

§ 301.6501(m)-1 Tentative carryback adjustment assessment period.

(a) *Period of limitation after tentative carryback adjustment.* (1) Under section 6501(m), in a case where an amount has been applied, credited, or refunded under section 6411, by reason of a net operating loss carryback, a capital loss carryback, an investment credit carryback, or a work incentive program credit carryback to a prior taxable year, the period described in section 6501(a) of the Code for assessing a deficiency for such prior taxable year is extended to include the period described in section 6501 (h), (j), or (o), whichever is applicable; except that the amount which may be assessed solely by reason of section 6501(m) may not exceed the amount so applied, credited, or refunded under section 6411, reduced by any amount which may be assessed solely by reason of section 6501 (h), (j), or (o), as the case may be.

(2) The application of this paragraph may be illustrated by the following example:

Example. Assume that M Corporation, which claims an unused investment credit of \$50,000 for the calendar year 1968, files an application under section 6411 of the Code for an adjustment of its tax for 1965, and receives a refund of \$50,000 in 1969. In 1971, it is determined that the amount of the unused investment credit for 1968 is \$30,000 rather than \$50,000. Moreover, it is determined that M Corporation would have owed \$40,000 of additional tax for 1965 if it had properly reported certain income which it failed to include in its 1965 return. Assuming that M Corporation filed its 1968 return on March 15, 1969, and that the 3-year period described in section 6501(a) has not been extended, the period prescribed in section 6501(j) for assessing the excessive amount refunded, \$20,000 (*i.e.*, \$50,000, original amount refunded less \$30,000, correct amount of unused investment credit), does not expire until March 15, 1972, and \$20,000 may be assessed on or before such date under section 6501(j). Under section 6501(m), M Corporation may be assessed on or before March 15, 1972, an amount not in excess of \$30,000 (\$50,000, the amount refunded under section 6411, minus \$20,000, the amount which may be assessed solely by reason of section 6501 (j)).

(b) *Effective date.* The provisions of paragraph (a) of this section apply only with respect to applications under section 6411 filed after November 2, 1966.

[T.D. 7301, 39 FR 975, Jan. 4, 1974]

§ 301.6501(n)-1 Special rules for chapter 42 and similar taxes.

(a) *Return filed by private foundation, plan, trust, or other organization.* (1) A return filed by a private foundation, plan, trust, or other organization (as the case may be) with respect to any act giving rise to a tax imposed by chapter 42 (other than a tax imposed by section 4940), or by section 4975 shall be considered, for purposes of section 6501, to be the return of all persons required to file a return with respect to any such tax arising from such act, notwithstanding that all such persons have not signed the return. In the case of a private foundation that files a Form 990-PF (or a Form 5227 in the case of a nonexempt foundation described in section 4947(a)(2)), which contains questions with respect to such taxes, the filing of such form by such foundation shall constitute the filing of a return with respect to any such act, even though the foundation incorrectly answered such questions.

(2) For purposes of section 4940, the return referred to in this section is the return filed by the private foundation for the taxable year for which the tax is imposed.

(b) *Failure of private foundation plan, trust, or other organization to file.* The period of limitations on assessment and collection described in section 6501 does not begin with respect to any person liable for tax under chapter 42 (other than section 4940) or section 4975 arising from a given act, where the private foundation, plan, trust, or other organization (as the case may be) has not filed its required return that reports such act for the year in which the act (or failure to act) giving rise to liability for such tax occurred.

(c) *Example.* The provision of this section may be illustrated by the following example:

Example. In 1973, D, an individual taxpayer who was a disqualified person under the provisions of section 4946(a)(1), participated in an act of self-dealing with a private foundation and incurred a tax under section 4941(a)(1). On May 15, 1974, the private foundation files a Form 990-PF and answers all the questions thereon with regard to any acts of self-dealing (as defined in section 4941(d)) in which it may have engaged in 1973. Assuming that the foundation's return was not a false or fraudulent return nor made