

§ 1.455-3

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\$135,000 received in 1958 from prepaid subscriptions must be included in gross income in full in that year, and no part of such 1958 income shall be allocated to the years 1959, 1960, and 1961 during which M was under a liability to deliver its magazine. The \$142,000 received in 1959 from prepaid subscriptions shall be allocated to the years 1959, 1960, 1961, and 1962.

(e) No election may be made under section 455 with respect to a trade or business if, in computing taxable income, the cash receipts and disbursements method of accounting is used with respect to such trade or business. However, if the taxpayer is on a “combination” method of accounting under section 446(c)(4) and the regulations thereunder, it may elect the benefits of section 455 if it uses an accrual method of accounting for subscription income

[T.D. 6591, 27 FR 1798, Feb. 27, 1962]

§ 1.455-3 Method of allocation.

(a) Prepaid subscription income to which section 455 applies shall be included in gross income for the taxable years during which the liability to which the income relates is discharged or is deemed to be discharged on the basis of the taxpayer’s experience.

(b) For purposes of determining the period or periods over which the liability of the taxpayer extends, and for purposes of allocating prepaid subscription income to such periods, the taxpayer may aggregate similar transactions during the taxable year in any reasonable manner, provided the method of aggregation and allocation is consistently followed.

[T.D. 6591, 27 FR 1798, Feb. 27, 1962]

§ 1.455-4 Cessation of taxpayer’s liability.

(a) If a taxpayer has elected to apply the provisions of section 455 to a trade or business in connection with which prepaid subscription income is received, and if its liability to furnish or deliver a newspaper, magazine, or other periodical ends for any reason, then so much of the prepaid subscription income attributable to such liability as was not includible in its gross income under section 455 for preceding taxable years shall be included in its gross in-

come for the taxable year in which such liability ends. A taxpayer’s liability may end, for example, because of the cancellation of a subscription. See section 381(c)(4) and the regulations thereunder for the treatment of prepaid subscription income in a transaction to which section 381(a) applies.

(b) If a taxpayer who has elected to apply the provisions of section 455 to a trade or business dies or ceases to exist, then so much of the prepaid subscription income attributable to such trade or business which was not includible in its gross income under section 455 for preceding taxable years shall be included in its gross income for the taxable year in which such death or cessation of existence occurs. See section 381(c)(4) and the regulations thereunder for the treatment of prepaid subscription income in a transaction to which section 381(a) applies.

[T.D. 6591, 27 FR 1799, Feb. 27, 1962]

§ 1.455-5 Definitions and other rules.

(a) *Prepaid subscription income.* (1) The term “prepaid subscription income” means any amount includible in gross income which is received in connection with, and is directly attributable to, a liability of the taxpayer which extends beyond the close of the taxable year in which such amount is received and which is income from a newspaper, magazine, or other periodical. For example where Corporation X, a publisher of newspapers, magazines, and other periodicals makes sales on a subscription basis and the purchaser pays the subscription price in advance, prepaid subscription income would include the amounts actually received by X in connection with its liability to furnish or deliver the newspaper, magazine, or other periodical.

(2) For purposes of section 455, prepaid subscription income does not include amounts received by a taxpayer in connection with sales of subscriptions on a prepaid basis where such taxpayer does not have the liability to furnish or deliver a newspaper, magazine, or other periodical. The provisions of this subparagraph may be illustrated by the following example. Corporation D has a contract with each of several large publishers which grants it the right to sell subscriptions

to their periodicals. Corporation D collects the subscription price from the subscribers, retains a portion thereof as its commission and remits the balance to the publishers. The amount retained by Corporation D represents commissions on the sale of subscriptions, and is not prepaid subscription income for purposes of section 455 since the commissions represent compensation for services rendered and are not directly attributable to a liability of Corporation D to furnish or deliver a newspaper, magazine, or other periodical.

(b) *Liability.* The term “liability” means a liability of the taxpayer to furnish or deliver a newspaper, magazine, or other periodical.

(c) *Receipt of prepaid subscription income.* For purposes of section 455, prepaid subscription income shall be treated as received during the taxable year for which it is includible in gross income under section 451, relating to general rule for taxable year of inclusion, without regard to section 455.

(d) *Treatment of prepaid subscription income under an established accounting method.* Notwithstanding the provisions of section 455 and § 1.455-1, any taxpayer who, for taxable years beginning before January 1, 1958, has reported prepaid subscription income for income tax purposes under an established and consistent method or practice of deferring such income may continue to report such income in accordance with such method or practice for all subsequent taxable years to which section 455 applies without making an election under section 455.

[T.D. 6591, 27 FR 1799, Feb. 27, 1962]

§ 1.455-6 Time and manner of making election.

(a) *Election without consent.* (1) A taxpayer may, without consent, elect to treat prepaid subscription income of a trade or business under section 455 for the first taxable year—

(i) Which begins after December 31, 1957, and

(ii) In which there is received prepaid subscription income from the trade or business for which the election is made. Such an election shall be made not later than the time prescribed by law for filing the income tax return for

such year (including extensions thereof), and shall be made by means of a statement attached to such return.

(2) The statement shall indicate that the taxpayer is electing to apply the provisions of section 455 to his trade or business, and shall contain the following information:

(i) The name and a description of the taxpayer’s trade or business to which the election is to apply;

(ii) The method of accounting used in such trade or business;

(iii) The total amount of prepaid subscription income from such trade or business for the taxable year;

(iv) The period or periods over which the liability of the taxpayer to furnish or deliver a newspaper, magazine, or other periodical extends;

(v) The amount of prepaid subscription income applicable to each such period; and

(vi) A description of the method used in allocating the prepaid subscription income to each such period.

In any case in which prepaid subscription income is received from more than one trade or business, the statement shall set forth the required information with respect to each trade or business subject to the election.

(3) See paragraph (c) of this section for additional information required to be submitted with the statement if the taxpayer also elects to include in gross income for the taxable year of receipt the entire amount of prepaid subscription income attributable to a liability which is to end within 12 months after the date of receipt.

(b) *Election with consent.* A taxpayer may, with the consent of the Commissioner, elect at any time to apply the provisions of section 455 to any trade or business in which it receives prepaid subscription income. The request for such consent shall be in writing, signed by the taxpayer or its authorized representative, and shall be addressed to the Commissioner of Internal Revenue, Attention: T:R:C, Washington, D.C. 20224. The request must be filed on or before the later of the following dates:

(1) 90 days after the beginning of the first taxable year to which the election is to apply or