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Tax Regs in Plain English

IRS Restructuring and Reform Act of 1998

3104 - Actions for Refund for Estates with Installment Method

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Section 3104

A. Provision(s) covered: Section 3104 (Code § 7422). Actions for Refund With Respect to Certain Estates Which Have Elected the Installment Method of Payment

B. Background: Under prior law, an estate which elected to defer the payment of the estate tax liability over a 14-year period pursuant to section 6166 could not file a refund suit until the entire liability had been paid.

C. Change(s): This section modifies section 7422 to grant jurisdiction to the district courts and the Court of Federal Claims to determine the correct estate tax liability where the estate has elected to defer payment pursuant to section 6166. Estates may file suit if:

- . no portion of the section 6166 payments have been accelerated;
- b. all installments due on or before the suit is filed have been paid,
- c. there is no Tax Court case pending with respect to the estate tax and, if a statutory notice of deficiency was issued, the time for petitioning the Tax Court has passed, and d) no proceeding for declaratory judgment under section 7479 is pending.

D. Impact: Previously, an estate which had elected to defer payment of the estate tax could not file suit until the tax was fully paid. Because this change is effective for refund suits filed after the date of enactment, it may result in an acceleration of the relatively

few refund suits which previously could not have been filed until the end of the 14-year deferral period.

E. Necessary Actions:

1. Necessary Actions: Update IRS, CCDM and forms to incorporate this change.
2. Things we CAN do: Advise estates that they may file claims for refund even though the full estate liability is not paid if they are current on installment payments.
3. Things we CANNOT do: Deny estate tax claims on the basis that they assessed estate tax liability has not been fully paid by the estate.

F. Other Special Comments: This legislation affects estate tax examiners and Appeals officers dealing with refund claims, as well as Counsel preparing defense letters.

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