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Tax Regs in Plain English

IRS Restructuring and Reform Act of 1998

3202 - Suspension of Statute of Limitations for Disability

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Section 3202

A. Provision(s) covered: RRA § 3202 Suspension of Statute of Limitations for Disability (Amends § 6511 of the Code) Equitable Tolling of Statute of Limitations

B. Background: Generally, a taxpayer must file a refund claim within three years of the filing of a return or within two years of the payment of the tax, whichever period expires later. A refund claim not filed within this time period is rejected as untimely. The Supreme Court determined in *Brockamp v. United States* that there was provision in the Internal Revenue Code for equitable tolling of the statute of limitations.

C. Change(s): This change will allow for the suspension of the running of the statute of limitations on refunds for periods of time during which an individual taxpayer is unable to manage his or her financial affairs by reason of a medically determinable physical or mental impairment that can be expected to result in death or that lasts for a continuous period of not less than 12 months. However, a taxpayer will not be considered financially disabled during the time period that the individual's spouse or other authorized person acts on behalf of the individual. To claim financial disability, proof of such an impairment will have to be submitted.

D. Impact: The suspension of the statute of limitations during a period of financial disability will allow refund claims outside of the time periods currently set forth in § 6511(a). Taxpayers will have to be alerted to this change and Service persons giving out

information and processing claims for refunds or credits will have to be aware of this change.

E. Necessary Actions

1. Issue guidance describing how taxpayers can comply with the requirements of this provision. Develop procedures to allow for the suspension of the statute and to provide instructions with regard to the term financially disabled. Revise IRM to address the suspension of the statute of limitations. Provide training regarding this issue. Modify publications to reflect this change.
2. Consider claims for suspension of the statute of limitations during periods of financial disability.
3. The Service may no longer automatically disallow a refund claim filed later than the time prescribed in § 6511(a).

F. Other Special Comments:

1. Internal and external guidance will be necessary as to what documentary evidence or proof the Service will require as sufficient to establish that the disability was a "medically determinable, physical or mental impairment."
2. Examination needs to determine whether claims of this sort should be centralized or processed by expert personnel.
3. Should the Service require that the claim contain a prescribed form signed by a physician supporting the medical determination of financial disability?

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[\[Previous\]](#)

[\[Next\]](#)

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