

§ 301.6361-5

26 CFR Ch. I (4-1-02 Edition)

administration of State individual income taxes, as amended from time to time.

[T.D. 7577, 43 FR 59365, Dec. 20, 1978]

§ 301.6361-5 Effective date of section 6361.

Section 6361 shall take effect on the first January 1 which is more than 1 year after the first date on which at least one State has filed a notice of election with the Secretary or his delegate to enter into a State agreement. For purposes of this section, a notice of election shall be deemed to have been filed by a State only if there is no defect in either the State's notice of election or the State's tax law of which the Secretary notified the Governor pursuant to paragraph (c) of § 301.6363-1, and which has not been retroactively cured under the provisions of such paragraph.

[T.D. 7577, 43 FR 59365, Dec. 20, 1978]

§ 301.6362-1 Types of qualified tax.

(a) *In general.* A qualified tax may be either a "qualified resident tax" within the meaning of paragraph (b) of this section, or a "qualified nonresident tax" within the meaning of paragraph (c) of this section.

(b) *Qualified resident tax.* A tax imposed by a State on the income of individuals, estates, and trusts which are residents of such State within the meaning of section 6362(e) and § 301.6362-6 shall be a "qualified resident tax" if it is either:

(1) A tax based on Federal taxable income which meets the requirements of section 6362 (b), (e), and (f), and of §§ 301.6362-2, 301.6362-6, and 301.6362-7; or

(2) A tax which is a percentage of the Federal tax and which meets the requirements of section 6362 (c), (e), and (f), and of §§ 301.6362-3, 301.6362-6, and 301.6362-7.

(c) *Qualified nonresident tax.* A tax imposed by a State on the wage and other business income of individuals who are not residents of such State within the meaning of section 6362(e)(1) and paragraph (b) of § 301.6362-6 shall be a "qualified nonresident tax" if it meets the requirements of section 6362 (d), (e), and (f), and of §§ 301.6362-5, 301.6362-6, and 301.6362-7.

[T.D. 7577, 43 FR 59366, Dec. 20, 1978]

§ 301.6362-2 Qualified resident tax based on taxable income.

(a) *In general.* A tax meets the requirements of section 6362(b) and this section only if it is imposed on the amount of the taxable income, as defined in section 63, of the individual, estate, or trust, adjusted—

(1) By subtracting an amount equal to the amount of the taxpayer's interest on obligations of the United States which was included in his gross income for the taxable year;

(2) By adding an amount equal to the amount of the taxpayer's net State income tax deduction, as defined in paragraph (a) of § 301.6362-4, for the taxable year;

(3) By adding an amount equal to the amount of the taxpayer's net tax-exempt income, as defined in paragraph (b) of § 301.6362-4, for the taxable year; and

(4) If a credit is allowed against the tax in accordance with paragraph (b)(3) of this section for sales tax imposed by the State or a political subdivision thereof, by adding an amount equal to the amount of the taxpayer's deduction under section 164(a)(4) for such sales tax.

The tax may provide for either a single rate or multiple rates which vary with the amount of taxable income, as adjusted.

(b) *Permitted adjustments.* A tax which otherwise meets the requirements of paragraph (a) of this section shall not be deemed to fail to meet such requirements solely because it provides for one or more of the following adjustments:

(1) A credit meeting the requirements of paragraph (c) of § 301.6362-4 is allowed against the tax for the taxpayer's income tax liability to another State or a political subdivision thereof.

(2) A tax is imposed on the amount taxed under section 56 (relating to the minimum tax for tax preferences).

(3) A credit is allowed against the tax for all or a portion of any general sales tax imposed by the State or a political subdivision thereof with respect to sales either to the taxpayer or to one or more of his dependents.

(c) *Method of making mandatory adjustments.* The mandatory adjustments

provided in paragraph (a) of this section shall be made directly to taxable income. Except as provided in paragraph (c)(2) of §301.6362-4, no account shall be taken of any reduction or increase in the Federal adjusted gross income which would result from the exclusion from, or inclusion in, gross income of the items which are the subject of the adjustments. Thus, for example, when for purposes of the calculation the taxpayer's Federal taxable income is adjusted to reflect the exclusion from gross income of interest on obligations of the United States, no change shall be made in the amount of the taxpayer's deduction for medical expenses, or in the amount of his charitable contribution base, even though such amounts would ordinarily depend upon the amount of adjusted gross income.

[T.D. 7577, 43 FR 59366, Dec. 20, 1978]

§ 301.6362-3 Qualified resident tax which is a percentage of Federal tax.

(a) *In general.* A tax meets the requirements of section 6362(c) and this section only if:

(1) The tax is imposed as a single specified percentage of the excess of the taxes imposed by chapter 1 over the sum of the credits allowable under part IV of subchapter A of chapter 1 (other than the credits allowable under sections 31 and 39), and

(2) The amount of the tax is decreased by the amount of the decrease in such liability which would result from excluding from the taxpayer's gross income an amount equal to the amount of interest on obligations of the United States which was included in his gross income for the taxable year.

(b) *Permitted adjustments.* A tax which otherwise meets the requirements of paragraph (a) of this section shall not be deemed to fail to meet such requirements solely because it provides for one or more of the following three adjustments:

(1) The amount of a taxpayer's liability for tax is increased by the amount of the increase in such liability which would result from including in such taxpayer's gross income all of the following:

(i) An amount equal to the amount of his net State income tax deduction, as defined in paragraph (a) of §301.6362-4, for the taxable year,

(ii) An amount equal to the amount of his net tax-exempt income, as defined in paragraph (b) of §301.6362-4, for the taxable year, and

(iii) If a credit is allowed against the tax under paragraph (b)(3) of this section for sales tax imposed by the State or a political subdivision thereof, an amount equal to the amount of his deduction under section 164(a)(4) for such sales tax.

(2) A credit meeting the requirements of paragraph (c) of §301.6362-4 is allowed against the tax for the income tax of another State or a political subdivision thereof.

(3) A credit is allowed against the tax for all or a portion of any general sales tax imposed by the State or a political subdivision thereof with respect to sales either to the taxpayer or to one or more of his dependents.

(c) *Method of making adjustments.* Except as specifically provided in paragraphs (a)(2) and (b)(1) of this section and in paragraph (c)(2) of §301.6362-4, no account shall be taken of any reduction or increase in the Federal adjusted gross income which would result from the exclusion from, or inclusion in, gross income of the items which are the subject of the adjustments provided in those paragraphs. Thus, for example, when for purposes of the calculation the taxpayer's Federal income tax liability is adjusted to reflect the exclusion from gross income of interest on obligations of the United States, no change shall be made in the amount of the taxpayer's deduction for medical expenses, or in the amount of his charitable contribution base, even though such amounts would ordinarily depend upon the amount of adjusted gross income. Also, when calculating the adjusted Federal tax liability to which the rate of the State tax is to be applied, no adjustment shall be made in the amount of any credit against Federal tax to which a taxpayer is entitled.

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