

Equitable Recoupment.

This is a doctrine that was judicially created to prevent unjust enrichment of a party to a lawsuit and to avoid wasteful multiplicity of litigation. In tax matters, the affirmative defense of Equitable Recoupment applies for one transaction that is subject to two taxes based on inconsistent theories, such as income tax and estate tax in the amount claimed is Equitable Recoupment is barred by the statute of limitations while either the IRS's determination of the deficiency or the taxpayer's refund claims claim.

It serves to reduce the taxpayer's timely claim for refund or to reduce the government's claim of deficiency.

Where there is restricted application of §1311 to the states encourages reliance on the poorly defined judicial doctrine of Equitable Recoupment. It may be suggested should rarely apply, but the decisions of the court are to the contrary.

Equitable Recoupment corrects a prior error only when the inconsistent treatment in the open your results from an adversarial determination.

See §6214, Determinations by Tax Court (b) Jurisdiction over other years and quarters.

The Tax Court in redetermining a deficiency of income tax for any taxable year or of gift tax for any calendar year or calendar quarter shall consider such facts with relation to the taxes for other years or calendar quarters as may be necessary correctly to redetermine the amount of such deficiency, but in so doing shall have no jurisdiction to determine whether or not the tax for any other year or calendar quarter has been overpaid or underpaid. Notwithstanding the preceding sentence, ***the Tax Court may apply the doctrine of equitable recoupment*** to the same extent that it is available in civil tax cases before the district courts of the United States and the United States Court of Federal Claims.

But, §6514 seems to negate Equitable Recoupment, which prevents credit of overpayments for current years against barred liabilities or credit barred overpayments against current liabilities. The doctrine of Equitable Recoupment seems to permit just what §6514 denies!?

See Ferguson and Asher Federal Income Taxation Of the States Trusts and Beneficiary, fourth edition. Updated 2021, Wolters, Kluwer, pages 82 ff.; 86