

Service, however, may correct any material error or omission that is discovered upon examination of the application. In determining the adjustment, the Service may correct any mathematical error appearing on the application, and it may likewise make any modification required by the law to correct the corporation's computation of the adjustment. If the required modification has not been made by the corporation and the Service has available the necessary information to make such modification within the 45-day period, it may make such modification. The examination of the application and the allowance of the adjustment shall not prejudice any right of the Service to claim later that the adjustment was improper.

(d) *Disallowance in whole or in part.* If the Internal Revenue Service finds that an application for an adjustment of overpayment of estimated tax contains material omissions or errors, the Service may disallow such application in whole or in part without further action. If, however, the Service deems that any omission or error can be corrected by it within the 45-day period, it may do so and allow the application in whole or in part. In the case of a disallowance or modification, the Service shall notify the corporation of such action. The Service's determination as to whether it can correct any omission or error shall be conclusive. Similarly, its action in disallowing, in whole or in part, any application for an adjustment of overpayment of estimated income tax shall be final and may not be challenged in any proceeding. The corporation in such case, however, may file a claim for credit or refund under section 6402, and may maintain a suit based on such claim if it is disallowed or if the Service does not act upon the claim within 6 months from the date it is filed.

(e) *Application of adjustment.* If the Internal Revenue Service allows the adjustment, it may first credit the amount of the adjustment against any liability in respect of an internal revenue tax on the part of the corporation which is due and payable on the date of the allowance of the adjustment before making payment of the balance to the corporation. In such a case, the Service

shall notify the corporation of the credit, and refund the balance of the adjustment.

(f) *Effect of adjustment.* (1) For purposes of all sections of the Code except section 6655, relating to additions to tax for failure to pay estimated income tax, any adjustment under section 6425 is to be treated as a reduction of prior estimated tax payments as of the date the credit is allowed or the refund is paid. For the purpose of section 6655 (a) through (f) credit or refund of an adjustment is to be treated as if not made in determining whether there has been any underpayment of estimated income tax and, if there is an underpayment, the period during which the underpayment existed. However, an excessive adjustment under section 6425 shall be taken into account in applying the addition to tax under section 6655(g).

(2) *Excessive adjustment.* For the effect of an excessive adjustment under section 6425, see § 1.6655-5.

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

ADDITIONS TO THE TAX, ADDITIONAL AMOUNTS, AND ASSESSABLE PENALTIES

§ 1.6654-1 Addition to the tax in the case of an individual.

(a) *In general.* (1) Section 6654 imposes an addition to the taxes under chapters 1 and 2 of the Code in the case of any underpayment of estimated tax by an individual (with certain exceptions described in section 6654(d)), including any underpayment of estimated qualified State individual income taxes which are treated pursuant to section 6361(a) as if they were imposed by chapter 1. This addition to the tax is in addition to any applicable criminal penalties and is imposed whether or not there was reasonable cause for the underpayment. The amount of the underpayment for any installment date is the excess of:

(i) The following percentages of the tax shown on the return for the taxable year or, if no return was filed, of the tax for such year, divided by the number of installment dates prescribed for such taxable year:

(A) 80 percent in the case of taxable years beginning after December 31,

1966, of individuals not referred to in section 6073(b) (relating to income from farming or fishing);

(B) 70 percent in the case of taxable years beginning before January 1, 1967, of such individuals; and

(C) $66\frac{2}{3}$ percent in the case of individuals referred to in section 6073(b); over

(ii) The amount, if any, of the installment paid on or before the last day prescribed for such payment.

(2) The amount of the addition is determined at the annual rate referred to in the regulations under section 6621 upon the underpayment of any installment of estimated tax for the period from the date such installment is required to be paid until the 15th day of the fourth month following the close of the taxable year, or the date such underpayment is paid, whichever is earlier. For purposes of determining the period of the underpayment (i) the date prescribed for the payment of any installment of estimated tax shall be determined without regard to any extension of time, and (ii) a payment of estimated tax on any installment date, to the extent that it exceeds the amount of the installment determined under subparagraph (1)(i) of this paragraph for such installment date, shall be considered a payment of any previous underpayment.

(3) In determining the amount of the installment paid on or before the last day prescribed for payment thereof, the estimated tax shall be computed without any reduction for the amount which the taxpayer estimates as his credit under section 31 (relating to tax withheld at source on wages), and the amount of such credit shall be deemed a payment of estimated tax. An equal part of the amount of such credit shall be deemed paid on each installment date (determined under section 6153) for the taxable year unless the taxpayer establishes the dates on which all amounts were actually withheld. In the latter case, all amounts withheld shall be considered as payments of estimated tax on the dates such amounts were actually withheld. Under section 31 the entire amount withheld during a calendar year is allowed as a credit against the tax for the taxable year which begins in such calendar year. However, where more than one taxable

year begins in any calendar year no portion of the amount withheld during the calendar year will be treated as a payment of estimated tax for any taxable year other than the last taxable year beginning in such calendar year. The rules prescribed in this subparagraph for determining the time as of which the amount withheld shall be deemed paid are applicable even though such amount was withheld during a taxable year preceding that for which the credit is allowed.

