

made on or before the expiration of the period for which the prior extension is granted.

(d) *Payment pursuant to extension.* If an extension of time for payment is granted, the amount the time for payment of which is so extended shall be paid on or before the expiration of the period of the extension without the necessity of notice and demand. The granting of an extension of the time for payment of the tax or deficiency does not relieve the taxpayer from liability for the payment of interest thereon during the period of the extension. See section 6601 and §301.6601-1 of this chapter (Regulations on Procedure and Administration). Further, the granting of an extension of the time for payment of one installment of the tax does not extend the time for payment of subsequent installments.

(e) *Cross reference.* For extensions of time for payment of estimated tax, see §§ 1.6073-4 and 1.6074-3.

[T.D. 6500, 25 FR 12140, Nov. 26, 1960, as amended by T.D. 6950, 33 FR 5357, Apr. 4, 1968; T.D. 7260, 38 FR 4259, Feb. 12, 1973]

**§ 1.6162-1 Extension of time for payment of tax on gain attributable to liquidation of personal holding companies.**

(a) *In general.* (1) If it is shown to the satisfaction of the district director that undue hardship to the taxpayer will result from the payment of such portion of the amount determined as the tax under chapter 1 of the Code by the taxpayer as is attributable to the short-term or long-term capital gain derived by the taxpayer from the receipt by him of property other than money on a complete liquidation of a corporation to which section 331(a)(1) or 342 applies, the district director may grant an extension of time for the payment of such portion of the tax. For the meaning of the term “undue hardship”, see paragraph (b) of § 1.6161-1.

(2) The extension of time for payment shall be for a period not in excess of five years. The extension shall only be granted for a taxable year beginning before January 1, 1956, and shall apply only if the corporation, for its taxable year preceding the year in which occurred the complete liquidation (or the first of the series of distributions in

complete liquidation), was, under the law applicable to such taxable year, a personal holding company or a foreign personal holding company.

(b) *Requirement of bond.* As a condition to the granting of an extension of time for payment, the taxpayer will usually be required by the district director to furnish a bond as provided in section 6165 and the regulations thereunder. For other provisions with respect to bonds, see section 7101 and the regulations in part 301 of this chapter (Regulations on Procedure and Administration).

**§ 1.6164-1 Extensions of time for payment of taxes by corporations expecting carrybacks.**

(a) *In general.* If a corporation in any taxable year files a statement with respect to an expected net operating loss carryback from such taxable year, such corporation may extend the time for the payment of all or part of any tax imposed by subtitle A of the Code for the taxable year immediately preceding such taxable year to the extent and subject to the limitations provided in section 6164. A corporation may extend the time for payment with respect to only such taxes as meet the following requirements:

(1) The tax must be one imposed by subtitle A of the Code;

(2) The tax must be for the taxable year immediately preceding the taxable year of the expected net operating loss;

(3) The tax must be shown on the return or must be assessed within the taxable year of the expected net operating loss; and

(4) The tax must not have been paid or required to have been paid prior to the filing of the statement.

(b) *Statement for purpose of extending time for payment.* (1) The time for payment of the tax is automatically extended upon the filing of a statement on Form 1138 by the corporation with the district director for the district where the tax is payable. The statement on Form 1138 must be filled out in accordance with the instructions accompanying the form, and all information required by the form and the instructions must be furnished by the taxpayer. The district director, upon

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request, will furnish a receipt for any statement filed. Such receipt will show the date the statement was filed.

(2) The period of extension is that provided in section 6164(d) and § 1.6164-5 unless sooner terminated by action of either the district director or the corporation.

**§ 1.6164-2 Amount of tax the time for payment of which may be extended.**

(a) *Total amount to which extension may relate.* The total amount of tax the time for payment of which may be extended under section 6164 may not exceed the amount of the reduction of the taxes previously determined attributable to the expected carryback.

(b) *Amount of tax to which extension may relate.* (1) The taxpayer shall specify on Form 1138 the kind of tax and the amount thereof the time for payment of which is to be extended. The amount of tax to which an extension may relate shall not exceed the amount of such tax shown on the return as filed, increased by any amount assessed as a deficiency (or as interest or addition to the tax) prior to the date of filing the statement and decreased by any amount paid or required to be paid prior to such date. In determining the amount of tax required to be paid prior to the date of filing the statement, only the following amounts shall be taken into consideration:

(i) The amount of the tax shown on the return as filed; and

(ii) Any amount assessed as a deficiency (or as interest or addition to the tax) if the tenth day after notice and demand for its payment occurs prior to the date of the filing of the statement.

(2) Delinquent installments are to be considered amounts required to be paid prior to the date of filing the statement. In the case of any authorized extension of time under sections 6161 and 6162, the amount of tax the time for payment of which is so extended is not to be considered required to be paid prior to the end of such extension. Similarly, any amount assessed as a deficiency (or as interest or addition to the tax) is not to be considered required to be paid prior to the date of the filing of the statement unless the tenth day after notice and demand for

its payment falls prior to the date of the filing of the statement.

(3) The taxpayer may choose to extend the time for payment of all of one or more taxes, or it may choose to extend the time for payment of portions of several taxes. The taxes chosen by the taxpayer need not be those taxes which are affected by the carryback.

**§ 1.6164-3 Computation of the amount of reduction of the tax previously determined.**

(a) *Tax previously determined.* The taxpayer is to determine the amount of the reduction, attributable to the expected carryback, in the aggregate of the taxes previously determined for taxable years prior to the taxable year of the expected net operating loss. The tax previously determined is to be ascertained in accordance with the method prescribed in section 1314(a). Thus, the tax previously determined will be the tax shown on the return as filed, increased by any amounts assessed (or collected without assessment) as deficiencies prior to the date of the filing of the statement, and decreased by any amounts abated, credited, refunded, or otherwise repaid prior to such date. Any items as to which the Internal Revenue Service and the taxpayer are in disagreement at the time of the filing of the statement shall be taken into account in ascertaining the tax previously determined only if, and to the extent that, they were reported in the return, or were reflected in any amounts assessed (or collected without assessment) as deficiencies, or in any amounts abated, credited, refunded, or otherwise repaid, prior to the date of the filing of the statement. The tax previously determined will reflect the foreign tax credit and the credit for tax withheld at source provided in section 32.

(b) *Reduction attributable to the expected carryback.* The reduction, attributable to the expected carryback or related adjustments, in any tax previously determined is to be ascertained by applying the expected carryback as if it were a determined net operating loss carryback, in accordance with the provisions of section 172 and the regulations thereunder. Items must be taken into account only to the extent