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DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

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SPR-112367-99

MEMORANDUM FOR PAULINE RIENDEAU
DIRECTOR, OFFICE OF INTEREST AND PENALTY
ADMINISTRATION OP:EX:ST:I&P

FROM: Senior Technician Reviewer, Branch 1 (Income Tax &
Accounting) CC:DOM:IT&A:1 *David Andon*

SUBJECT: Effect of RRA 98 on Interest and Penalty Notices

~~On July 21, 1999, and August 25, 1999, we met with you and members of your staff~~
to discuss the Service's efforts to implement §§ 3306 and 3308 of the Internal
Revenue Service Restructuring and Reform Act of 1998 (RRA 98). Sections 3306
and 3308 of RRA 98 added §§ 6751 and 6631, respectively, to the Code. These
sections require the Service to include certain explanatory information in its penalty
and interest notices. You have requested our assistance with several issues arising
under RRA 98. This responds to the portion of your request regarding issues
arising under § 6631 of the Code. Branch 4 (Income Tax & Accounting) will
address issues arising under § 6751 in a separate memorandum.

ISSUES

- (1) Whether the provisions of § 6631 of the Code apply to employment tax notices and excise tax notices issued to a sole proprietor.
- (2) How detailed of an interest computation must the Service provide to meet the statutory requirements of § 6631?

DISCUSSION

Issue 1

Section 6631 of the Code provides:

Sec. 6631. Notice Requirements.

The Secretary shall include with each notice to an individual taxpayer which includes an amount of interest required to be paid by

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such taxpayer under this title information with respect to the section of this title under which the interest is imposed and a computation of the interest.

You question whether a notice issued to a sole proprietor regarding his or her employment tax or excise tax liabilities is considered "notice to an individual taxpayer" within the meaning of § 6631. You indicate that the Service distinguishes "individual" tax liabilities from "business" tax liabilities. While a sole proprietor's income tax liabilities are reported under his or her social security number and recorded on the Service's "Individual" Master File (IMF), employment and excise tax liabilities are reported under the sole proprietor's Employer Identification Number (EIN) and recorded on the Service's "Business" Master File (BMF). The Service regularly uses the terms "individual" and "business" to distinguish a sole proprietor's various tax liabilities.

We do not think that Congress used the term "individual" to distinguish a sole proprietor's individual income tax liability from his or her "business" (i.e., employment and excise) tax liabilities. In our opinion, § 6631 uses the phrase "notice to an individual taxpayer" to limit its application to taxpayers who are natural persons, rather than entities. As used in § 6631, the term "individual" modifies the term "taxpayer." Section 7701(a)(14) defines a taxpayer as "... any person subject to any internal revenue tax." Because § 7701(a)(1) defines a person as "... an individual, a trust, estate, partnership, association, company or corporation," use of the term "individual" was necessary if Congress intended for the provisions of § 6631 to apply only to non-entities.

As we indicated at our August 25, 1999, meeting, we conclude that the phrase "notice to an individual taxpayer" as used in § 6631 includes notices issued to a sole proprietor regarding employment and excise tax liabilities.¹ Furthermore, as we indicated in response to a question raised at that meeting, the term "individual taxpayer" does not include a decedent's estate or a trust. Accordingly, the provisions of § 6631 do not apply to notices issued to estates or trusts.

Issue 2

Section 6631 requires the Secretary to provide in interest notices "... information with respect to the section of this title under which the interest is imposed and a computation of the interest." The legislative history to § 6631 provides that the Service must provide a "detailed computation of the interest

¹ This interpretation of the term "individual" as used in RRA 98 is consistent with advice issued by the Acting Assistant Chief Counsel (Income Tax & Accounting) dated June 16, 1999, which held that the reduction of the failure to pay penalty during the period of an installment agreement under § 3303 of RRA 98 applies to an individual's employment tax liabilities as well as income tax liabilities.

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charged and a citation to the Code section under which such interest is imposed." See H.R. Conf. Rep. No. 599, 105th Cong., 2d Sess. 260 (1998). You ask how detailed an interest computation must be to meet the statutory requirements of § 6631.

The overriding purpose of § 6631 is to provide taxpayers with additional detail to support the amount of interest charged. Because neither the statute nor legislative history define the term "computation," it is our opinion that the Service has some flexibility in determining how detailed a calculation to provide. However, we note that the term "computation" is generally understood as a numerical or mathematical calculation, and not simply a formula for making such a calculation. See Webster's Third New International Dictionary (to "compute" is to determine or ascertain by mathematical means; a "formula" is a set form of words or symbols used to express a general fact, rule, or principle). Thus, it is our opinion that merely providing the formula for computing interest, without anything more, would not constitute a "computation" within the meaning of § 6631.

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If you have any questions, please contact Andrew Keyso or me at 622-4910.