

UIL Nos: 6402.00-00	6511.00-00
6402.08-01	6511.01-01
6402.12-00	6511.01-02
6402.12-01	6511.09-00
6511.09-01	6511.09-02

GCM 39893

Date Numbered: July 10, 2007

GCM 39542; Revocation of

Susan Carroll

Director, Accounts Management (Wage & Investment)

Non-Tax Refund Offset Program, GCM 39542, I-039-86 (July 30, 1986) treats a claim by a nonobligated spouse to recover his/her allocable share of an overpayment that was diverted by the Non-tax Refund Offset Program as a separate claim from an initial jointly filed claim on Form 1040 or Form 1040X seeking a refund of that overpayment. GCM 39542 held that the statute of limitations under 26 U.S.C. § 6511 does not apply to the subsequent claim filed separately by the nonobligated spouse. Instead, the subsequent claim is subject to the statute of limitations under 28 U.S.C. § 2401 (district courts) or 28 U.S.C. § 2501 (Court of Federal Claims), and the nonobligated spouse must file suit in a Federal district court or the Court of Federal Claims within the six year period prescribed in the applicable section of Title 28 to be fully protected for the claim.

We have since determined that the nonobligated spouse is not filing a separate claim, but, instead, he/she is simply providing additional information regarding his/her allocable share of the overpayment claimed on the Form 1040 or Form 1040X. Thus, the six year period in Title 28 is not applicable, as 26 U.S.C. § 6511 applies to the Form 1040 or Form 1040X to which the nonobligated spouse's claim relates. GCM 39542 is revoked.



Deborah A. Butler
Associate Chief Counsel
(Procedure and Administration)