

## § 1.6661-1

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

(Pub. L. 103-66, 107 Stat. 486), allows a corporate taxpayer to make an annual election to use a different annualization period to determine annualized income for purposes of paying any required installment of estimated income tax for a taxable year beginning after December 31, 1993.

(b) *Time and manner for making the election.* An election under section 6655(e)(2)(C) must be made on or before the date required for the payment of the first required installment for the taxable year. For a calendar or fiscal year corporation, Form 8842, Election to Use Different Annualization Periods for Corporate Estimated Tax, must be filed by the 15th day of the 4th month of the taxable year for which the election is to apply. Form 8842 must be filed with the Internal Revenue Service Center where the corporation files its income tax return.

(c) *Revocability of election.* The election described in this section is irrevocable.

(d) *Effective date.* The rules set forth in this section are effective December 12, 1996.

[T.D. 8688, 61 FR 65322, Dec. 12, 1996]

### § 1.6661-1 Addition to tax in the case of a substantial understatement of tax liability.

(a) *In general.* Section 6661 imposes an addition to tax (penalty) for an understatement of tax liability that constitutes a substantial understatement of income tax. This section prescribes the effective date of the penalty. The manner of computing understatements subject to the penalty is set forth in § 1.6661-2. The definition of "substantial authority" is set forth in § 1.6661-3. Rules concerning the adequacy of disclosure are set forth in § 1.6661-4. The treatment of "tax shelters" is provided in § 1.6661-5. The circumstances in which the penalty may or will be waived by the Commissioner are set forth in § 1.6661-6.

(b) *Effective date.* The penalty under section 6661 applies to returns the due date (determined without regard to extensions of the time for filing) of which is after December 31, 1982. The penalty does not apply to amended returns, so-called, if the due date for the return to which the amended return relates (de-

termined without regard to extensions) is before January 1, 1983.

[T.D. 8017, 50 FR 12014, Mar. 27, 1985]

### § 1.6661-2 Computation of penalty; meaning of terms.

(a) *Amount of penalty.* If there is a substantial understatement of income tax for a taxable year (as defined in paragraph (b) of this section), section 6661 imposes a penalty equal to 10 percent of the understatement of tax liability.

(b) *Substantial understatement.* The term *substantial understatement* means an understatement (as defined in paragraph (c) of this section) that exceeds the greater of—

(1) 10 percent of the tax required to be shown on the return for the taxable year (as defined in paragraph (d)(4) of this section); or

(2) \$5,000 (\$10,000 in the case of a corporation other than an S corporation (as defined in section 1361(a)(1)) or a personal holding company (as defined in section 542)).

(c) *Understatement.* The term *understatement* means the excess of—

(1) The amount of tax required to be shown on the return for the taxable year (as defined in paragraph (d)(4) of this section), over

(2) The amount of tax shown on the return for the taxable year (as defined in paragraph (d)(2) of this section), reduced by any rebate (as defined in paragraph (d)(3) of this section).

(d) *Determination of amounts—(1) Amount of tax.* For purposes of section 6661, the amount of tax is the amount of tax imposed by Subtitle A of the Code.

(2) *Tax shown on return.* For purposes of section 6661, the amount of tax shown on the return for the taxable year is determined with the adjustments prescribed in this paragraph (d)(2), without regard to the items described in paragraph (d)(5) of this section, without regard to any net operating loss carryback, tax credit carryback, capital loss carryback, or commodity futures loss carryback ("carryback"), and without regard to any amount of additional tax shown on a return (including an amended return, so-called) filed after the taxpayer is first contacted by the Internal Revenue