

§ 1.6654-2

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:

(1) Amount of tax shown on return	\$30,000
(2) 70 percent of item (1)	21,000
(3) One-third of item (2)	7,000
(4) Deduct amount paid on each installment date	6,000
(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

Internal Revenue Service, Treasury

§ 1.6654-2

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 tax table income. the amount resulting under (3).

(B) For taxable years beginning before 1977, by:

(1) Multiplying by 12 (or the number of months in the taxable year if less than 12) the taxable income (computed without the standard deduction and without the deduction for personal exemptions), or the adjusted gross income if the standard deduction is to be used 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 amount by the number of such calendar months, and

(3) Deducting from such amount the standard deduction, if applicable, and the deduction for personal exemptions (such personal exemptions being determined as of the date prescribed for payment of the installment).

(ii) The term "adjusted self-employment income" means:

(A) The net earnings from self-employment (as defined in section 1402(a)) for the calendar months in the taxable year ending before the month in which the installment is required to be paid, computed as if such months constituted the taxable year, but not more than

(B) The excess of:

(1) For taxable years beginning after 1966, \$6,600

(2) For taxable years beginning after 1971, \$9,000,

(3) For taxable years beginning after 1972, \$10,800,

(4) For taxable years beginning after 1973, \$13,200, and

(5) For taxable years beginning after 1974, an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective for the calendar year in which the taxable year begins, over the amount of the wages (within the meaning of section 1402(b)) for such calendar months placed on an annual basis. For this purpose, wages are annualized by multiplying by 12 (or the number of months in the taxable year in the case of a taxable year of less than 12 months) the wages for such calendar months and dividing the resulting amount by the number of such months.

(3) An amount equal to 90 percent of the tax computed, at the rates applicable to the taxable year, on the basis of the actual taxable income for the calendar months in the taxable year ending before the month in which the installment is required to be paid, as if such months constituted the entire taxable year. For taxable years beginning after December 31, 1966, such computation shall include the tax imposed by chapter 2 on the actual self-employment income for such months. For purposes of this subparagraph, the term "actual self-employment income" means:

(i) The net earnings from self-employment (as defined in section 1402(a)) for such calendar months, computed as if such months constituted the taxable year, but not more than

(ii) The excess of:

(A) For taxable years beginning after 1966, \$6,600,

(B) For taxable years beginning after 1971, \$9,000,

(C) For taxable years beginning after 1972, \$10,800,

(D) For taxable years beginning after 1973, \$13,200, and

(E) For taxable years beginning after 1974, an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective for the calendar year in which the taxable year begins, over the amount of wages (within the

meaning of section 1402(b)) for such months.

(4) 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 tax determined on the basis of the tax rates and the taxpayer's status with respect to personal exemptions under section 151 for the taxable year, but otherwise on the basis of the facts shown on the return for the preceding taxable year and the law applicable to such year, in the case of an individual required to file a return for such preceding taxable year.

In the case of a taxpayer whose taxable year consists of 52 or 53 weeks in accordance with section 441(f), the rules prescribed by § 1.441-2(c) shall be applicable in determining, for purposes of subparagraph (1) of this paragraph, whether a taxable year was a year of 12 months and, for purposes of subparagraphs (2) and (3) of this paragraph, the number of calendar months in a taxable year preceding the date prescribed for payment of an installment of estimated tax. For the rules to be applied in determining taxable income for any period described in subparagraphs (2) and (3) of this paragraph in the case of a taxpayer who employs accounting periods (e.g., thirteen 4-week periods or four 13-week periods) none of which terminates with the end of the applicable period described in subparagraph (2) or (3) of this paragraph, see paragraph (a)(5) of § 1.6655-2.

(b) *Meaning of terms.* As used in this section and § 1.6654-3:

(1) The term "tax" means:

(i) The tax imposed by chapter 1 of the Code (other than by section 56), 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) The credits against tax allowed by part iv, subchapter A, chapter 1 of the Code, other than the credit against tax provided by section 31 (relating to tax withheld on wages), and without reduction for any payments of estimated tax, minus

(iv) In the case of an individual who is subject to one or more qualified State individual income taxes, the sum of the credits allowed against such taxes pursuant to section 6262(b)(2) (B) or (C) or section 6262(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 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.

