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Reg. Section 1.6411-1(c)

Tentative carryback adjustments


(a) In general. Any taxpayer who has a net operating loss under section 172, a net capital loss under section 1211(a) which is a carryback under section 1212, an unused investment credit under section 46, or an unused work incentive program (WIN) credit under section 50A, may file an application under section 6411 for a tentative carryback adjustment of the taxes for taxable years prior to the taxable year of the net operating or capital loss or the unused credit, whichever is applicable, which are affected by the net operating loss carryback, the capital loss carryback, the unused investment credit carryback, or the unused WIN credit carryback, resulting from such loss or unused credit. The regulations under section 6411 shall apply with respect to investment credit carrybacks for taxable years ending after December 31, 1961, but only with respect to applications for tentative carryback adjustments for investment credit carrybacks filed after November 2, 1966. The regulations under section 6411 shall apply with respect to WIN credit carrybacks for taxable years beginning after December 31, 1971. The right to file an application for a tentative carryback adjustment is not limited to corporations, but is available to any taxpayer otherwise entitled to carry back a loss or unused credit. A corporation may file an application for a tentative carry-back adjustment even though it has not extended the time for payment of tax under section 6164. In determining any decrease in tax under §§1.6411-1 through 1.6411-4, the decrease in tax is determined net of any increase in the tax imposed by section 56 (relating to the minimum tax for tax preferences).

(b) Contents of application.

(1) The application for a tentative carryback adjustment shall be filed, in the case of a corporation, on Form 1139, and in the case of taxpayers other than corporations, on Form 1045. The application shall be filled out in accordance with the instructions accompanying the form, and all information required by the form and the instructions must be furnished by the taxpayer.

(2) An application for a tentative carryback adjustment does not constitute a claim for credit or refund. If such application is disallowed by the district director or director of a service center in whole or in part, no suit may be maintained in any court for the recovery of any tax based on such application. The filing of an application for a tentative carryback adjustment will not constitute the filing of a claim for credit or refund within the meaning of section 6511 for purposes of determining whether a claim for credit or refund was filed prior to the expiration of the applicable period of limitation. The taxpayer, however, may file a claim for credit or refund under section 6402 at any time prior to the expiration of the applicable period of limitation, and may maintain a suit based on such claim if it is disallowed or if the district director or director of a service center does not act on the claim within 6 months from the date it is filed. Such claim may be filed before, simultaneously with, or after the filing of the application for a tentative carryback adjustment. A claim for credit or refund under section 6402 filed after the filing of an

application for a tentative carryback adjustment is not to be considered an amendment of such application. Such claim, however, in proper cases may constitute an amendment to a prior claim filed under section 6402.



(c) Time and place for filing application. Except as otherwise provided in this paragraph the application for a tentative carryback adjustment shall be filed on or after the date of the filing of the return for the taxable year of the net operating loss, net capital loss, unused investment credit, or unused WIN credit and shall be filed within a period of twelve months from the end of such taxable year. With respect to any portion of an investment credit carryback or a WIN credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, the twelve-month period shall be measured from the end of such subsequent taxable year. In the case of an application for a tentative carryback adjustment attributable to the carryback of an unused investment credit, the twelve-month period for filing shall not expire before the close of December 31, 1966. Any application filed prior to the date on which the return for the taxable year of the loss or unused credit is filed shall be considered to have been filed on the date such return is filed. In the case of an application filed before April 15, 1968, the application shall be filed with the internal revenue officer to whom the tax was paid or by whom the assessment was made. Except as provided in paragraph (b) of §301.6091-1 (relating to hand-carried documents), in the case of an application filed after April 14, 1968, if the tax was paid to the Director of International Operations, the application shall be filed with him; otherwise the application shall be filed with the internal revenue office with which the return was filed.