

the tax) is not to be considered required to be paid prior to the date of the filing of the statement unless the tenth day after notice and demand for its payment falls prior to the date of the filing of the statement.

(3) The taxpayer may choose to extend the time for payment of all of one or more taxes, or it may choose to extend the time for payment of portions of several taxes. The taxes chosen by the taxpayer need not be those taxes which are affected by the carryback.

§ 1.6164-3 Computation of the amount of reduction of the tax previously determined.

(a) *Tax previously determined.* The taxpayer is to determine the amount of the reduction, attributable to the expected carryback, in the aggregate of the taxes previously determined for taxable years prior to the taxable year of the expected net operating loss. The tax previously determined is to be ascertained in accordance with the method prescribed in section 1314(a). Thus, the tax previously determined will be the tax shown on the return as filed, increased by any amounts assessed (or collected without assessment) as deficiencies prior to the date of the filing of the statement, and decreased by any amounts abated, credited, refunded, or otherwise repaid prior to such date. Any items as to which the Internal Revenue Service and the taxpayer are in disagreement at the time of the filing of the statement shall be taken into account in ascertaining the tax previously determined only if, and to the extent that, they were reported in the return, or were reflected in any amounts assessed (or collected without assessment) as deficiencies, or in any amounts abated, credited, refunded, or otherwise repaid, prior to the date of the filing of the statement. The tax previously determined will reflect the foreign tax credit and the credit for tax withheld at source provided in section 32.

(b) *Reduction attributable to the expected carryback.* The reduction, attributable to the expected carryback or related adjustments, in any tax previously determined is to be ascertained by applying the expected carryback as if it were a determined net operating

loss carryback, in accordance with the provisions of section 172 and the regulations thereunder. Items must be taken into account only to the extent that such items were included in the return, or were reflected in amounts assessed (or collected without assessment) as deficiencies, or in amounts abated, credited, refunded, or otherwise repaid, prior to the date of the filing of the statement. Thus, for example, if the taxpayer claims a deduction for depreciation of \$10,000 in its return and the Internal Revenue Service asserts that only \$4,000 is properly deductible, no change is to be made in the \$10,000 depreciation deduction as shown by the taxpayer on his return unless a deficiency has been assessed, or an amount collected without assessment, prior to the date of filing of the statement as a result of a change in the depreciation deduction, or unless such change in the depreciation deduction was reflected in an amount abated, credited, refunded, or otherwise repaid prior to such date.

[T.D. 6500, 25 FR 12140, Nov. 26, 1960, as amended by T.D. 6862, 30 FR 14432, Nov. 18, 1965]

§ 1.6164-4 Payment of remainder of tax where extension relates to only part of the tax.

(a) *Time for payment.* If an extension of time relates to only part of the tax, the time for payment of the remainder of the tax shall be considered to be the dates on which payments would have been required if such remainder had been the tax and the taxpayer had elected to pay the tax in installments as provided in section 6152(a).

(b) *Example.* The provisions of this section may be illustrated by the following example:

Example. Corporation X, which keeps its books and makes its tax returns on the calendar year basis, filed its income tax return for 1956 on March 15, 1957. The corporation showed a tax of \$1,000 on its return and paid 50 percent of such tax, or \$500 on March 15, 1957. On June 3, 1957, Corporation X, pursuant to the provisions of section 6164, extended the time for payment of \$400 of such tax. The remainder of the tax the time for payment of which was not so extended, i.e., \$600, is to be considered the tax for purposes of determining when it is to be paid. The remainder is considered to be due on the dates on which payment would have been required

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if such remainder had been the tax. Since the taxable year ended on December 31, 1956, the tax is payable in two equal installments of \$300 each on March 15, 1957, and June 17, 1957. The taxpayer, having paid \$500 on March 15, 1957, will have \$100 to pay on June 17, 1957.

§ 1.6164-5 Period of extension.

If the time for the payment of any tax has been extended pursuant to section 6164, such extension shall expire:

(a) On the last day of the month in which falls the last date prescribed by law (including any extension of time granted the taxpayer) for the filing of the return for the taxable year of the expected net operating loss; or

(b) If an application for a tentative carryback adjustment provided in section 6411 with respect to such loss is filed before the expiration of the period specified in paragraph (a) of this section, on the date on which notice is mailed by registered mail prior to September 3, 1958, and by either registered or certified mail on and after September 3, 1958, to the taxpayer that such application is allowed or disallowed in whole or in part.

§ 1.6164-6 Revised statements.

(a) *Requirements and effect.* A corporation may file more than one statement under section 6164 with respect to any one taxable year. Each statement is to be considered a new statement and not an amendment of any prior statement. Each such new statement is to be in lieu of the last statement previously filed with respect to the taxable year. The new statement may extend the time for payment of a greater or lesser amount of tax than was extended under the prior statement or may change the kind of tax the time for payment of which is to be extended. The extension may not relate to any amount of tax which was paid or required to be paid prior to the date of filing the new statement. Any amount of tax the time for payment of which was extended under a prior statement, however, may continue to be extended under the new statement. If the amount the time for payment of which is extended under the new statement is less than the amount so extended under the last statement previously filed, the extension of time shall be terminated on the date the new statement is filed as to

the difference between the two amounts. See § 1.6164-8 for the dates on which such difference must be paid. If a corporation pays any amount of tax, the time for payment of which was extended, prior to the date the extension would otherwise terminate, the extension with respect to such amount shall be deemed terminated, without regard to whether a new statement is filed, on the date such amount is paid. The corporation shall indicate on each new statement filed that it has already filed one or more prior statements with respect to the taxable year. The corporation shall likewise indicate the date each prior statement was filed and the amount of each tax the time for payment of which was extended under each prior statement.

(b) *Example.* The provisions of this section may be illustrated by the following example:

Example. Corporation Y, which keeps its books and makes its tax returns on the calendar year basis, filed its income tax return for 1956 on March 15, 1957, showing a tax of \$100,000. At the same time it filed a statement under section 6164 in which it stated that it expected to have a net operating loss of \$75,000 in 1957 and that the reduction in the tax previously determined for 1955 (the second taxable year preceding the year of the expected net operating loss) attributable to the expected net operating loss carryback resulting from such expected loss, would be \$39,000. The corporation accordingly extended the time for payment of \$39,000 of its income tax for 1956, and paid \$30,500 (50 percent of the excess of \$100,000 over \$39,000) of such tax on March 15, 1957 (see section 6164(c) and § 1.6164-4). As a result of its operations during the next several months, the corporation filed a second statement on June 3, 1957, in which it stated that its expected net operating loss for 1957 would amount to \$150,000 and that the corresponding reduction in the tax for 1955 would amount to \$78,000. Corporation Y under the new statement may extend the time for payment of \$30,500, the installment due on June 17, 1957, and the time for payment of the \$39,000 extended under the first statement filed on March 15, 1957, may continue to be extended under the second statement. The \$30,500 which was paid on March 15, 1957, will not be affected by the second statement filed on June 3, 1957.

§ 1.6164-7 Termination by district director.

(a) *After an examination of the statement filed by the corporation is made.*