

Internal Revenue Service, Treasury

§ 1.6425-3

prescribed by section 6065 as in the case of a return of the corporation.

(2) An application for an adjustment of overpayment of estimated income tax does not constitute a claim for credit or refund. If such application is disallowed by the district director, or director of a service center, in whole or in part, no suit may be maintained in any court for the recovery of any tax based on such application. The filing of an application for an adjustment of overpayment of estimated income tax will not constitute the filing of a claim for credit or refund within the meaning of section 6511 for the purpose of determining whether a claim for refund was filed prior to the expiration of the applicable period of limitation. The corporation, however, may file a claim for credit or refund under section 6402 at any time prior to the expiration of the applicable period of limitation and may maintain a suit based on such claim if it is disallowed or if the district director, or director of a service center, does not act on the claim within 6 months from the date it is filed. Such claim may be filed before, simultaneously with, or after the filing of the application for the adjustment of overpayment of estimated tax. A claim for credit or refund under section 6402 filed after the filing of an application for an adjustment of overpayment of estimated income tax is not to be considered an amendment of such application. Such claim, however, in proper cases, may constitute an amendment to a prior claim filed under section 6402.

(c) *Time and place for filing application.* (1) The application for an adjustment of overpayment of estimated income tax shall be filed after the last day of the taxable year and on or before the 15th day of the third month thereafter, or before the date on which the corporation first files its income tax return for such taxable year (whether or not it subsequently amends the return), whichever is earlier.

(2) Except as provided in paragraph (b)(2) of §301.6091-1 of this chapter (relating to hand-carried documents), the application on Form 4466 shall be filed with the internal revenue officer des-

ignated in instructions applicable to such form.

[T.D. 7059, 35 FR 14546, Sept. 17, 1970]

§ 1.6425-2 Computation of adjustment of overpayment of estimated tax.

(a) *Income tax liability defined.* For purposes of §§ 1.6425-1 through 1.6425-3 and 1.6655-5, relating to excessive adjustment, the term "income tax liability" means the excess of:

(1) The tax imposed by section 11 or 1201(a), or subchapter L of chapter 1 of the Code, whichever is applicable, over

(2) The credits against tax provided by part IV of subchapter A of chapter 1 of the code.

(b) *Computation of adjustment.* The amount of an adjustment under section 6425 is an amount equal to the excess of the estimated income tax paid by the corporation during the taxable year over the amount which, at the time of filing Form 4466, the corporation estimates as its income tax liability for the taxable year.

[T.D. 7059, 35 FR 14547, Sept. 17, 1970]

§ 1.6425-3 Allowance of adjustments.

(a) *Limitation.* No application under section 6425 shall be allowed unless the amount of the adjustment is (1) at least 10 percent of the amount which, at the time of filing Form 4466 the corporation estimates as its income tax liability for the taxable year, and (2) at least \$500.

(b) *Time prescribed.* The Internal Revenue Service shall act upon an application for an adjustment of overpayment of estimated income tax within a period of 45 days from the date on which such application is filed.

(c) *Examination.* Within the 45-day period described in paragraph (b) of this section, the Internal Revenue Service shall make, to the extent it deems practicable in such period, a limited examination of the application to discover omissions and errors therein. The Service shall calculate the adjustment, which calculation must be set forth in the application for such adjustment, in the manner provided in section 6425(c)(2) for the determination by the corporation of such adjustment. The