(2) The credits against tax allowed by part IV, subchapter A, chapter 1 of the Code, are:

(i) In the case of the exception described in paragraph (a)(1) of this section, the credits shown on the return for the preceding taxable year,

(ii) In the case of the exceptions described in paragraph (a)(2) and (3) of this section, the credits computed under the law and rates applicable to the current taxable year, and

(iii) In the case of the exception described in paragraph (a)(4) of this section, the credits shown on the return for the preceding taxable year, except that if the amount of any such credit would be affected by any change in rates or status with respect to personal exemptions, the credits shall be determined by reference to the rates and status applicable to the current taxable year.

A change in rate may be either a change in the rate of tax, such as a change in the rate of the tax imposed by section 1 or section 1401, or a change in a percentage affecting the computation of the credit, such as a change in the rate of withholding under chapter 3 of the Code or a change in the percentage of a qualified investment which is specified in section 46 for use in determining the amount of the investment credit allowed by section 38.

(3) The term "return for the preceding taxable year" means the income tax return for such year which is required by section 6012(a)(1) and, in the case of taxable years beginning after December 31, 1966, the self-employment tax return for such year which is required by section 607.

(c) *Examples.* The following examples illustrate the application of the exceptions to the imposition of the addition to the tax for an underpayment of estimated tax, in the case of an individual whose taxable year is the calendar year:

Example 1. A, a married man with one child and a dependent parent, files a joint return with his spouse, B, for 1955 on April 15, 1956, showing taxable income of \$44,000 and a tax of \$16,760. A and B had filed a joint declaration of estimated tax on April 15, 1955, showing an estimated tax of \$10,000 which was paid in four equal installments of \$2,500 each on April 15, June 15, and September 15, 1955, and January 15, 1956. The balance of \$6,760 was paid with the return. A and B have an underpayment of estimated tax of \$433 (1/4 of 70 percent of \$16,760, less \$2,500) for each installment date. The 1954 calendar year return of A and B showed a liability of \$10,000. Since the total amount of estimated tax paid by each installment date equalled the amount that would have been required to be paid on or before each of such dates if the estimated tax were the tax shown on the return for the preceding year, the exception described in paragraph (a)(1) of this section applies and no addition to the tax will be imposed.

Example 2. Assume the same facts as in example (1), except that the joint return of A and B for 1954 showed taxable income of \$32,000 and a tax liability of \$10,400. Assume further that only two personal exemptions under section 151 appeared on the 1954 return. The exception described in paragraph (a)(1) of this section would not apply. However, A and B are entitled to four exemptions under section 151 for 1955. Taxable income for 1954 based on four exemptions, but otherwise on the basis of the facts shown on the 1954 re-

turn, would be \$30,800. The tax on such amount in the case of a joint return would be \$9,836. Since the total amount of estimated tax paid by each installment date exceeds the amount which would have been required to be paid on or before each of such dates if the estimated tax were \$9,836, the exception described in paragraph (a)(4) of this section applies and no addition to the tax will be imposed.

Example 3. C, who is self-employed (other than as a farmer or fisherman), has annualized taxable income of \$6,900 for the period January 1, 1967, through August 31, 1967, the income tax on which is \$1,171. For the same period his net earnings from self-employment are \$5,000 and his wages are \$2,000. The estimated tax payments made by C for 1967 on or before September 15, 1967, total \$1,200. For the purposes of the exception described in paragraph (a)(2) of this section, the adjusted self-employment income is \$3,600, computed as follows:

(1) Net earnings from self-employment	\$5,000
(2) \$6,600 minus annualized wages (\$6,600 - 3,000 (\$2,000×12÷8))	3,600
(3) Lesser of (1) or (2)	3,600

The tax on C's adjusted self-employment income would be \$230.40 (\$3,600×6.4 percent). Since the total amount of estimated tax paid on or before September 15, 1967, exceeds \$1,121.12, that is, 80 percent of \$1,401.40 (\$1,171+230.40), the exception described in paragraph (a)(2) of this section applies and no addition to tax will be imposed.

