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Department of the Treasury
Internal Revenue Service

8.7.19

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EFFECTIVE DATE

(04-25-2019)

PURPOSE

- (1) This document transmits revised IRM 8.7.19, *Technical and Procedural Guidelines, Net Rate Netting Procedures for Appeals*.

MATERIAL CHANGES

- (1) Made the following editorial changes:
 - a. In IRM 8.7.19.2 (2) under *Interest Netting Overview*, changed “Subsection B” to “Subchapter B” regarding the location of IRC Section 6611 in the Internal Revenue Code.
 - b. Clarification to Material Change # 1 in IRM 8.7.19 (revised March 1, 2019) - The source of the guidance in IRM 8.7.19.1, *Program Scope and Objectives*, and its related sections containing internal control information are required by IRM Section 1.11.2.2.5, *Address Management and Internal Controls* (and not IRC 1.11.2.2.5).

EFFECT ON OTHER DOCUMENTS

This IRM supersedes IRM 8.7.19, *Technical and Procedural Guidelines, Net Rate Netting Procedures for Appeals*, dated March 1, 2019.

AUDIENCE

Appeals

Anita M. Hill
Director, Case, and Operations Support

8.7.19

Net Rate Netting Procedures for Appeals

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8.7.19.1
(03-01-2019)
Program Scope and Objectives

- (1) *Purpose:* This IRM section provides guidance to ensure consistency for Appeals employees processing and working Net Rate Netting (NRN) cases. Specifically, IRM 8.7.19:
 - a. Provides an overview of interest netting and types of NRN requests
 - b. Explains Appeals' criteria for accepting a NRN request from the Ogden Campus
 - c. Describes the actions required by the Appeals Complex Interest Team (CIT) for NRN requests received from the Ogden Campus
 - d. Describes actions required by Appeals Technical Employees when working standalone NRN requests or NRN requests for liability periods open in Appeals
 - e. Recommends resources, including legal references, Revenue Procedures, and other IRM sections
- (2) *Audience:* The primary users of this IRM section are Appeals Technical Employees (ATEs) working NRN cases and the Appeals CIT Lead Tax Examiner.
- (3) *Policy Owner:* Policy, Planning, Quality, and Analysis is under the Director, Case and Operations Support.
- (4) *Program Owner:* Appeals Policy is the program office responsible for providing technical and procedural guidance to the Appeals organization and is under the Director of Policy, Planning, Quality and Analysis.
- (5) *Contact Information:* Appeals employees should follow established procedures on *How to Contact an Analyst*. Other employees should contact the Product Content Owner shown on the Product Catalog Information page for this IRM section.

8.7.19.1.1
(03-01-2019)
Background

- (1) Appeals' mission is to resolve tax controversies, without litigation, on a basis which is fair and impartial to both the Government and the taxpayer in a manner that will enhance voluntary compliance and public confidence in the integrity and efficiency of the Service. Appeals accomplishes this mission by considering protested and Tax Court cases and negotiating settlements in a manner which ensures Appeals employees act in accord with the Taxpayer Bill of Rights (TBOR) in every interaction with taxpayers. See IRC 7803(a)(3), *Execution of Duties in Accord with Taxpayer Rights*, Pub 5170, *Taxpayer Bill of Rights*, and IRM 8.1.1.1, *Accomplishing the Appeals Mission*.
- (2) When a taxpayer is charged interest on an underpayment **during the same period of time** interest is allowed on an overpayment, the procedure used by IRS to equalize the interest rate differential is called interest netting. Interest netting is authorized by IRC Section 6621(d). See IRM 8.7.19.1.2, *Authority*.
- (3) Per Revenue Procedure 2000-26, the Service will take reasonable steps to identify overlapping periods of tax overpayments and underpayments and apply the net interest rate of zero to interest accruing on or after October 1, 1998. Because the Service is currently unable to automatically apply the net interest rate of zero, there may be instances when the Service fails to identify periods of overlap and apply the net interest rate of zero. To ensure that taxpayers receive the benefit of the net interest rate of zero in all applicable situations, taxpayers should request the net interest rate of zero (or request the Service to recompute the net interest rate of zero if the taxpayer disagrees with a Service computation of the net interest rate of zero) on or before the

date on which the last applicable period of limitation described in IRM 8.7.19.4, *Applicable Periods of Limitation for NRN Requests*.

