

items not so barred shall be determined by treating the allowance of such items as the first adjustment to be made in computing such overpayment. If a claim for credit or refund is not filed, and if credit or refund is not allowed, within the period prescribed in this paragraph, then credit or refund may be allowed or made only if claim therefor is filed, or if such credit or refund is allowed, within the period prescribed in section 6511 (a), (b), or (c), whichever is applicable, subject to the provisions thereof limiting the amount of credit or refund in the case of a claim filed, or if no claim was filed, in case of credit or refund allowed, within such applicable period. For the limitations on the allowance of interest for an overpayment where credit or refund is subject to the provisions of this section, see section 6611(f).

(b) *Barred overpayments.* If the allowance of a credit or refund of an overpayment of tax attributable to an investment credit carryback is otherwise prevented by the operation of any law or rule of law (other than section 7122, relating to compromises), such credit or refund may be allowed or made under the provisions of section 6511(d)(4)(B) if a claim therefor is filed within the period provided by section 6511(d)(4)(A) and paragraph (a) of this section for filing a claim for credit or refund of an overpayment attributable to a carryback. In the case of a claim for credit or refund of an overpayment attributable to a carryback, the determination of any court, including the Tax Court, in any proceeding in which the decision of the court has become final, shall not be conclusive with respect to the investment credit, and the effect of such credit, to the extent that such credit is affected by a carryback which was not in issue in such proceeding.

[32 FR 15241, Nov. 3, 1967, as amended by T.D. 7301, 39 FR 977, Jan. 4, 1974]

§ 301.6511(d)-7 Overpayment of income tax on account of work incentive program credit carryback.

(a) *Special period of limitation.* (1) If the claim for credit or refund related to an overpayment of income tax attributable to a work incentive program (WIN) credit carryback, provided in

section 50A, then in lieu of the 3-year period from the time the return was filed in which the claim may be filed or credit or refund allowed, as prescribed in section 6511 (a) or (b), the period shall be whichever of the following 2 periods expires later:

(i) The period which ends with the expiration of the fifteenth day of the fortieth month (or thirty-ninth month, in the case of a corporation) following the end of the taxable year of the unused WIN credit which resulted in the carryback (or, with respect to any portion of 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 period which ends with the expiration of the fifteenth day of the fortieth month (or thirty-ninth month in the case of a corporation) following the end of such subsequent taxable year); or

(ii) The period which ends with the expiration of the period prescribed in section 6511(c) within which a claim for credit or refund may be filed with respect to the taxable year of the unused WIN credit which resulted in the carryback.

(2) In the case of a claim for credit or refund involving a WIN credit carryback described in paragraph (a)(1) of this section, the amount of the credit or refund may exceed the portion of the tax paid within the period provided in section 6511 (b)(2) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to the carryback. If the claim involves an overpayment based not only on a WIN credit carryback described in paragraph (a)(1) of this section but based also on other items, the credit or refund cannot exceed the sum of the following:

(i) The amount of the overpayment which is attributable to the WIN credit carryback, and

(ii) The balance of such overpayment up to a limit of the portion, if any, of the tax paid within the period provided in section 6511 (b)(2) or (c), or within the period provided in any other applicable provision of law.

(3) If the claim involves an overpayment based not only on a WIN credit carryback described in paragraph (a)(1)

§ 301.6511(e)-1

26 CFR Ch. I (4-1-12 Edition)

of this section but based also on other items, and if the claim with respect to any items is barred by the expiration of any applicable period of limitation, the portion of the overpayment attributable to the items not so barred shall be determined by treating the allowance of such items as the first adjustment to be made in computing such overpayment. If a claim for credit or refund is not filed, and if credit or refund is not allowed, within the period prescribed in this paragraph, then credit or refund may be allowed or made only if claim therefor is filed, or if such credit or refund is allowed, within the period prescribed in section 6511 (a), (b), or (c), whichever is applicable, subject to the provisions thereof limiting the amount of credit or refund in the case of a claim filed, or if no claim was filed, in case of credit or refund allowed, within such applicable period. For the limitations on the allowance of interest for an overpayment where credit or refund is subject to the provisions of this section, see section 6611(f).

(b) *Barred overpayments.* If the allowance of a credit or refund of an overpayment of tax attributable to a WIN credit carryback is otherwise prevented by the operation of any law or rule of law (other than section 7122, relating to compromises), such credit or refund may be allowed or made under the provisions of section 6511(d)(7)(B) if a claim therefor is filed within the period provided by section 6511(d)(7)(A) and paragraph (a) of this section for filing a claim for credit or refund of an overpayment attributable to a carryback. In the case of a claim for credit or refund of an overpayment attributable to a carryback, the determination of any court, including the Tax Court, in any proceeding in which the decision of the courts has become final, shall not be conclusive with respect to the WIN credit, and the effect of such credit, to the extent that such credit is affected by a carryback which was not in issue in such proceeding.

[T.D. 7301, 39 FR 977, Jan. 4, 1974; 39 FR 2758, Jan. 24, 1974]

§ 301.6511(e)-1 Special rules applicable to manufactured sugar.

(a) *Use as livestock feed and for distillation of alcohol.* No payment shall be al-

lowed or made under section 6418 (a) unless within 2 years after the date the right to such payment has accrued a claim therefor is filed by the person entitled thereto. Such right accrues as of the date the manufactured sugar, or article manufactured therefrom, is used for a purpose for which payment is allowable under section 6418(a).

(b) *Exportation.* No payment shall be allowed or made under section 6418 (b) unless within 2 years after the date the right to such payment has accrued a claim therefor is filed by the person entitled thereto. Such right accrues as of the date the articles are exported.

§ 301.6511(f)-1 Special rules for chapter 42 taxes.

(a) *In general.* Claims for credit or refund of an overpayment of any tax imposed by chapter 42 shall be filed by the taxpayer within 3 years from the time a return was filed by the private foundation or trust (as the case may be) with respect to such tax, or within 2 years from the time the tax was paid, whichever of such periods expire the later.

(b) *Examples.* This section may be illustrated by the following examples:

Example 1. In 1972, 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). The private foundation files a Form 990-PF on May 15, 1973, and discloses thereon that it has engaged in an act of self-dealing with D. D files a Form 4720 on July 2, 1973, and pays the amount of tax imposed by section 4941(a) with respect to such act of self-dealing. For purposes of this section, the return was filed on May 15, 1973, and any claim for credit or refund by D must be filed by May 17, 1976 (May 15, 1976, was a Saturday).

Example 2. Assume the same facts as in example 1 except that D filed a Form 4720 on July 1, 1974, and pays the tax on that date. D must then file any claim for credit or refund by July 1, 1976.

[T.D. 7838, 47 FR 44252, Oct. 7, 1982]

§ 301.6511(g)-1 Special rule for partnership items of federally registered partnerships.

(a) *In general.* In the case of any tax imposed by subtitle A with respect to any person, the period for filing a