

## Internal Revenue Service, Treasury

## § 301.6404-2

- (ii) Providing notice in TEFRA partnership proceedings.
- (b) Exceptions.
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  - (2) Fraud.
  - (3) Tax shown on return.
  - (4) Gross misstatement.
- (i) Description.
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  - (5) Listed transactions and undisclosed reportable transactions.
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    - (ii) Special rule for certain listed or undisclosed reportable transactions.
      - (A) Participant in a settlement initiative.
        - (1) Participant in a settlement initiative who as of January 23, 2006, had not reached agreement with the IRS.
        - (2) Participant in a settlement initiative who, as of January 23, 2006, had reached agreement with the IRS.
      - (B) Taxpayer acting in good faith.
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        - (c) Special rules.
          - (1) Tentative carryback and refund adjustments.
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[T.D. 8299, 55 FR 14245, Apr. 17, 1990, as amended by T.D. 9488, 75 FR 33993, June 16, 2010; T.D. 9545, 76 FR 52261, Aug. 22, 2011]

### § 301.6404-1 Abatements.

(a) The district director or the director of the regional service center may abate any assessment, or unpaid portion thereof, if the assessment is in excess of the correct tax liability, if the assessment is made subsequent to the expiration of the period of limitations applicable thereto, or if the assessment has been erroneously or illegally made.

(b) No claim for abatement may be filed with respect to income, estate, or gift tax.

(c) Except in case of income, estate, or gift tax, if more than the correct amount of tax, interest, additional amount, addition to the tax, or assessable penalty is assessed but not paid to the district director, the person against whom the assessment is made may file a claim for abatement of such overassessment. Each claim for abatement under this section shall be made on Form 843. In the case of a claim filed prior to April 15, 1968, the claim shall be filed in the office of the inter-

nal revenue officer by whom the tax was assessed or with the assistant regional Commissioner (alcohol, tobacco, and firearms) where the regulations respecting the particular tax to which the claim relates specifically require the claim to be filed with that officer. Except as provided in paragraph (b) of § 301.6091-1 (relating to hand-carried documents), in the case of a claim filed after April 14, 1968, the claim shall be filed (1) with the Director of International Operations if the tax was assessed by him, or (2) with the assistant regional Commissioner (alcohol, tobacco, and firearms) where the regulations respecting the particular tax to which the claim relates specifically require the claim to be filed with that officer; otherwise, the claim shall be filed with the service center serving the internal revenue district in which the tax was assessed. Form 843 shall be made in accordance with the instructions relating to such form.

(d) The Commissioner may issue uniform instructions to district directors authorizing them, to the extent permitted in such instructions, to abate amounts the collection of which is not warranted because of the administration and collection costs.

[32 FR 15241, Nov. 3, 1967, as amended by T.D. 7008, 34 FR 3673, Mar. 1, 1969; T.D. 7188, 37 FR 12794, June 29, 1972; T.D. ATF-33, 41 FR 44038, Oct. 6, 1976]

### § 301.6404-2 Abatement of interest.

(a) *In general.* (1) Section 6404(e)(1) provides that the Commissioner may (in the Commissioner's discretion) abate the assessment of all or any part of interest on any—

(i) Deficiency (as defined in section 6211(a), relating to income, estate, gift, generation-skipping, and certain excise taxes) attributable in whole or in part to any unreasonable error or delay by an officer or employee of the Internal Revenue Service (IRS) (acting in an official capacity) in performing a ministerial or managerial act; or

(ii) Payment of any tax described in section 6212(a) (relating to income, estate, gift, generation-skipping, and certain excise taxes) to the extent that any unreasonable error or delay in payment is attributable to an officer or