Example 4. D, who is self-employed (other than as a farmer or fisherman), has actual taxable income of \$3,800 for the period January 1, 1967, through August 31, 1967, the income tax on which is \$586. For the same period his net earnings from self-employment are \$5,000 and his wages are \$2,000. The estimated tax payments made by D for 1967 on or before September 15, 1967, total \$840. For the purposes of the exception described in paragraph (a)(3) of this section, the actual self-employment income for this period is \$4,600, computed as follows:

(1) Net earnings from self-employment	\$5,000
(2) \$6,600 minus wages (\$6,600 - 2,000)	4,600
(3) Lesser of (1) or (2)	4,600

The tax on D's actual self-employment income would be \$294.40 (\$4,600×6.4 percent). Since the total amount of estimated tax paid by September 15, 1967, exceeds \$792.36, that is, 90 percent of \$880.40 (\$586+294.40), the exception described in paragraph (a)(3) of this section applies and no addition to tax will be imposed.

Example 5. E and F, his spouse, filed a joint return for the calendar year 1967, showing a tax liability of \$10,000. The liability, attributable primarily to income received during the last quarter of the year, included both

income and self-employment tax. Their aggregate payments of estimated tax on or before September 15, 1967, total \$1,350, representing three installments of \$450 paid on each of the first three installment dates prescribed for the taxable year. Since each installment paid, \$450, was less than \$2,000 (1/4 of 80 percent of \$10,000), there was an underpayment on each of the installment dates. Assume that the exceptions described in paragraph (a) (1) and (4) of this section do not apply. Actual taxable income for the three months ending March 31, 1967, was \$2,000 and for the five months ending May 31, 1967, was \$4,500. Actual self-employment income, for the same periods, was \$2,000 and \$4,000, respectively. Since the amounts paid by the April 15 and June 15 installment dates, \$450 and \$900, respectively, exceed \$376.20 and \$873.90, respectively (90 percent of the income tax on the actual taxable income of \$2,000 and \$4,500, respectively, determined on the basis of a joint return, and the self-employment tax on the actual self-employment income of \$2,000 and \$4,000, respectively), the exception described in paragraph (a)(3) of this section applies and no addition to the tax will be imposed for the underpayments on the April 15 and June 15 installment dates. For the eight months ending August 31, 1967, actual taxable income, assuming E and F did not elect to use the standard deduction, was \$7,500; net earnings from self-employment were \$6,000 and wages were \$2,700. Since the total amount paid by the September 15 installment date, \$1,350, was less than \$1,381.14 (90 percent of the income tax on the actual taxable income of \$7,500 determined on the basis of a joint return and the self-employment tax on actual self-employment income of \$3,900 (\$6,600 - 2,700)), the exception described in paragraph (a)(3) of this section does not apply to the September 15 installment. Furthermore, the exception described in paragraph (a)(2) of this section does not apply, as illustrated by the following computation:

(1) Income tax:	
Taxable income for the period ending Aug. 31, 1967 (without deduction for personal exemptions) on an annual basis (\$8,700×12÷8)	\$13,050.00
Deduction for two personal exemptions	1,200.00
	11,850.00
Tax on \$11,850 (on the basis of a joint return)	2,227.00
(2) Self-employment tax:	
Net earnings from self-employment	6,000.00
Adjusted self-employment income (\$6,600 - 4,050 annualized wages (\$2,700×12÷8))	2,550.00
Tax on adjusted self-employment income (\$2,550×6.4 percent)	163.20
(3) Total tax (\$2,227.00+163.20)	2,390.20
(4) 3/4 of 80 percent of \$2,390.20	1,434.12
Amount paid by Sept. 15, 1967	1,350.00

An addition to the tax will thus be imposed for the underpayment of \$1,550 (\$2,000 - 450) on the September 15 installment.

