

§ 5.6411-1

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

1978 TENTATIVE TAX		
Normal tax:		
20 percent of \$7,500 (3% of \$20,000) .....		1,500
22 percent of \$52,500 .....		11,550
		13,050
Surtax:		
Taxable income .....	\$60,000	
Surtax exemption .....	15,000 (3% of \$40,000)	
	\$45,000	
	× 26 percent .....	11,700
1978 tentative tax .....		24,750
		Z
Taxable income .....		90,000
Normal tax:		
20 percent of \$12,500 (3% of \$20,000) .....		2,500
22 percent of \$77,500 .....		17,050
		19,500
Surtax:		
Taxable income .....	\$90,000	
Surtax exemption .....	25,000 (3% of \$40,000)	
	\$65,000	
	× 26 percent .....	16,900
1978 tentative tax .....		36,450
The 1978 and 1979 tentative taxes are apportioned as follows:		
Corporation Y:		
1978—184/365 of \$24,750 .....		12,477
1979—181/365 of \$19,200 .....		9,521
Total tax for taxable year .....		21,998
Corporation Z:		
1978—92/365 of \$36,450 .....		9,187
1979—273/365 of \$34,400 .....		25,729
Total tax for taxable year .....		34,916

[T.D. 7583, 44 FR 872, Jan. 4, 1979]

**§ 5.6411-1 Tentative refund under claim of right adjustment.**

(a) *Effective date.* This section applies to applications for tentative refunds filed after November 5, 1978, under section 6411(d).

(b) *In general.* Section 6411(d) allows taxpayers to apply for a tentative refund of amounts treated under section 1341(b)(1) as an overpayment of tax under a claim of right adjustment. This section contains rules for filing an application for this tentative refund. The computation of amounts treated as an overpayment must be made in accordance with section 1341 and the regulations under that section.

(c) *Method of applying for tentative refund—(1) In general.* For a corporation, the application is made by filing Form 1139. For taxpayers other than corporations, the application is made by filing Form 1045. The application must be

made by filing those forms even if the taxpayer is not applying for a tentative carryback adjustment under section 6411(a). If the taxpayer files the form to apply for the section 6411(d) tentative refund only, it may disregard those lines on the form used to compute the section 6411(a) carryback adjustment. If the taxpayer has a carryback of a net operating loss, credit, or capital loss for the taxable year (determined without the deduction described in section 1341(a)(2)) and applies for both the section 6411(a) tentative carryback adjustment and the section 6411(d) tentative refund, an ordering rule applies. The taxpayer must take into account any adjustments made in applying for the tentative carryback adjustment under section 6411(a) before determining the amount of the overpayment for which an application under section 6411(d) is being made. The taxpayer

must attach to the form a separate schedule containing the information required under paragraph (d) of this section.

(2) *Applications made before February 7, 1980.* Applications made before February 7, 1980 that are made under penalties of perjury will be considered meeting the requirements of this section if made by filing a separate statement whether or not it is attached to Form 1139 or 1045. This application, however, must contain the information required under paragraph (d) of this section (other than paragraph (d)(2)).

(d) *Information required*—(1) *In general.* The application must contain (i) the taxpayer's name, address, and identification number and (ii) the information set forth in paragraph (d) (2) and (3) of this section, determined in accordance with section 1341 and the regulations under that section. For example, the decrease in tax under paragraph (d)(3)(iii) of this section is determined under §1.1341-1(d)(4).

(2) *Computation under section 1341(a)(4).* The application must contain the following information related to the computation under section 1341(a)(4):

(i) The amount of income restored by the taxpayer to another during the taxable year and the amount of the corresponding deduction described in section 1341(a)(2);

(ii) The tax for the taxable year computed with the deduction described in section 1341(a)(2); and

(iii) The tax for each prior taxable year (determined before adjustment under section 1341) to which any net operating loss described in section 1341(b)(4)(A) may be carried and the decrease in tax for each of those years that results from the carryback of that loss.

(3) *Computation under section 1341(a)(5).* The application must contain the following information related to the computation under section 1341(a)(5):

(i) The tax for the taxable year without the deduction described in section 1341(a)(2);

(ii) The tax for each prior taxable year (determined before adjustment under section 1341) for which a decrease

in tax is computed under section 1341(a)(5)(B);

(iii) The decrease in tax for each prior taxable year computed under section 1341(a)(5)(B), including any decrease resulting from a net operating loss or capital loss described in section 1341(b)(4)(B); and

(iv) The amount treated as an overpayment of tax under section 1341(b)(1).

(e) *Time and place for filing.* The application must be filed no earlier than the date of filing the return for the taxable year of restoration and no later than the date 12 months from the last day of that taxable year. The application must be filed with the Internal Revenue Service Center (or other office) where the taxpayer filed its return for the taxable year of restoration.

(f) *Not a claim for credit or refund.* An application for tentative refund under section 6411(d) is not a claim for credit or refund. The principles of paragraph (b)(2) of §1.6411-1 apply in determining the effect of an application for a tentative refund. For example, the filing of an application for tentative refund under section 6411(d) is not a claim for credit or refund in determining whether a claim for credit or refund was timely filed.

[T.D. 7672, 45 FR 8295, Feb. 7, 1980; 45 FR 17138, Mar. 18, 1980]

## PART 5c—TEMPORARY INCOME TAX REGULATIONS UNDER THE ECONOMIC RECOVERY TAX ACT OF 1981

Sec.

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5c.168(f)(8)-5 Term of lease.

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5c.168(f)(8)-7 Reporting of income, deductions and investment tax credit; at risk rules.

5c.168(f)(8)-8 Loss of section 168(f)(8) protection; recapture.

5c.168(f)(8)-9 Pass-through leases—transfer of only the investment tax credit to a