

**Internal Revenue Service, Treasury**

**§ 1.6655-3**

which M would be subject if there were an underpayment of \$10,000 with respect to the September 15, 1987, installment payment. Such penalties are independent of any penalty that may apply with respect to M's third installment payment under the normal rules of section 6655.

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

*Example.* (i) Corporation X (which is not a life insurance company) uses as its taxable year a fiscal year ending on January 31 and is required to pay an installment of estimated income tax by May 15, 1987, for its taxable year beginning on February 1, 1987. On its return for the taxable year ending January 31, 1987, which was a year of 12 months, X reported taxable income of \$10,000,000 (\$9,000,000 of which was ordinary income and \$1,000,000 of which was net capital gain) and did not claim any net operating loss deduction. As of February 1, 1987, X has no net operating loss carryforwards and no credit carryforwards. X has no credits against tax that are permitted to be taken into account under section 6655(d)(3) for 1987. If X uses the safe harbor provided in paragraph (b)(1) of this section, X must make by May 15, 1987, an installment payment of estimated tax of at least \$1,037,836, computed as follows:

(1) Taxable income shown on return for taxable year ending on January 31, 1987 .....	\$10,000,000
(2) Annualized taxable income for taxable year ending January 31, 1988, determined pursuant to paragraph (b)(1) of this section (Item (1)x120%) .....	\$12,000,000
(Note: 120%xordinary income of \$9,000,000=\$10,800,000; 120%xnet capital gain of \$1,000,000=\$1,200,000)	
(3) Tax on annualized taxable income (Item 2) using rates under section 11 and 1201, taking into account section 15, applicable to the taxable year ending January 31, 1988 .....	\$4,612,603
(4) Amount described in section 6655(d)(3)(A)(i) (Item (3)x22.5%) .....	\$1,037,836

(ii) To preclude imposition of an addition to tax under section 6655 with respect to its May 15, 1987, installment payment, X must make by July 15, 1987, a second installment payment of estimated tax sufficient to bring its aggregate payments to the minimum level required under paragraph (c) of this section.

(iii) X may satisfy the requirements of paragraph (c)(3) of this section by making a second installment payment sufficient to bring X within the exception provided in section 6655(d)(3). Thus, if X determines under that section that the aggregate of X's installment payments of estimated tax by July 15, 1987, must equal at least \$3,000,000, X may obtain the benefit of the safe harbor provided in paragraph (b)(1) of this section with respect to the May 15, 1987, installment payment by making a timely second installment payment of \$1,962,164 (\$3,000,000—\$1,037,836).

(iv) Even if X fails to satisfy the requirements of paragraph (c)(3) of this section, X may obtain the benefit of the safe harbor for the May 15, 1987, installment payment if X's second installment payment, when aggregated with the first payment, equals at least 45 percent of the tax (including the alternative minimum tax under section 55 and the environmental tax under section 59A) shown on X's return for X's taxable year beginning on February 1, 1987. Thus, if the tax shown on that return is \$6,000,000, X's second installment payment under paragraph (c)(4) of this section must be at least \$1,662,164, computed as follows:

45 percent of \$6,000,000 .....	\$2,700,000
less first payment .....	1,037,836
	\$1,662,164
Minimum second installment .....	\$1,662,164

[T.D. 8132, 52 FR 10051, Mar. 30, 1987]

**§ 1.6655-3 Short taxable years in the case of corporations.**

(a) *In general.* The provisions of section 6655, with certain modifications relating to the application of subsection (d) thereof, which are explained in paragraph (b) of this section, are applicable in the case of a short taxable year for which a declaration is required to be filed. (See § 1.6016-4 for requirement of declaration for short taxable year.)

