



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

ASSISTANT COMMISSIONER
(EXAMINATION)

MEMORANDUM FOR CHIEF COMPLIANCE OFFICERS
INTERNATIONAL (EXAMINATION) CP:IN

FROM: John J. Monaco
Assistant Commissioner (Examination) CP:RX

SUBJECT: General Agreement on Tariffs and Trade (GATT) -
Credit Interest Computations on Refunds

Legislation based on the General Agreement on Tariffs and Trade (GATT) reduced the rate of interest paid on certain corporate overpayments of tax. The GATT legislation will apply to refunds issued on all BMF accounts (except estate tax returns) that contain corporate filing requirements including Forms 990C and 990T with an Organization Code of 4 or 5. Master File processing will identify returns that are subject to the GATT rate by using the filing requirement criteria. The literal "GATT" will be reflected on transcripts as well as the AIMS chargeout sheet, Form 5546. Based on this legislation, effective January 1, 1995, for refunds where the principal exceeds \$10,000.00, credit interest on the overpayment will be computed at 1 1/2% less than the normal credit interest rate on the refund amount exceeding \$10,000.00. Credit interest accrued through December 31, 1994 WILL NOT be subject to GATT rates.

All amounts of previously issued refunds (excluding the interest) will be used to determine when the \$10,000.00 threshold is met and the lower credit interest rate applies. The GATT legislation only applies to refunds, it DOES NOT apply when credits are used as an offset against a liability. This legislation also impacts future computations where interest must be netted. The impact of GATT on netting will be addressed separately with instructions issued at a later date. For this quarter (January 1, through March 31, 1995), the normal credit interest rate is 8% and the GATT rate is 6.5%.

For refunds of credits after January 1, 1995, which have credit availability dates that are before the GATT effective date, credit interest will be computed at the normal rate from the credit availability date to December 31, 1994. On December 31, 1994, all interest accrued to this date will be added to \$10,000.00, and credit interest will be calculated on this total at the normal rate to the refund schedule date (less the applicable days for the credit interest "back-off" period). Credit interest on the principal amount that exceeds the \$10,000.00 threshold will be computed from December 31, 1994 to

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the refund schedule date at the lower GATT rate. When all refundable credits are available on or after January 1, 1995, interest up to the \$10,000.00 threshold amount is computed at the normal credit rate from the availability date to the refund schedule date. Interest on any excess principal is computed using the applicable availability date(s) at the lower GATT rate. In all interest situations that involve the GATT interest rate, separate interest computations must be performed to determine the normal and GATT interest amounts. The separate computations will be added together representing the TC 770 amount. When performing these credit interest computations, ensure consideration is given to the "new" interest-free periods related to amended returns, claims and IRS initiated adjustments which is also based on the OBRA 1993 provisions.

The GATT rate was programmed for Master File processing effective January 1, 1995. We have been advised that the revision to incorporate the GATT rate for the IDRS Command Code COMPA interest program is scheduled for release on January 31, 1995. Programming for the TIES Total Interest Program for the Estimated Interest Screen is expected to be released in February 1995. The Time Value Software Tax Interest Program is currently available with the GATT rate. Programming for the Sharp calculator is underway. Pending the update of the Sharp program, the Southeast Region has provided a method for programming the GATT rate using the existing Sharp program. The instructions for using this method for the Sharp program have been provided to you. Provided as an attachment are examples that will illustrate how the GATT interest provision is applied.

Chief Counsel has drafted the Internal Revenue Notice that will be issued to the public regarding this aspect of the GATT legislation and the revision to Revenue Procedure 83-7 which provides the interest rates and applicable interest factors. When these publications are finalized and available for issuance, we will provide you with this information.

If you have any questions, please give me a call or have a member of your staff contact Oneida Stephens of my staff at 202-401-4435.

TREATMENT OF GATT LEGISLATION ON REFUNDS THAT RESULT FROM ABATEMENTS

For purposes of determining the \$10,000 threshold amount, we are always to look at all TC 84X posting(s) in the module EXCLUDING any interest given on the refund. By looking at the TC 84X amount(s), we will be able to determine how much of the current refund may be subject to GATT rates.

When a refund is being issued as a result of abating tax, penalty and or interest that was previously paid by the taxpayer, the "principal" amount, for purposes of determining the \$10,000 threshold, consists of the entire abatement amount which the taxpayer paid.

