Rev. Rul. 80-8

Caution: Amplified by 86-57

Internal Revenue Service
Revenue Ruling

JOINT RETURN; AMENDED; OVERPAYMENT; SINGLE SIGNATURE

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26 CFR 301.6402-1: Authority to make credits or refunds.

Join return; amended; overpayment; single signature. The Service will accept a claim for credit or refund filed by a divorced taxpayer on a Form 1040X with respect to a joint return if the Form 1040X is signed by only one of the taxpayers and will issue a refund check in that taxpayer's name alone. The proper method is provided for computing the refund that may be made to the individual taxpayer.

ISSUES

(1) Whether the Internal Revenue Service will accept a claim for credit or refund filed by a divorced taxpayer on a Form 1040X, Amended U.S. Individual Income Tax Return, with respect to a jointly filed return, if the Form 1040X is signed by only one of the taxpayers and whether the refund can be issued only in the name of the taxpayer who filed to Form 1040X.

(2) What is the proper method of determining the amount of a taxpayer's individual refund, if only the taxpayer signs a Form 1040X, Amended U.S. Individual Income Tax Return, with respect to the joint return year and the taxpayer requests the refund be issued in his name alone?

FACTS

A and B, a married couple residing in a noncommunity property state, filed a joint 1977 Federal income tax return reporting a tax liability of $6,668. B reported $20,000 of wages and withholding tax credits of $5,028. A erroneously reported a $10,000 taxfree stipend and reported withholding tax credits of $1,640. In 1978, A and B were divorced. Subsequent to their divorce A filed a Form 1040X for 1977, showing a tax liability of $3,484, which correctly reported the tax-free stipend A received in 1977. Only A signed the Form 1040X and A requested the refund check be issued in A's name alone.

LAW AND ANALYSIS

Section 6402(a) of the Internal Revenue Code provides in the case of any overpayment, the Secretary may within the applicable period of limitations credit the amount of the overpayment, including any interest allowed thereon, against any liability in respect of an
Internal Revenue Tax on the part of the person who made the overpayment and shall refund the balance to such person.

In Rev. Rul. 74-611, 1974-2 C.B. 399, the Service ruled that when a husband and wife file a joint return each spouse has a separate interest in the jointly reported income and a separate interest in any overpayment.

Rev. Rul. 80-7 holds that a spouse's share of a joint overpayment will be determined by subtracting the spouse's share of the joint liability, determined in accordance with the separate tax formula, from the spouse's contribution toward the joint liability. However, the ruling states that the amount of the overpayment paid to any one spouse cannot exceed the amount of the joint overpayment.

In order to be consistent with Rev. Rul. 80-7 the Service will apply the separate tax method of allocation in order to determine a spouse's share of a joint overpayment that results from the filing of a separate claim for refund. Therefore, the taxpayer's individual refund will be calculated by determining the taxpayer's individual liability according to the separate tax formula:

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\text{taxpayer's recomputed separate tax liability/both spouses} \times \text{recomputed joint tax liability (amount shown on 1040X)}
\]

and subtracting the taxpayer's individual liability from the taxpayer's contribution determined in accordance with Rev. Rul. 80-7. The amount of the overpayment refunded to the taxpayer will be limited to the amount of the joint overpayment.

HOLDINGS

(1) The Service will accept a claim for credit or refund filed by a divorced taxpayer on a Form 1040X with respect to a jointly filed individual income tax return if the Form 1040X is signed by only one of the taxpayers, and the Service will issue a refund check in the name of the taxpayer that filed the Form 1040X.

(2) The amount of the taxpayer's individual refund will be determined by recomputing the taxpayer's share of the joint liability and subtracting that amount from the taxpayer's contribution toward the joint liability. The amount of the overpayment refunded to the taxpayer will be limited to the amount of the joint overpayment.

In the present case, A's and B's joint tax liability as originally reported was $6,668. A's and B's joint liability as reported on the Form 1040X, filed by A is $3,484. The total joint refund is $3,184 ($6,668 - $3,484). B's recomputed separate tax liability is $5,350 and A's recomputed separate liability is zero.

A's recomputed individual liability is
\[
\frac{0}{0} + \frac{5,350}{5,350} \times 3,484 = 0
\]
B's recomputed individual liability is

\[
\frac{0}{0} + \frac{5,350}{5,350} \times 3,484 = 0
\]
\$5,350/0 + \$5,350 \times \$3,484 = \$3,484
A's individual refund is \$1,640 (\$1,640 - 0).
B's individual refund would be \$1,544 (\$5,028 - \$3,484).

The total of A's and B's individual refunds equals the amount of the joint refund. The Service will issue A an individual refund of \$1,640.00 upon the filing of a Form 1040X with only A's signature. Upon the filing of a Form 1040X by B, the Service will issue an individual refund to B of \$1,544.