Example 6. Assume the same facts as in example (5) and assume further that adjusted gross income for the eight months ending August 31, 1967, was \$9,200 and the amount of deductions (other than the deduction for personal exemptions) not allowable in determining adjusted gross income aggregate only \$500. If E and F elect, they may use the standard deduction in computing the tax for purposes of the exceptions described in paragraph (a) (2) and (3) of this section. Taxable income for purposes of the exception described in paragraph (a)(3) of this section would be reduced to \$7,080 (\$9,200 less \$1,200 for two personal exemptions and \$920 for the standard deduction). The income tax thereon is \$1,205.20; income tax and self-employment tax total \$454.80 (\$1,205.20+249.60 (\$3,900×6.4 percent)). Since the amount paid by the September 15 installment date, \$1,350, exceeds \$1,309.32 (90 percent of \$1,454.80), the exception described in paragraph (a)(3) of this section applies. However, the exception described in paragraph (a)(2) of this section does not apply, as illustrated by the following computation:

Adjusted gross income for period ending Aug. 31, 1967	\$9,200.00
Adjusted gross income annualized (\$9,200×12÷8)	13,800.00
Taxable income annualized (\$13,800 minus \$1,200 for two personal exemptions and \$1,000 for the standard deduction)	11,600.00
Tax on \$11,600 (on basis of joint return)	2,172.00
Self-employment tax on adjusted self-employment income (\$2,550×6.4 percent)	163.20
Total tax (\$2,172.00+163.20)	2,335.20
3/4 of 80 percent of \$2,335.20	1,401.12
Amount paid by Sept. 15, 1967	1,350.00

Example 7. G was a married individual, 73 years of age, who filed a joint return with his wife, H, for the calendar year 1956. H, who was 70 years of age, had no income during the year. G had taxable income in the amount of \$7,000 for the eight-month period ending on August 31, 1956, which included \$2,000 of dividend income (after excluding \$50 under section 116) and \$900 of rental income. The \$7,000 figure also reflected a deduction of \$2,400 for personal exemptions (\$600×4), since G and H are both over 65 years of age. The application of the exception described in paragraph (a)(2) of this section to an underpayment of estimated tax on the September 15 installment date may be illustrated by the following computation:

Taxable income for the period ending Aug. 31, 1956 (without deduction for personal exemptions) on an annual basis (\$9,400×12÷8)	\$14,100.00
Deduction for personal exemptions	2,400.00
Taxable income on an annual basis	11,700.00
Tax (on the basis of a joint return)	2,642.00
Dividends received for 8-month period	2,050.00

Internal Revenue Service, Treasury

§ 1.6654-2

Less: Amount excluded from gross income under section 116	50.00
Dividends included in gross income	2,000.00
Dividend income annualized (\$2,000×12÷8)	3,000.00
Dividends received credit under section 34 (4 percent of \$3,000)	120.00
Tax less dividends received credit	2,522.00
Retirement income (as defined in section 37(c)) includes:	
Dividend income (to extent included in gross income)	2,000.00
Rental income	900.00
Total retirement income	2,900.00
Limit on amount of retirement income under section 37(d)	1,200.00
Retirement income credit under section 37 (20 percent of \$1,200)	240.00
Tax less credits under section 34 and section 37	2,282.00
Amount determined under the exception described in paragraph (a)(2) of this section (¾ of 70 percent of \$2,282)	1,198.05

Example 8. C, an unmarried individual for whom another taxpayer is entitled to a deduction under section 151(e), has adjusted gross income of \$4,000 for the period January 1, 1977, through August 31, 1977. All of C's income is non-exempt interest. For the same period C, who is entitled to one personal exemption, has itemized deductions amounting to \$300. C is entitled to no credits other than the general tax credit. C filed a declaration of estimated tax on April 15, 1977, and on or before September 15, 1977, makes estimated tax payments for 1977 which total \$460. For purposes of determining whether the exception applies, the following computations are necessary:

