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Tax Regs in Plain English

IRS Restructuring and Reform Act of 1998

3304 - Mitigation of Failure to Deposit Penalty

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Section 3304

A. Provision covered: Section 3304 (Mitigation of Failure-to-Deposit Penalties)

B. Background: Currently the IRS applies federal tax deposits first to the oldest outstanding deposit liability within the same return period. Rev. Proc. 90-58. As a result, this can produce cascading penalties in the case of a taxpayer who fails to make a deposit and does not become aware of the failure until much later.

C. Changes: The legislation does three things:

1. Allows the taxpayer to, within 90 days of a penalty notice, redesignate the application of its deposits in order to minimize the penalty;
2. Eliminates the penalty with respect to the first deposit due by a taxpayer whose deposit status has changed;
3. Beginning 1-1-2002, the Service will be required to apply deposits to current liabilities first.

D. Impact:

- Item (1) Many requests for redesignation should be expected which may require staff year reallocation.
- Item (2) will require some programming changes to exclude first deposit from penalty.

- Item (3) will require a number of programming changes.

E. Necessary Actions:

1. Guidance is necessary to establish procedures for items one and three.
2. Reprogramming of computers.

F. Other Special Comments: 1. Items 1 and 2 will probably become effective in the middle of a quarterly or annual return period--this will likely cause programming problems for the Service.

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