8.7.19.1.2
(03-01-2019)

Authority

- (1) IRC Section 6611 requires the Internal Revenue Service to pay interest on any tax overpayment when the requirements of IRC Section 6611 are met. IRC Section 6601 requires taxpayers to pay interest on any tax underpayment. Interest is computed at the rates established under IRC Section 6621(a)(1) for overpayments and IRC Section 6621(a)(2) for underpayments. IRC Section 6621(c) provides for an increase in underpayment rate for large corporate underpayments. IRC Section 6621 (d) provides that to the extent that, for any interest computation period, interest is payable under IRC Section 6601 and allowable under IRC Section 6611 on equivalent underpayments and overpayments by the same taxpayer of tax imposed under the Internal Revenue Code, the net rate of interest will be zero for that interest computation period.

8.7.19.1.3
(03-01-2019)

Responsibilities

- (1) The Director, Case and Operations Support, is the executive responsible for Appeals' policy and procedural guidance.
- (2) The Director, PPQ&A is the program manager responsible for program oversight.

8.7.19.1.4
(03-01-2019)

Program Reports

- (1) PPQ&A provides trend and data analyses and detailed summary reports for Appeals.

8.7.19.1.5
(03-01-2019)

Terms and Acronyms

- (1) See IRM Exhibit 8.1.1-1, *Common Terms Used in Appeals*, for common terms and definitions used in IRM Part 8. Terms listed in this exhibit are not included in this section.
- (2) The table lists commonly used acronyms and their definitions:

Acronym	Definition
ACDS	Appeals Centralized Database System (see IRM 8.20.3)
ACI	Appeals Coordinated Issue
AM CIT	Accounts Management Complex Interest Team
APS CIT	Account and Processing Support Complex Interest Team
ATE	Appeals Technical Employee
CIT PTM	Complex Interest Team Processing Team Manager
NRN	Net Rate Netting
PEAS	Appeals Processing Employee Automated System (see IRM 8.20.10)

8.7.19.1.6
(03-01-2019)

Related Resources

- (1) IRM 20.2, *Interest*, provides standards and instructions for computing interest consistent with the Internal Revenue Code. The primary IRM resource for net rate netting is IRM 20.2.14, *Netting of Overpayment and Underpayment Interest*. The following table lists helpful IRM sections on the computation of interest:

IRM section	Description
IRM 20.2.1	Interest Introduction, Standards and Guidelines
IRM 20.2.5	Interest on Underpayments
IRM 20.2.7	Abatement and Suspension of Debit Interest
IRM 20.2.9	Interest on Carryback of Net Operating Loss
IRM 20.2.14	Netting of Overpayment and Underpayment Interest

8.7.19.2
(04-25-2019)
**Interest Netting
Overview**

- (1) The purpose of this guidance is to ensure consistency throughout Appeals for employees working Net Rate Netting (NRN) cases. IRC Section 6611 requires the Internal Revenue Service to pay interest on any tax overpayment when the requirements of IRC 6611 are met. IRC Section 6601 requires taxpayers to pay interest on any tax underpayment. Interest is computed at the rates established under IRC 6621(a)(1) for overpayments and IRC 6621(a)(2) for underpayments.
- (2) IRC Section 6621(d) provides that, to the extent that for any period interest is payable under Subchapter A (IRC Sections 6601 and 6602) and allowable under Subchapter B (IRC Section 6611) on equivalent underpayments and overpayments of tax by the same taxpayer imposed by the Code, the net rate of interest under Section 6621 on the amounts shall be zero for the period. See IRM 20.2.14, *Netting of Overpayment and Underpayment Interest*, for more information.
- (3) Revenue Procedure 2000-26, 2000-1 C.B. 1257, contains guidance on applying IRC Section 6621(d) to interest accruing on or after October 1, 1998. The net interest rate of zero also applies to interest accruing before October 1, 1998, provided certain conditions are met. See IRM 20.2.14.6.1.2, *Pre-Enactment Date Interest Periods*, for guidance on the conditions.
- (4) Per Revenue Procedure 2000-26, Section 4, the Service will take reasonable steps to identify overlapping interest computation periods of tax overpayments and underpayments and apply the net interest rate of zero in IRC Section 6621(d) to interest accruing on or after October 1, 1998. To ensure that taxpayers receive the benefit of the net interest rate of zero in all applicable situations, taxpayers should request the net interest rate of zero (or request the Service to recompute the net interest rate of zero if the taxpayer disagrees with a Service computation of the net interest rate of zero) on or before the date on which the last applicable period of limitation closes and according to the procedures in Section 5 of Revenue Procedure 2000-26.
- (5) See IRM 8.7.19.2.1 for guidance on accepting from IRS Ogden Campus net rate netting requests for an unresolved liability (i.e. unresolved principle amount). For other net rate netting requests received by APS, see card-in procedures at IRM 8.20.5.10.1.2, *Net Rate Netting (NRN) Claim/Request Case Carding*.
- (6) See IRM 8.7.19.2.2 for actions required by Appeals Technical Employees.
- (7) See IRM 8.7.19.3 for types of net rate netting requests and IRM 8.7.19.4 regarding applicable periods of limitation.