(b) *Rules as to application of section 6655(d).* In any case in which the taxable year for which an underpayment of estimated tax exists is a short taxable year due to a change in annual accounting periods, in determining the tax:

(1) Shown on the return for the preceding taxable year (for purposes of section 6655(d)(1));

(2) Based on the current year's rates but otherwise on the basis of the facts shown on the return for the preceding taxable year and the law applicable to such year (for purposes of section 6655(d)(2)); or

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(3) Computed by placing taxable income for a portion of the current year on an annual basis under section 6655(d)(3);

the tax will be reduced by multiplying it by the number of months in the short taxable year and dividing the resulting amount by 12. The application of the exception provided in section 6655(d)(3) shall be determined as if the estimated tax were 70 percent of the tax so reduced.

(c) *Preceding taxable year a short taxable year.* If “the preceding taxable year” referred to in section 6655(d)(2) was a short taxable year, the tax computed on the basis of the facts shown on the return for such preceding year, for purposes of determining the applicability of the exception described in section 6655(d)(2), shall be the tax computed on the annual basis in the manner described in section 443(b)(1) (prior to its reduction in the manner described in the last sentence thereof). If the tax rates for the taxable year with respect to which the underpayment occurs differ from the rates applicable to the preceding taxable year, the tax determined in accordance with the preceding sentence shall be recomputed using the rates applicable to the year with respect to which the underpayment occurs.

[T.D. 6500, 25 FR 12152, Nov. 26, 1960]

**§ 1.6655-5 Addition to tax on account of excessive adjustment under section 6425.**

(a) *In general.* (1) Section 6655(g) imposes an addition to the tax under chapter 1 of the Code in the case of any excessive amount (as defined in subparagraph (3) of this paragraph) of an adjustment under section 6425 which is made before the 15th day of the third month following the close of a taxable year beginning after December 31, 1967. This addition to tax is imposed whether or not there was reasonable cause for an excessive adjustment.

(2) If the amount of an adjustment under section 6425 is excessive, there shall be added to the tax under chapter 1 for the taxable year an amount determined at the annual rate referred to in the regulations under section 6621 upon the excessive amount from the date on which the credit is allowed or the re-

fund paid to the 15th day of the third month following the close of the taxable year. A refund is paid on the date it is allowed under section 6407.

(3) The excessive amount is equal to the lesser of the amount of the adjustment or the amount by which (i) the income tax liability (as defined in section 6425(c) of the Code) for the taxable year, as shown on the return for the taxable year, exceeds (ii) the estimated income tax paid during the taxable year, reduced by the amount of the adjustment.

(4) The computation of the addition to the tax imposed by section 6655 is made independently of, and does not affect the computation of, any addition to the tax which a corporation may otherwise owe for an underpayment of an installment of estimated tax.

(5) The provisions of section 6655 may be illustrated by the following example:

*Example.* Corporation A, a calendar year taxpayer, had an underpayment as defined in section 6655(b) for its fourth installment of estimated tax which was due on December 15, 1968, in the amount of \$10,000. Nevertheless, on January 1, 1969, corporation A filed an application for adjustment of overpayment of estimated income tax for 1968 in the amount of \$20,000. On February 15, 1969, the Internal Revenue Service in response to the application, refunded \$20,000 to Corporation A. On March 15, 1969, corporation A filed its 1968 tax return and made a payment in settlement of its total tax liability. Under section 6655(a), corporation A is subject to an addition to tax in the amount of \$150 ( $\$10,000 \times 6 \text{ percent} \times \frac{3}{12}$ ) on account of corporation A's December 15, 1968 underpayment. Under section 6655(g) corporation A is subject to an addition to tax in the amount of \$100 ( $\$20,000 \times 6 \text{ percent} \times \frac{1}{2}$ ) on account of corporation A's excessive adjustment under section 6425. In determining the amount of the addition to tax under section 6655(a) for failure to pay estimated income tax, the excessive adjustment under section 6425 is not taken into account.

(6) An adjustment is generally to be treated as a reduction of estimated income tax paid as of the date of the adjustment. However, for purposes of §§ 1.6655-1 through 1.6655-3, the 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,