

§ 301.6511(d)-1

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of the agreement and before the making of the credit or refund, plus the amount that could have been properly credited or refunded under the provisions of section 6511(b)(2) if a claim had been filed on the date of the execution of the agreement.

(d) *Effective date of agreement.* The agreement referred to in this section shall become effective when signed by the taxpayer and the district director or an assistant regional commissioner.

**§ 301.6511(d)-1 Overpayment of income tax on account of bad debts, worthless securities, etc.**

(a)(1) If the claim for credit or refund relates to an overpayment of income tax on account of—

(i) The deductibility by the taxpayer, under section 166 or section 832(c), of a debt as a debt which became worthless, or, under section 165(g), of a loss from the worthlessness of a security, or

(ii) The effect that the deductibility of a debt or loss described in subdivision (i) of this subparagraph has on the application to the taxpayer of a carryover, then in lieu of the 3-year period from the time the return was filed in which claim may be filed or credit or refund allowed, as prescribed in section 6511 (a) or (b), the period shall be 7 years from the date prescribed by law for filing the return (determined without regard to any extension of time for filing such return) for the taxable year for which the claim is made or the credit or refund allowed or made.

(2) If the claim for credit or refund relates to an overpayment on account of the effect that the deductibility of a debt or loss, described in subparagraph (1) of this paragraph (a), has on the application to the taxpayer of a net operating loss carryback provided in section 172(b), the period in which claim for credit or refund may be filed shall be whichever of the following two periods expires later:

(i) Seven years from the last date prescribed for filing the return (determined without regard to any extension of time for filing such return) for the taxable year of the net operating loss which results in such carryback, 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 net operating loss which resulted in the carryback.

(3) In the case of a claim for credit or refund involving items described in 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 deductibility of items described in subparagraph (1) of this paragraph (a). If the claim involves an overpayment based not only on the deductibility of items described in subparagraph (1) of this paragraph (a), 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 deductibility of items described in subparagraph (1) of this paragraph (a), 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.

(4) If the claim involves an overpayment based not only on the deductibility of items described in subparagraph (1) of this paragraph (a), 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.

(b) If a claim for credit or refund is not filed within the applicable period described in paragraph (a) of this section, then credit or refund may be allowed or made only if claim therefor is filed or if such credit or refund is allowed within any 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 the case of credit or refund allowed within such applicable period as prescribed in section 6511 (b) or (c).

(c) The provisions of this section and section 6511(d)(1) do not apply to an overpayment resulting from the deductibility of a debt that became partially worthless during the taxable year, but only to an overpayment resulting from the deductibility of a debt which became entirely worthless during such year.

(d) The provisions of paragraph (a) of this section with regard to an overpayment caused by the deductibility of a bad debt under section 166 or section 832(c), or of a loss from the worthlessness of a security under section 165(g), are likewise applicable to an overpayment caused by the effect that the deductibility of such bad debt or loss has on the application to the taxpayer of a carryover or of a carryback.

**§ 301.6511(d)-2 Overpayment of income tax on account of net operating loss or capital loss carrybacks.**

(a) *Special period of limitation.* (1) If the claim for credit or refund relates to an overpayment of income tax attributable to a net operating loss carryback (provided in section 172(b)), or a capital loss carryback (provided in section 1212(a)), 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 two periods expires later:

(i) The period which ends with the expiration of the 15th day of the 40th month (or 39th month, in the case of a corporation) following the end of the taxable year of the net operating loss or net capital loss which resulted in the carryback; 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 net operating loss or net capital loss which resulted in the carryback except that—

(a) With respect to an overpayment attributable to a net operating loss carryback to any year on account of a certification issued to the taxpayer under section 317 of the Trade Expansion Act of 1962, the period shall not expire before the expiration of the sixth month following the month in

which such certification is issued to the taxpayer, and

(b) With respect to an overpayment attributable to the creation of, or an increase in, a net operating loss as a result of the elimination of excessive profits by a renegotiation (as defined in section 1481(a)(1)(A)), the period shall not expire before September 1, 1959, or the expiration of the 12th month following the month in which the agreement or order for the elimination of such excessive profits becomes final, whichever is the later.

(2) In the case of a claim for credit or refund involving a net operating loss or capital loss carryback described in subparagraph (1) of this paragraph (a), 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 net operating loss or capital loss carryback described in subparagraph (1) of this paragraph (a), 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 net operating loss or capital loss 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 net operating loss or capital loss carryback described in subparagraph (1) of this paragraph (a), 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