Adjusted gross income for the period ending Aug. 31, 1977, on an annual basis (\$4,000 × 12÷8)	\$6,000.00
Itemized deductions for the period ending Aug. 31, 1977, on an annual basis (\$300 × 12÷8)	450.00
Unused zero bracket amount computation required under sec. 63(e)(1)(D):	
Zero bracket amount	\$2,200.00
Annualized itemized deductions	450.00
Unused zero bracket amount	1,750.00
Annualized adjusted gross income ..	6,000.00
Plus: unused zero bracket amount ..	1,750.00
Annualized tax table income	7,750.00
Tax from tables	757.00
Amount specified in paragraph (a)(2) of this section (¾×80 pct.×\$757)	\$454.20

The exception described in paragraph (a)(2) applies, and no addition to tax will be imposed.

Example 9. An unmarried taxpayer entitled to one exemption, has adjusted gross income of \$16,000 and itemized deductions of \$2,000 for the period for the period January 1, 1977,

through August 31, 1977. D has no net earnings from self-employment and is entitled to no credits other than the general tax credit. D files a declaration of estimated tax on April 15, 1977, and on or before September 15, 1977, makes estimated tax payments for 1977 which total \$3,000. For purposes of determining whether the exception in paragraph (a)(2) of this section applies, the following computations are necessary:

Adjusted gross income for the period ending Aug. 31, 1977, on an annual basis (\$16,000 × 12÷8)	\$24,000
Itemized deductions for the period ending Aug. 31, 1977, on an annual basis (\$2,000 × 12÷8)	3,000
Annualized itemized deductions	\$3,000
Minus zero bracket amount	2,200
Excess itemized deductions	800
Annualized adjusted gross income	24,000
Minus excess itemized deductions	800
Annualized tax table income	23,200
Minus: Personal exemption	750
Annualized taxable income	22,450
Tax under sec. 1(c) on annualized taxable income	5,325
Minus: general tax credit	180
Total	5,145
Amount specified in paragraph (a)(2) of this section (¾×80 pct.×\$5,145)	3,087

The exception described in paragraph (a)(2) does not apply.

(d) *Determination of taxable income for installment periods—(1) In general.* (i) In determining the applicability of the exceptions described in paragraph (a) (2) and (3) of this section, there must be an accurate determination of the amount of income and deductions for the calendar months in the taxable year preceding the installment date as of which the determination is made, that is, for the period terminating with the last day of the third, fifth, or eighth month of the taxable year. For example, a taxpayer distributes year-end bonuses to his employees but does not determine the amount of the bonuses until the last month of the taxable year. He may not deduct any portion of such year-end bonuses in determining his taxable income for any installment period other than the final installment period for the taxable year, since deductions are not allowable until paid or accrued, depending on the taxpayer's method of accounting.

(ii) If a taxpayer on an accrual method of accounting wishes to use either of

the exceptions described in paragraphs (a) (2) and (3) of this section, he must establish the amount of income and deductions for each applicable period. If his income is derived from a business in which the production, purchase, or sale of merchandise is an income-producing factor requiring the use of inventories, he will be unable to determine accurately the amount of his taxable income for the applicable period unless he can establish, with reasonable accuracy, his cost of goods sold for the applicable installment period. The cost of goods sold for such period shall be considered, unless a more exact determination is available, as such part of the cost of goods sold during the entire taxable year as the gross receipts from sales for such installment period is of gross receipts from sales for the entire taxable year.

(2) *Members of partnerships.* The provisions of this subparagraph shall apply in determining the applicability of the exceptions described in paragraphs (a) (2) and (3) of this section to an underpayment of estimated tax by a taxpayer who is a member of a partnership.

(i) For purposes of determining taxable income, there shall be taken into account:

(A) The partner's distributive share of partnership items set forth under section 702,

(B) The amount of any guaranteed payments under section 707(c), and

(C) Gains or losses on partnership distributions which are treated as gains or losses on sales of property.

