26 CFR 601.105: Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability. (Also Part I, section 6511.)

Rev. Proc. 99-21

SECTION 1. PURPOSE

This revenue procedure describes the information that is required under § 6511(h)(2)(A) of the Internal Revenue Code in order to request suspension of the period of limitations under § 6511 for claiming a credit or refund of tax due to an individual taxpayer's financial disability. This information is required to be submitted with the taxpayer's claim for credit or refund of tax.

SECTION 2. BACKGROUND

.01 Generally, under § 6511(a), a taxpayer must file a claim for credit or refund of tax within three years after the date of filing a tax return or within two years after the date of payment of the tax, whichever period expires later.

.02 Section 6511(h), as added by § 3202 of the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. No. 105-206, 112 Stat. 685 (July 22, 1998), suspends the statute of limitations period for filing a claim for credit or refund under § 6511(a) for any period of an individual taxpayer's life during which the taxpayer is unable to manage the taxpayer's financial affairs because of a medically determinable mental or physical impairment that can be expected to result in death, or has lasted (or can be expected to last) for a continuous period of not less than 12 months. Further, a taxpayer is not considered to be financially disabled during any period in which the taxpayer's spouse or any other person is authorized to act on behalf of the taxpayer in financial matters. Section 6511(h)(2)-(A) requires that proof of the taxpayer's financial disability be furnished to the Internal Revenue Service.

SECTION 3. SCOPE

This revenue procedure applies to individual taxpayers for any period of financial disability, regardless of when it occurs, except if the taxpayer's claim for credit or refund was otherwise barred

(without regard to § 6511(h)) by operation of any law or rule of law (including res judicata) as of July 22, 1998, the date § 6511(h) was enacted.

SECTION 4. PROCEDURE

Unless otherwise provided in IRS forms and instructions, the following statements are to be submitted with a claim for credit or refund of tax to claim financial disability for purposes of § 6511(h).

(1) a written statement by a physician (as defined in § 1861(r)(1) of the Social Security Act, 42 U.S.C. § 1395x(r)), qualified to make the determination, that sets forth:

(a) the name and a description of the taxpayer's physical or mental impairment;

(b) the physician's medical opinion that the physical or mental impairment prevented the taxpayer from managing the taxpayer's financial affairs;

(c) the physician's medical opinion that the physical or mental impairment was or can be expected to result in death, or that it has lasted (or can be expected to last) for a continuous period of not less than 12 months;

(d) to the best of the physician's knowledge, the specific time period during which the taxpayer was prevented by such physical or mental impairment from managing the taxpayer's financial affairs; and

(e) the following certification, signed by the physician:

I hereby certify that, to the best of my knowledge and belief, the above representations are true, correct, and complete.

(2) A written statement by the person signing the claim for credit or refund that no person, including the taxpayer's spouse, was authorized to act on behalf of the taxpayer in financial matters during the period described in paragraph (1)(d) of this section. Alternatively, if a person was authorized to act on behalf of the taxpayer in financial matters during any part of the period described in paragraph (1)(d), the beginning and ending dates of the period of time the person was so authorized.

SECTION 5. EFFECTIVE DATE

This revenue procedure is effective for claims within the scope of this revenue procedure filed on or after July 22, 1998.

SECTION 6. PAPERWORK REDUCTION ACT

The collections of information contained in this revenue procedure have been reviewed and approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act (44 U.S.C. § 3507) under control number 1545-1649.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

The collection of information is contained in section 4 of this revenue procedure. This information is required to establish a taxpayer's financial disability for purposes of § 6511(h)(2)(A). The likely respondents are individual taxpayers and physicians.

The estimated total annual reporting burden is 24,100 hours.

The estimated annual burden per respondent will vary from 15 minutes to 45 minutes, depending on individual circumstances, with an estimated average of 30 minutes. The estimated number of respondents is 48,200.

The estimated annual frequency of responses is on occasion.

Books and records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and return information are confidential, as required by § 6103.

DRAFTING INFORMATION

The principal author of this revenue procedure is Paul E. Tellier of the Office of Assistant Chief Counsel (Income Tax and Accounting). For further information regarding this revenue procedure contact Mr. Tellier on (202) 622-4930 (not a toll-free call).