

New York State Department of Taxation and Finance
Taxpayer Services Division
Technical Services Bureau

TSB-M-83
(21) Corporation Tax
(3) Gift Tax
(13) Income Tax
(5) Miscellaneous Tax
(15) Sales Tax
July 29, 1983

1983 Legislation

Daily Compounding of Interest

And Determination of Date From Which Interest is Paid

The following additions and amendments to the Tax Law were made by the enactment of Chapter 15 of the Laws of 1983:

Tax Law sections 1084(d) - corporation tax, and 684(d) - income tax,* which prohibited compounding of interest were repealed by Chapter 15, therefore, effective September 1, 1983, interest to be computed on deficiencies and overpayments of tax will be compounded daily.

Compounding will apply to interest required to be paid by the Tax Commission on overpayments or by the taxpayer on deficiencies of corporation tax, gift tax, income tax and sales tax. Sections of the Tax Law amended to provide for compounding are: corporation tax, §1096(e)(3); income tax, §697(j)(4), and sales tax, §1142(9). Gift tax is similarly affected as a result of its incorporation by reference to section 697. Daily compounding of interest applicable to estate tax became effective January 15, 1983 (see TSB-M-82(2) Estate and Gift Tax). Please note that if only the deficiency is paid, but not the interest, such interest will continue to be compounded daily.

The provisions of Chapter 15 further provide for the daily compounding of the amount of interest used to determine additions to tax and civil penalties. However, the interest rate used to determine the additions to tax for failure to pay estimated tax under §1085(c) - corporation tax and §685(c) - income tax will not be compounded. Additionally, interest for failure to pay estimated tax under §1145(a)(iii) - sales tax will not be compounded.

For returns filed on or after September 1, 1983, where a corporation tax return, gift tax return, income tax return or sales tax return is deemed to be late filed (after allowance for any extensions granted), interest on overpayments will not be allowed or paid for the period preceding the actual filing date of the return.

On and after September 1, 1983 for purposes of determining the date from which interest is paid on overpayments of corporation tax, gift tax, income tax and sales tax, and for purposes of determining whether a refund is made within three months of filing a return (corporation tax, gift tax or income tax), the return will not be deemed filed until it is in processible form. Processible form means filed on a permitted form which contains the taxpayer's name, address,

*Sections (T46-134.0(d), (T46-197.0(j)(4)) of the Administrative Code of the City of New York have been correspondingly amended to conform with the amendments of Article 22.

(continued)

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identification number, required signature and sufficient required information (on the return itself or on required attachments) so permit the mathematical verification of the tax liability shown on the return.

For purposes of interest accruing on or after September 1, 1983 on overpayments resulting from the carryback of a net operating loss (income,* corporation), and on overpayments resulting from the carryback of a net capital loss (corporation), such overpayments are not deemed to have been made prior to the filing date (as defined below) for the taxable year in which the loss arose. Therefore, interest on such carryback losses will begin to accrue with the filing of the return for the taxable year in which the loss arose. However, no interest will be paid if the refund is made within three months of the filing of the claim of overpayment (corporation tax - §1088(d); income tax - §688(d)).

Similarly, where an underpayment is reduced due to the carryback of a net operating loss (corporation, income) or a net capital loss (corporation), interest on such underpayment will not be affected by the carryback for the period preceding the filing date (as defined below) for the taxable year in which the loss arose.

Filing date, for purposes of the previous two paragraphs, means the last day prescribed (determined without regard to extensions) for filing the return for the taxable year in which such loss arises.

Rules for computing interest for miscellaneous tax purposes are not affected by the enactment of Chapter 15.

For additional information on the computation of interest see TSB-M's 81(10)C,E,G,I,M,S; 81(10.1)C,E,G,I,M,S; 82(23)C, (1)E & G, (4)I, (10)M, (24)S; 83(8)c, (1)E & G, (4)I, (1)M, (1)S,

*Sections (T46-134.O(f), (T46-188.O(a), (T46-138.0(d), (T46-138.0(e)) of the Administrative Code of the City of New York have been correspondingly amended to conform with the amendments to Article 22.