(4) The term *tax* when used in subparagraph (1)(i) of this paragraph shall mean:

(i) The tax imposed by chapter 1 of the Code (other than by section 56 or, for taxable years ending before September 30, 1968, the tax surcharge imposed by section 51), including any qualified State individual income taxes which are treated pursuant to section 6361(a) as if they were imposed by chapter 1, plus—

(ii) For taxable years beginning after December 31, 1966, the tax imposed by chapter 2 of the Code, minus

(iii) All credits allowed by part IV, subchapter A of chapter 1, except the credit provided by section 31, relating to tax withheld at source on wages, minus

(iv) In the case of an individual who is subject to one or more qualified State individual incomes taxes, the sum of the credits allowed against such taxes pursuant to section 6362(b)(2) (B) or (C) or section 6362(c)(4) and paragraph (c) of §301.6362-4 of this chapter (Regulations on Procedure and Administration) (relating to the credit for income taxes of other States or political subdivisions thereof) and paragraph (c)(2) of §301.6361-1 (relating to the credit for tax withheld from wages on account of qualified State individual income taxes), and minus

(v) For taxable years ending after February 29, 1980, the individual's overpayment of windfall profit tax imposed by section 4986 of the Code for the taxable year. For this purpose, the amount of such overpayment is the sum of (A) the amount by which such individual's aggregate windfall profit tax liability for the taxable year as a producer of crude oil is exceeded by withholding of windfall profit tax for

§ 1.6654-2

the taxable year, and (B) any amount treated under section 6429 or 6430 as an overpayment of windfall profit tax for crude oil removed during the taxable year. The deemed payment date in section 4995(a)(4)(B) for the amount of windfall profit tax withheld with respect to payments for crude oil shall have no effect in the determination of the overpayment of windfall profit tax.

(b) *Statement relating to underpayment.* If there has been an underpayment of estimated tax as of any installment date prescribed for its payment and the taxpayer believes that one or more of the exceptions described in § 1.6654-2 precludes the assertion of the addition to the tax under section 6654, he should attach to his income tax return for the taxable year a Form 2210 showing the applicability of any exception upon which he relies.

(c) *Examples.* The method prescribed in paragraph (a) of this section for computing the addition to the tax may be illustrated by the following examples:

Example (1). An individual taxpayer files his return for the calendar year 1972 on April 15, 1973, showing a tax (income and self-employment tax) of \$30,000. He had paid a total of \$20,000 of estimated tax in four installments of \$5,000 on each of the four installment dates prescribed for such year. No other payments were made prior to the date the return was filed. Since the amount of each installment paid by the last date prescribed for payment thereof is less than one-quarter of 80 percent of the tax shown on the return, the addition to the tax is applicable in respect of the underpayment existing as of each installment date and is computed as follows:

(1) Amount of tax shown on return	\$30,000
(2) 80 percent of item (1)	24,000
(3) One-fourth of item (2)	6,000
(4) Deduct amount paid on each installment date	5,000
(5) Amount of underpayment for each installment date (item (3) minus item (4))	1,000
(6) Addition to the tax:	
1st installment—period 4-15-72 to 4-15-73	60
2nd installment—period 6-15-72 to 4-15-73	50
3rd installment—period 9-15-72 to 4-15-73	35
4th installment—period 1-15-73 to 4-15-73	15
Total	\$160

Example (2). An individual taxpayer files his return for the calendar year 1955 on April 15, 1956, showing a tax of \$30,000. The requirements of section 6015(a) were first met after April 1 and before June 2, 1955, and a total of \$18,000 of estimated tax was paid in three equal installments of \$6,000 on each of the three installment dates prescribed for such year. Since the amount of each installment paid by the last date prescribed for payment thereof is less than one-third of 70 percent of the tax shown on the return, the addition to the tax is existing as of each installment date and is applicable in respect of the underpayment computed as follows:

(1) Amount of tax shown on return	\$30,000
(2) 70 percent of item (1)	21,000
(3) One-third of item (2)	7,000
(4) Deduct amount paid on each installment date	6,000
(5) Amount of underpayment for each installment date (item (3) minus item (4))	1,000
(6) Addition to the tax:	
1st installment—period 6-15-55 to 4-15-56	\$50
2d installment—period 9-15-55 to 4-15-56	35
3d installment—period 1-15-56 to 4-15-56	15
Total	100

(Secs. 6015, 6154, 6654, 6655, and 7805, Internal Revenue Code of 1954 (96 Stat. 2395 and 2396, 68A Stat. 917; 26 U.S.C. 6015, 6154, 6654, 6655, and 7805))

[T.D. 6500, 25 FR 12146, Nov. 26, 1960, as amended by T.D. 7384, 40 FR 49322, Oct. 22, 1975; T.D. 7427, 41 FR 34029, Aug. 12, 1976; T.D. 7577, 43 FR 59358, Dec. 20, 1978; T.D. 8016, 50 FR 11855, Mar. 26, 1985]

§ 1.6654-2 Exceptions to imposition of the addition to the tax in the case of individuals.

(a) *In general.* The addition to the tax under section 6654 will not be imposed for any underpayment of any installment of estimated tax if, on or before the date prescribed for payment of the installment, the total amount of all payments of estimated tax made equals or exceeds the least of the following amounts:

(1) The amount which would have been required to be paid on or before the date prescribed for payment if the estimated tax were the tax shown on the return for the preceding taxable year, provided that the preceding taxable year was a year of 12 months and a return showing a liability for tax was filed for such year. However, this subparagraph shall not apply with respect