Example: \$9,000 deficiency assessed consisting of tax and penalty along with \$1,500 in interest.

The taxpayer pays the \$10,500.00 assessment on 1/15/95 and files a claim for abatement which is allowed. The resulting refund is comprised of the amount paid by the taxpayer (tax, penalty and interest). Therefore, the refund being issued exceeds the \$10,000.00 threshold and the GATT rate applies to the excess of \$500.00. Note that if any subsequent refund action occurs, the TC 84X amount for this adjustment would be \$10,500.00 which is the amount to be used in determining the GATT rate for the subsequent refund.

This example is provided to illustrate how the threshold amount is determined when the refund results from abatements of tax, penalty and or interest. Once you have determined the amount subject to the GATT rate, use the same interest computation methods as described in the previous examples.

EXAMPLES FOR GATT CREDIT INTEREST COMPUTATIONS

These examples illustrate the concept of calculating credit interest under the GATT provision. Reductions of assessed tax, penalty and interest (that were paid) constitute the "principal" when computing the GATT threshold.

- 1a. Refund principal = \$25,000
All credit(s) available 6/15/94
Refund Computation Date 3/31/95

Calculate normal credit interest from 6/15/94 to 12/31/94 on the \$25,000 refund principal.

FROM: 6/15/94
TO: 12/31/94 X \$25,000 @ normal rate

- 1b. Calculate normal credit interest from 12/31/94 to Refund Comp Date on \$10,000 threshold + all accrued interest that was calculated to 12/31/94 (as per Step 1a).

FROM: 12/31/94
TO: 3/31/95 X \$10,000 + accrued interest @ normal rate

- 1c. Calculate interest at the lower GATT rate from 12/31/94 to Refund Comp Date on the \$15,000 threshold excess (which DOES NOT include any accrued interest that was calculated to 12/31/94).

FROM: 12/31/94
TO: 3/31/95 X \$15,000 @ GATT rate

THE TC 770 ALLOWABLE INTEREST IS THE SUM OF THE RESULTS DETERMINED IN STEPS 1a through 1c.

- 2a. Refund principal = \$25,000
credit \$22,000 available 8/31/94
credit \$ 3,000 available 1/31/95
Refund Computation Date 3/31/95

Calculate normal credit interest from 8/31/94 to 12/31/94 on the \$22,000 refund principal that is available on or before 12/31/94.

FROM: 8/31/94
TO: 12/31/94 X \$22,000 @ normal rate

- 2b. Calculate normal credit interest from 12/31/94 to Refund Comp Date on \$10,000 threshold + all accrued interest that was calculated to 12/31/94 (as per Step 2a).

FROM: 12/31/94
TO: 3/31/95 X \$10,000 + accrued interest @
normal rate

- 2c. Calculate interest at the lower GATT rate from 12/31/94 to 1/31/95 on the \$12,000 threshold excess (which DOES NOT include any accrued interest that was calculated to 12/31/94).

FROM: 12/31/94
TO: 1/31/95 X \$12,000 @ GATT rate

- 2d. Calculate interest at the lower GATT rate from 1/31/95 to 3/31/95 on the \$12,000 threshold excess (PLUS the accrued interest that was calculated on this amount to 1/31/95) PLUS the \$3,000 1/31/95 later payment (which is now part of the threshold excess).

FROM: 1/31/95
TO: 3/31/95 X \$15,000 + accrued interest
@ GATT rate

THE TC 770 ALLOWABLE INTEREST IS THE SUM OF THE RESULTS
DETERMINED IN STEPS 2a through 2d.

- 3a. Refund principal = \$16,000
credit \$8,000 available 12/1/94
credit \$8,000 available 1/12/95
Refund Computation Date 2/31/95

Calculate normal credit interest from 12/1/94 to 1/12/95 on the \$8,000 credit that is available on 12/1/94.

FROM: 12/1/94
TO: 1/12/95 X \$8,000 @ normal rate

- 3b. From 1/12/95 to 3/31/95, calculate normal credit interest on the \$8,000 credit (plus accrued interest to 1/12/95) PLUS \$2,000 of the \$8,000 credit that is available on 1/12/95. Effective 1/12/95, \$2,000 of the 1/12/95 credit is added to the 12/1/94 credit to arrive at the \$10,000 threshold amount that is subject to normal credit interest rates.

