

§ 1.6654-5

26 CFR Ch. I (4-1-04 Edition)

(2) If the gross income for the taxable year does not exceed \$20,000 in the case of:

(i) A head of a household (as defined in section 2(b)) or

(ii) A surviving spouse (as defined in section 2(a)), or

(3) If the aggregate gross income for the taxable year does not exceed \$20,000 in the case of a married individual (entitled under section 6013 to file a joint return for the taxable year) and his spouse.

(c) *Limitation.* Notwithstanding any other provision of this section, the waiver provided in paragraph (a) of this section shall not be applicable if, in the taxable year, the taxpayer has income from sources other than wages (as defined in section 3401(a)) in excess of \$200 (\$400 in the case of a husband and wife entitled to file a joint return for the taxable year under section 6013). Thus, for example, even if the aggregate gross income of a husband and wife (entitled under section 6013 to file a joint return for the taxable year) does not exceed \$20,000, the waiver of the penalty for underpayment of estimated tax shall not apply if the husband and wife have, in the aggregate, income from sources other than wages in excess of \$400.

[T.D. 7282, 38 FR 19028, July 17, 1973]

§ 1.6654-5 Applicability.

Section 6654 is applicable only with respect to taxable years beginning after December 31, 1954. Section 294(d) of the Internal Revenue Code of 1939 shall continue in force with respect to taxable years beginning before January 1, 1955.

[T.D. 6500, 25 FR 12150, Nov. 26, 1960. Redesignated by T.D. 7282, 38 FR 19028, July 17, 1973]

§ 1.6655-1 Addition to the tax in the case of a corporation.

(a) *In general.* (1) Section 6655 imposes an addition to the tax under chapter 1 of the Code in the case of any underpayment of estimated tax by a corporation (with certain exceptions described in section 6655(d)). 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) 70 percent of the tax shown on the return for the taxable year or, if no return was filed, 70 percent of the tax for such year, multiplied by the percentage of estimated tax required to be paid on or before the installment date, 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 third 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 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 date, shall be considered a payment of the previous underpayment, if any.

(3) The term *tax* as used in subparagraph (1)(i) of this paragraph means the excess of the tax imposed by section 11 or 1201(a), or subchapter L, chapter 1 of the Code, whichever is applicable, over the sum of \$100,000 and the credits against tax provided by sections 32, 33, and 38. However, for the rule with respect to the limitation upon the \$100,000 exemption for members of certain electing affiliated groups, see section 243(b)(3)(C)(v) and the regulations thereunder.

(4) For special rules relating to the determination of the amount of the underpayment in the case of a corporation whose income is included in a consolidated return, see § 1.1502-5(b).

(b) *Statement relating to underpayment.* If there has been an underpayment of estimated tax as of the installment date prescribed for its payment and the taxpayer believes that one or more of the exceptions described in § 1.6655-2

precludes the assertion of the addition to the tax under section 6655, it should attach to its income tax return for the taxable year a Form 2220 showing the applicability of any exception upon which the taxpayer relies.

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

Example. A corporation using the calendar year basis reported on its declaration for 1955, estimated tax in the amount of \$50,000. It made payments of \$2,500 each on September 15, 1955, and December 15, 1955. On March 15, 1956, it filed its final income tax return showing a tax liability of \$200,000. Since the amount of each of the two installments paid by the last date prescribed for payment thereof was less than 5 percent of 70 percent of the tax shown on the return, the addition to the tax under section 6655(a) is applicable and is computed as follows:

(1) Tax as defined in paragraph (a) of this section (\$200,000 - \$100,000 (no credits allowable under sections 32 and 33))	\$100,000
(2) 70% of item (1)	70,000
(3) Amount of estimated tax required to be paid on each installment date (5% of \$70,000)	3,500
(4) Deduct amount paid on each installment date	2,500
(5) Amount of underpayment for each installment date (item (3) minus item (4))	1,000
(6) Addition to the tax:	
First installment—period 9-15-55 to 3-15-56	30
Second installment—period 12-15-55 to 3-15-56	15
Total	45

[T.D. 6500, 25 FR 12150, Nov. 26, 1960, as amended by T.D. 6768, 29 FR 14926, Nov. 4, 1964; T.D. 7244, 37 FR 28897, Dec. 30, 1972; T.D. 7384, 40 FR 49322, Oct. 22, 1975]

§ 1.6655-2 Exceptions to imposition of the addition to the tax in the case of corporations.

(a) *In general.* The addition to the tax under section 6655 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 amount which would have been required to be paid on or before such date if the estimated tax were the least of the following amounts:

(1) 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;

(2) An amount equal to a tax determined on the basis of the tax rates for the taxable year but otherwise on the basis of the facts shown on the return for the preceding taxable year and the law applicable to such year, in the case of a corporation required to file a return for such preceding taxable year; or

(3) An amount equal to 70 percent of the tax determined by placing on an annual basis the taxable income for:

(i) The first 3 months of the taxable year, in the case of the installment required to be paid in the 4th month,

(ii) Either the first 3 months or the first 5 months of the taxable year (whichever results in no addition being imposed), in the case of the installment required to be paid in the 6th month,

(iii) Either the first 6 months or the first 8 months of the taxable year (whichever results in no addition being imposed), in the case of the installment required to be paid in the 9th month, and

(iv) Either the first 9 months or the first 11 months of the taxable year (whichever results in no addition being imposed), in the case of the installment required to be paid in the 12th month.

The taxable income so determined shall be placed on an annual basis by first multiplying it by 12, and then dividing the resulting amount by the number of months in the taxable year for which the taxable income was so determined.

(4) In the case of a taxpayer whose taxable year consists of 52 or 53 weeks in accordance with section 441(f), the rules prescribed by § 1.441-2(c) shall be applicable in determining, for purposes of subparagraph (1) of this paragraph, whether a taxable year was a year of 12 months and in determining, for purposes of subparagraph (3) of this paragraph, the commencement of the 3-month period, or the 3- or 5-month period, or the 6- or 8-month period, or the