8.7.19.2.1
(03-01-2019)

**Accepting a Net Rate
Netting Request from
IRS Ogden Campus**

- (1) Net rate netting under IRC Section 6621(d) is available only when there exists overlapping periods of overpayment and underpayment by the same taxpayer upon which interest is both payable and allowable. Prior to the time an overpayment or underpayment is determined for a tax period, there is no principal upon which interest can be computed and a request for zero-netting is premature.
- (2) When a NRN request is received by the Accounts Management (AM) Complex Interest Team (CIT) at the Ogden Campus, that site will ensure that the NRN request properly identifies the taxpayer, the taxpayer identification number (TIN), the overlapping underpayment and overpayment amount(s) and date(s), and the tax years and type(s) of overpayment and underpayment taxes involved. The AM CIT will perform IDRS research (TXMOD and CFOL) on all tax periods included in the NRN request to determine if any tax period has an open AIMS “L” freeze, which is an indicator of Examination or Appeals involvement.

Note: If there is no “L” Freeze and/or no Examination or Appeals involvement, the AM CIT will process the request for the resolved tax period(s).

- (3) If there is an “L” freeze and the AIMS status code is **80, 81, or 82** for any of the NRN request tax period(s), the AM CIT will take the following steps to determine if Appeals will accept the NRN request for the tax liability periods controlled by Appeals for the same taxpayer:
 - a. Send an email to Appeals ***AP Complex Interest**, and include the following “note” in the subject line: **“Open AIMS Netting Case”**.
 - b. Include the Taxpayer(s) Name, EIN/TIN, MFTs and all years included in the claim.
 - c. Specify which tax period is “open” in Appeals.
 - d. The Appeals CIT Lead will contact the Appeals Technical Employee assigned the case to determine if the case will be closed within 30 days. If the case is going to be closed within 30-days, Appeals will accept the request. If the case is not going to be closed within 30-days, Appeals will not accept the request.
 - e. If the request is accepted, the Appeals CIT Lead will advise the AM CIT Appeals will accept the NRN request and will forward it to the address provided by the Appeals CIT lead.
 - f. After advising the AM CIT that Appeals will accept the NRN request, Appeals CIT Lead will import the case into Appeals Processing Employee Automated System (PEAS) and make the following entries on PEAS:
 - Input the PC (post closure) feature code;
 - Type = CLS
 - Sub-type = NET
 - Assign it to the appropriate CIT PTM (based on the CIT Lead currently working case assignments)
 - Set a follow-up date for 30 days from the date of assignment. If the case is not received within 30 days, the PTM will follow-up with the appropriate ATE.

Note: Normal assignment practices will resume upon notification from the ATE that the case is ready to be sent to APS/CIT.

8.7.19.2.1.1

(03-01-2019)

Resolved and Unresolved Tax Periods

- (1) Amounts are **resolved** when the principal amount is no longer subject to controversy in Exam, Appeals, or a court. An **unresolved** amount is a principal amount that is still under consideration in Exam, Appeals or a court. Therefore, net rate netting cannot be computed prior to the time that an overpayment or underpayment amount is determined for a tax period.

