

Revenue Ruling 84-18

Time for IRA Contribution Deductions

ISSUES

- 1) Whether an individual may deduct a contribution to an individual retirement account (IRA), in accordance with section 219 of the Internal Revenue Code, when the contribution to the IRA was made after the individual's income tax return was filed but was made by the due date of the return.
- 2) Whether a taxpayer claiming such a deduction may be subject to the penalty provisions of section 6653 of the Code, where the IRA contribution of the individual was not made by the due date of the return.

FACTS

A and B are cash basis taxpayers who file income tax returns on a calendar year basis. A and B both timely filed their income tax returns claiming deductions for contributions to their respective IRAs for the previous taxable year. Such contributions had not been made at the time of filing. Subsequently, but within the time prescribed for filing for the previous year, A made the contribution to A's IRA. B did not make the contribution to B's IRA by the time prescribed for the filing of B's tax return. Further, B did not timely file an amended tax return to eliminate the IRA deduction.

LAW AND ANALYSIS

Section 219(f)(3) of the Code provides that for purposes of deducting contributions to an IRA, a taxpayer shall be deemed to have made a contribution to an IRA on the last day of the preceding taxable year if the contribution is made on account of that taxable year and is made not later than the time prescribed by law for filing the return for that taxable year, including extensions thereof (the "due date").

In Rev. Rul. 66-144, 1966-1 C.B. 91, a calendar year corporation obtained an extension of time for filing its income tax return for a taxable year in accordance with section 6081 of the Code. The corporation then filed its income tax return and paid all taxes due. Subsequently, within the time prescribed for filing the return, the corporation made a contribution to a previously established qualified employees' trust. Rev. Rul. 66-144 held that under section 404(a)(6), the contribution was deductible for that taxable year because it was made within the extended period of time for filing and was therefore deemed to have been made on the last day of the taxable year for which the return was filed. The Service interprets Rev. Rul. 66-144 as permitting the deduction to be taken on the return originally filed even though the contribution has not been made at that time. Although the holding of Rev. Rul. 66-144 is limited to an accrual basis taxpayer, section 1013(c)(2) of the Employee Retirement Income Security Act of 1974 ("ERISA"), Pub. L. No. 93-406, 1974-3 C.B. 1, extended the grace period of section 404(a)(6) to cash basis taxpayers.

Section 6653 of the Code provides penalties for the failure to pay taxes. Section 6653(a)(1) provides that an amount equal to 5 percent of an underpayment shall be added to the tax if any part of an underpayment is due to negligence or intentional disregard of rules and regulations. Section 6653(b)(1) provides that if any part of any underpayment of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to 50 percent of the underpayment.

Section 6653(c) provides that for purposes of section 6653, in the case of an income tax the term "underpayment" means a deficiency as defined in section 6211. Section 6211 defines a "deficiency" as the amount of tax imposed by subtitle A which exceeds the excess of the sum of the amount shown as the tax by the taxpayer on its return plus the amounts previously assessed as a deficiency over the amount of rebates made.

The language in section 219(f)(3) of the Code which extends the time for making deductible contributions to an IRA is identical to the operative language of section 404(a)(6). Accordingly, consistent with Rev. Rul. 66-144 and section 1013(c)(2) of ERISA, a contribution made to an IRA within the extended period of time for filing the individual's tax return may be claimed as a deduction under section 219 for the preceding taxable year if it is made on account of that year.

A made the IRA contribution that was included as a deduction on A's tax return within the time prescribed for filing the return (including any extensions of time for filing obtained before the return was filed), and the contribution is deemed to have been made on the last day of the preceding taxable year even though A's return was filed before the due date. A is not subject to the penalty provisions of section 6653 of the Code with respect to the IRA contribution because the contribution was deducted in accordance with section 219 of the Code, and, therefore, there is no underpayment of tax.

B did not make an IRA contribution on or before the due date of the tax return and B's tax return included a deduction for a contribution to an IRA which does not satisfy the requirements of section 219 of the Code. B has underpaid taxes owed and, therefore, may be subject to the

penalties prescribed in section 6653 of the Code.

HOLDINGS

A may deduct a contribution to A's IRA, in accordance with section 219 of the Code, where the contribution to the IRA was made after A's income tax return was filed but was made by the due date of the return.

B may be subject to the penalty provisions of section 6653 of the Code where B's IRA contribution was not made by the due date of the return.

EFFECT ON OTHER REVENUE RULINGS

Rev. Rul. 66-144 is amplified.