

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 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:

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(1) Amount of tax shown on return	\$30,000
(2) 70 percent of item (1)	21,000
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(3) One-third of item (2)	7,000
(4) Deduct amount paid on each installment date	6,000
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(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 to any taxable year which ends on or after September 30, 1968, for which a tax is imposed by section 51 (relating to tax surcharge), in the case of a payment of estimated tax the time prescribed for payment of which is on or after September 15, 1968.

(2) The amount which would have been required to be paid on or before the date prescribed for payment if the estimated tax were an amount equal to a percentage of the tax computed by placing on an annual basis the taxable income for the calendar months in the

taxable year ending before the month in which the installment is required to be paid. That percentage is 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), 70 percent in the case of taxable years beginning before January 1, 1967, of such individuals, and 66 $\frac{2}{3}$ percent in the case of individuals referred to in section 6073(b). With respect to taxable years beginning after December 31, 1966, the adjusted self-employment income shall be taken into account in determining the amount referred to in this subparagraph if net earnings from self-employment (as defined in section 1402(a)) for the taxable year equal or exceed \$400. For purposes of this subparagraph:

(i) Taxable income shall be placed on an annualized basis:

(A) For taxable years beginning after 1976, by:

(1) Multiplying by 12 (or the number of months in the taxable year if less than 12) the adjusted gross income and the itemized deductions for the calendar months in the taxable year ending before the month in which the installment is required to be paid,

(2) Dividing the resulting amounts by the number of such calendar months,

(3) Increasing the amount of the annualized adjusted gross income by the unused zero bracket amount, if any, determined by reference to the annualized itemized deductions, or decreasing the amount of the annualized adjusted gross income by the excess itemized deductions, if any, determined by reference to the annualized itemized deductions (the amount resulting under this step is annualized tax table income), and

(4) Deducting from the annualized tax table income the deduction for personal exemptions (such personal exemptions being determined as of the date prescribed for payment of the installment).

If the taxpayer would be eligible to use the tax tables on the basis of annualized tax table income, the amount which would have been required to be paid for purposes of this subparagraph may be determined by applying the tax tables to annualized