8.7.19.2.2

(03-01-2019)

Actions Required by Appeals Technical Employees for Net Rate Netting Requests

- (1) NRN is an Appeals Coordinated Issue (ACI). An ACI is an issue or category of case with Service-wide impact or importance, requiring coordination to ensure uniformity and consistency nationwide. ACIs along with the assigned Technical Specialist are listed on the Appeals Web site in the Domestic/International Operations "Issue Locator". For the public, they are also listed at www.irs.gov/appeals.
- (2) The ATE is responsible for preparing and forwarding a referral, through the Appeals Team Manager, to Appeals' Technical Guidance on Form 13381, *Appeals Technical Guidance Referral*, when the case has an ACI. In addition, the ACDS Feature Code "AI" (for **Appeals Coordinated Issue**) must be included on ACDS. See IRM 8.7.3, *Domestic and International Operations*, and the ACDS **Utilities / Feature Code Lookup**.
- (3) A Technical Guidance Specialist will review the NRN request and assist the ATE in determining whether to return the request, retain it in the file for consideration with a related case with unresolved principal amount(s), or to consider the standalone NRN request. For more information, see IRM 8.7.3.3, *Appeals Technical Specialists' Roles and Responsibilities*.

Note: For standalone NRN requests, when APS receives the case, follow card-in guidance in IRM 8.20.5.10.1.2, *Net Rate Netting (NRN) Claim/Request Case Carding*.

- (4) After considering the NRN request, the ATE will select the appropriate closing letter based on actions previously taken for the request. See IRM 8.7.7.10.1, *Closing Letters for Disposition of Claims*. IRM 8.7.19.4, *Applicable Periods of Limitations for NRN Requests*, contains information on the period of limitation for filing a refund claim and for filing a refund suit for **debit interest** under Title 26 of the U. S. Code versus the period for requesting **credit interest** under Title 28.
- (5) If the ATE determines that a legal notice of disallowance is needed (see IRM 8.7.7.10.1), IRC Section 6402(l) requires the Service to explain in the legal notice the reason for the disallowance. However, the legal notice isn't required if the Service receives a signed Form 2297, *Waiver of Statutory Notification of Claim Disallowance*, reflecting the taxpayer's waiver of the requirement for the Service to mail the legal notice of disallowance. See IRC Section 6532(a)(3).
- (6) For most legal notices of disallowances, Appeals will send (by certified or registered mail) Letter 1363, *Appeals Partial Disallowance of Claim - Certified Letter*, or Letter 1364, *Appeals Full Disallowance of Claim - Certified Letter*. Both letters state that the law permits the taxpayer to bring suit within two years from the mailing date of the letter. If a legal notice of disallowance was previously issued or the Service received Form 2297, Appeals will send (by regular mail) closing Letter 2681, *Appeals Full Disallowance After Previous Claim Disallowance*, or Letter 2683, *Appeals Partial Disallowance After Previous Claim Disallowance*, reminding the taxpayer that the two-year period

for filing suit wasn't shortened or extended by Appeals' reconsideration. See Exhibit 8.7.7-1, *IRS Claim Disallowance Letters that Begin the 2-Year Period for Filing a Refund Suit*.

Note: The language about the 2 year period applies to disallowed refund claims, but the law allows the taxpayer 6 years to request additional overpayment interest (i.e. credit interest). Therefore, these closing letters include language notifying the taxpayer of the six-year period for filing suit for overpayment interest.

8.7.19.3

(03-01-2019)

Types of Net Rate Netting Requests

- (1) Rev. Proc. 2000-26, Section 5, contains procedures for taxpayers to request a net interest rate of zero. This section includes instructions for filing a claim (on Form 843, *Claim for Refund and Request for Abatement*) and a special procedure for requesting NRN without filing Form 843.

