

**Internal Revenue Service, Treasury**

**§ 301.6611-1**

**§ 301.6602-1 Interest on erroneous refund recoverable by suit.**

Any portion of an internal revenue tax (or any interest, assessable penalty, additional amount, or addition to tax) which has been erroneously refunded, and which is recoverable by a civil action pursuant to section 7405, shall bear interest at the annual rate referred to in the regulations under section 6621 from the date of the payment of the refund.

[T.D. 7384, 40 FR 49324, Oct. 22, 1975]

**INTEREST ON OVERPAYMENTS**

**§ 301.6611-1 Interest on overpayments.**

(a) *General rule.* Except as otherwise provided, interest shall be allowed on any overpayment of any tax at the annual rate referred to in the regulations under section 6621 from the date of overpayment of the tax.

(b) *Date of overpayment.* Except as provided in section 6401(a), relating to assessment and collection after the expiration of the applicable period of limitation, there can be no overpayment of tax until the entire tax liability has been satisfied. Therefore, the dates of overpayment of any tax are the date of payment of the first amount which (when added to previous payments) is in excess of the tax liability (including any interest, addition to the tax, or additional amount) and the dates of payment of all amounts subsequently paid with respect to such tax liability. For rules relating to the determination of the date of payment in the case of an advance payment of tax, a payment of estimated tax, and a credit for income tax withholding, see paragraph (d) of this section.

(c) *Examples.* The application of paragraph (b) may be illustrated by the following examples:

*Example 1.* Corporation X files an income tax return on March 15, 1955, for the calendar year 1954 disclosing a tax liability of \$1,000 and elects to pay the tax in installments. Subsequent to payment of the final installment, the correct tax liability is determined to be \$900.

	<i>Tax liability</i>	
Assessed .....		\$1,000
Correct liability .....		900
Overassessment .....		100

*Tax liability*  
*Record of payments*

Mar. 15, 1955 .....	\$500
June 15, 1955 .....	500

Since the correct liability in this case is \$900, the payment of \$500 made on March 15, 1955, and \$400 of the payment made on June 15, 1955, are applied in satisfaction of the tax liability. The balance of the payment made on June 15, 1955 (\$100) constitutes the amount of the overpayment, and the date on which such payment was made would be the date of the overpayment from which interest would be computed.

*Example 2.* Corporation Y files an income tax return for the calendar year 1954 on March 15, 1955, disclosing a tax liability of \$50,000, and elects to pay the tax in installments. On October 15, 1956, a deficiency in the amount of \$10,000 is assessed and is paid in equal amounts on November 15 and November 26, 1956. On April 15, 1957, it is determined that the correct tax liability of the taxpayer for 1954 is only \$35,000.

*Tax liability*

Original assessment .....	\$50,000
Deficiency assessment .....	10,000
Total assessed .....	60,000
Correct liability .....	35,000
Overassessment .....	25,000

*Record of payments*

Mar. 15, 1955 .....	\$25,000
June 15, 1955 .....	25,000
Nov. 15, 1956 .....	5,000
Nov. 26, 1956 .....	5,000

Since the correct liability in this case is \$35,000, the entire payment of \$25,000 made on March 15, 1955, and \$10,000 of the payment made on June 15, 1955, are applied in satisfaction of the tax liability. The balance of the payment made on June 15, 1955 (\$15,000), plus the amounts paid on November 15 (\$5,000), and November 26, 1956 (\$5,000), constitute the amount of the overpayment. The dates of the overpayments from which interest would be computed are as follows:

Date	Amount of overpayment
June 15, 1955 .....	\$15,000
Nov. 15, 1956 .....	5,000
Nov. 26, 1956 .....	5,000

The amount of any interest paid with respect to the deficiency of \$10,000 is also an overpayment.

(d) *Advance payment of tax, payment of estimated tax, and credit for income tax withholding.* In the case of an advance payment of tax, a payment of estimated income tax, or a credit for income tax withholding, the provisions of