FROM: 1/12/95
TO: 3/31/95 X \$8,000 + accrued interest
+ \$2,000 @ normal rate

- 3c. Calculate interest at the lower GATT rate from 1/12/95 to 3/31/95 on the \$6,000 threshold excess (which DOES NOT include any accrued interest that was calculated to 1/12/95).

FROM: 1/12/95
TO: 3/31/95 X \$6,000 @ GATT rate

THE TC 770 ALLOWABLE INTEREST IS THE SUM OF THE RESULTS DETERMINED IN STEPS 3a through 3c.

- 4a. \$4,000 tax decrease - credit available 6/15/93
\$8,000 refund already issued 4/15/93
Refund Computation Date 3/31/95

Calculate normal credit interest from 6/15/93 to 12/31/94 on the \$4,000 tax decrease for which the credit is available on 6/15/93.

FROM: 6/15/93
TO: 12/31/94 X \$4,000 @ normal rate

- 4b. From 12/31/94 to 3/31/95, calculate normal credit interest on \$2,000 of the 6/15/93 credit (plus accrued interest that was calculated on the total \$4,000 to 12/31/94). Effective 12/31/94, only \$2,000 of the credit is allowed normal credit rates because this amount, when added to the \$8,000 refund that was already issued, equals the \$10,000 threshold.

FROM: 12/31/94
TO: 3/31/95 X \$2,000 + accrued interest @ normal rate

- 4c. Calculate interest at the lower GATT rate from 12/31/94 to 3/31/95 on the \$2,000 threshold excess (which DOES NOT include any accrued interest that was calculated to 12/31/94).

FROM: 12/31/94
TO: 3/31/95 X \$2,000 @ GATT rate

THE TC 770 ALLOWABLE INTEREST IS THE SUM OF THE RESULTS DETERMINED IN STEPS 4a through 4c.

Subject: UPDATE TO GATT INSTRUCTIONS ISSUED BY MEMORANDUM DATED 2/27/95

BASED ON INFORMATION SUPPLIED BY THE FIELD, WE ARE PROVIDING THE FOLLOWING ADDITIONAL EXAMPLE OF HOW THE GATT LEGISLATION IS TO BE APPLIED. THIS EXAMPLE ILLUSTRATES HOW TO CALCULATE INTEREST ON A "GATT" REFUND WHEN THE AMOUNT OF REFUND(S) PREVIOUSLY ISSUED EXCEEDED THE THRESHOLD.

**REFUND TO BE ISSUED \$10,000.00 CREDIT AVAILABLE 4/15/93
REFUND(S) PREVIOUSLY ISSUED \$15,000.00
REFUND COMPUTATION DATE 4/30/95**

- 1. CALCULATE NORMAL CREDIT INTEREST ON THE \$10,000 REFUND FROM 4/15/93 TO 12/31/94 AT THE NORMAL CREDIT INTEREST RATE.**

**FROM: 4/15/93
TO: 12/31/94 X \$10,000 @ NORMAL RATE**

- 2. CONTINUE TO CALCULATE INTEREST AT THE NORMAL RATE FROM 12/31/94 TO 4/30/95, ON THE AMOUNT OF CREDIT INTEREST THAT ACCRUED TO 12/31/94. THIS COMPUTATION CONTINUES IN THIS MANNER BECAUSE CREDIT INTEREST ACCRUED TO 12/31/94 IS NOT SUBJECT TO THE GATT RATE.**

**FROM: 12/31/94
TO: 4/30/95 X ACCRUED INTEREST @ NORMAL RATE**

- 3. CALCULATE INTEREST ON THE \$10,000 REFUND PRINCIPAL FROM 12/31/94 TO 4/30/95 AT THE GATT RATE.**

**FROM: 12/31/94
TO: 4/30/95 X \$10,000 @ GATT RATE**

THE TOTAL CREDIT INTEREST ALLOWABLE IS THE SUM OF THE COMPUTATIONS IN STEP 1 THROUGH 3.

AS YOU BECOME AWARE OF ADDITIONAL MODULE CONDITIONS THAT HAVE NOT BEEN ADDRESSED, PLEASE PROVIDE US THIS INFORMATION THROUGH APPROPRIATE MANAGEMENT CHANNELS.