8.7.19.3.1

(03-01-2019)

Form 843

- (1) The taxpayer or authorized representative can file a NRN claim by writing on top of Form 843 "Request for Net Interest Rate of Zero under Rev. Proc. 2000-26" and by providing documentation to substantiate the taxpayer's entitlement to receive interest due on the overpayment. It is not necessary for the taxpayer to provide a dollar amount. For more information, see Form 843 Instructions and Revenue Procedure 2000-26.

8.7.19.3.2

(03-01-2019)

Letter or Written Statement

- (1) No Form 843 is required when a NRN request is requested in connection with a return (or returns) of the taxpayer under consideration by any function of the Service (including Examination, Appeals, or a case before a federal court that requires a computation of interest by any function of the Service). Rather than filing a Form 843, the taxpayer should provide the contact representative (i.e. Appeals Technical Employee or Examiner) of such function a letter or written statement that includes the following:
 - a. States that the taxpayer is requesting the net interest rate of zero under IRC 6621(d);
 - b. Indicates the type of tax and type of return that affects the interest computation for the taxable period under consideration;
 - c. States when and for what period(s) the refund or payment (that affects the interest computation for the taxable period under consideration) was made; and
 - d. States that, to the extent of equivalent amounts of overpayment or underpayment, the period(s) set forth under Section 5.06 (3) of Revenue Procedure 2000-26 has (have) not previously been applied to obtain a net interest rate of zero under IRC Section 6621(d).
- (2) If an Appeals Team Case Leader or Appeals Officer receives a NRN request (by letter or other written statement) for tax periods under Appeals' jurisdiction, the ATE will:
 - a. Date-stamp the NRN request;
 - b. Flag the case for **APS-CIT**; and
 - c. Include on Form 5402, *Appeals Transmittal and Case Memo*, a notation that a "NRN request is enclosed for processing".

8.7.19.4
(03-01-2019)
**Applicable Periods of
Limitation for NRN
Requests**

- (1) Revenue Procedure 2000-26, Section 4.02 contains information on the applicable periods of limitation as follows:
- a. *Underpayment interest ("Debit Interest").* A claim for credit or refund of interest paid on an underpayment pursuant to IRC Sections 6601 or 6602 generally must be filed within three years from the time the tax return was filed or two years from the time the interest was paid, whichever period expires later.

Note: Claims for refund of "debit interest" fall under Title 26 of the U.S. Code. See IRM 8.7.7.2, *Periods of Limitation in Claim and Over-assessment Cases*, for applicable tax law sections. Per IRC Section 6532, *Periods of Limitation on Suits*, the two-year period for filing a refund suit begins on the date IRS sends (by certified or regular mail) a notice of disallowance or the taxpayer waives the requirement for the mailing of the notice of disallowance. IRC Section 6514 limits the time for making a refund or credit of an overpayment. See IRM 8.7.7.2.4, *Limitations on Refunds or Credits of Overpayments*.

- b. *Overpayment interest ("Credit Interest").* A claim for payment of additional interest allowable on an overpayment pursuant to IRC Section 6611 must be filed within the six-year period in which a suit must be filed pursuant to **28 U.S.C. Sections 2401**, *Time for Commencing Acting Against the United States*, and **2501**, *Time for Filing Suit*. See Rev. Rul. 56-506 , 1956-2 C.B. 959. A taxpayer's request for application of the net interest rate of zero under the procedures described in Section 5 of Revenue Procedure 2000-26 does not protect the taxpayer's rights with respect to suits against the government pursuant to 28 U.S.C. Sections 2401 and 2501. The only manner in which a taxpayer can fully protect its rights to additional overpayment interest is by filing a civil suit against the United States prior to the termination of the six-year statutory period set forth in 28 U.S.C. Sections 2401 and 2501. See Rev. Rul. 57-242 , 1957-1 C.B. 452.

Note: A claim for payment of credit interest is not a refund claim. Therefore, the time limits described in IRM 8.7.7.2, *Periods of Limitation in Claim and Over-assessment Cases*, don't apply. This request falls under Title 28 of the U.S. Code. The time for filing suit is six years, and IRC Section 6532 does not apply.

- (2) See also the following:
- Exhibit 20.2.14-13, *Examples Illustrating How to Determine Timely Filing of a Net Rate Claim*
 - Exhibit 20.2.14-18, *Statute Highlights for Net Rate Claims*