(ii) For purposes of determining net earnings from self-employment (for taxable years beginning after December 31, 1966) there shall be taken into account:

(A) The partner's distributive share of income or loss, described in section 702(a)(9), subject to the special rules set forth in section 1402(a) and §§ 1.1402(a)-1 to 1.1402(a)-16, inclusive, and

(B) The amount of any guaranteed payments under section 707(c), except for payments received from a partnership not engaged in a trade or business within the meaning of section 1402(c) and § 1.1402(c)-1.

In determining a partner's taxable income and, for taxable years beginning

after December 31, 1966, net earnings from self-employment, for the months in his taxable year which precede the month in which the installment date falls, the partner shall take into account items set forth in sections 702 and 1402(a) for any partnership taxable year ending with or within his taxable year to the extent that such items are attributable to months in such partnership taxable year which precede the month in which the installment date falls. For special rules used in computing a partner's net earnings from self-employment in the case of the termination of his taxable year as a result of death, see section 1402(f) and § 1.1402(f)-1. In addition, a partner shall include in his taxable income and, for taxable years beginning after December 31, 1966, net earnings from self-employment, for the months in his taxable year which precede the month in which the installment date falls guaranteed payments from the partnership to the extent that such guaranteed payments are includible in his taxable income for such months. See section 706(a), section 707(c), paragraph (c) of § 1.707-1 and section 1402(a).

(iii) The provisions of subdivision (i) (A) and (B) of this subdivision (ii) of this subparagraph may be illustrated by the following examples:

Example 1. A, whose taxable year is the calendar year, is a member of a partnership whose taxable year ends on January 31. A must take into account, in determining his taxable income for the installment due on April 15, 1973, all of his distributive share of partnership items described in section 702 and the amount of any guaranteed payments made to him which were deductible by the partnership in the partnership taxable year beginning on February 1, 1972, and ending on January 31, 1973. A must take into account, in determining his net earnings from self-employment, his distributive share of partnership income or loss described in section 702(a)(9), subject to the special rules set forth in section 1402(a) and §§ 1.1402(a)-1 to 1.1402(a)-16, inclusive.

Example 2. Assume that the taxable year of the partnership of which A, a calendar year taxpayer, is a member ends on June 30. A must take into account in the determination of his taxable income and net earnings from self-employment for the installment due on April 15, 1973, his distributive share of partnership items for the period July 1, 1972, through March 31, 1973; for the installment

due on June 15, 1973, he must take into account such amounts for the period July 1, 1972, through May 31, 1973; and for the installment due on September 15, 1973, he must take into account such amounts for the entire partnership taxable year of July 1, 1972, through June 30, 1973 (the date on which the partnership taxable year ends).

(3) *Beneficiaries of estates and trusts.* In determining the applicability of the exceptions described in paragraph (a) (2) and (3) of this section as of any installment date, the beneficiary of an estate or trust must take into account his distributable share of income from the estate or trust for the applicable period (whether or not actually distributed) if the trust or estate is required to distribute income to him currently. If the estate or trust is not required to distribute income currently, only the amounts actually distributed to the beneficiary during such period must be taken into account. If the taxable year of the beneficiary and the taxable year of the estate or trust are different, there shall be taken into account the beneficiary's distributable share of income, or the amount actually distributed to him as the case may be, during the months in the taxable year of the estate or trust ending within the taxable year of the beneficiary which precede the month in which the installment date falls. See subparagraph (2) of this paragraph for examples of a similar rule which is applied when a partner and the partnership of which he is a member have different taxable years.

(e) *Special rule in case of change from joint return or separate return for the preceding taxable year*—(1) *Joint return to separate returns.* In determining the applicability of the exceptions described in paragraph (a) (1) and (4) of this section to an underpayment of estimated tax, a taxpayer filing a separate return who filed a joint return for the preceding taxable year shall be subject to the following rule: The tax:

(i) Shown on the return for the preceding taxable year, or

(ii) Based on the tax rates and personal exemptions for the current taxable year but otherwise determined on the basis of the facts shown on the return for the preceding taxable year, and the law applicable to such year,

shall be that portion of the tax which bears the same ratio to the whole of

the tax as the amount of the tax for which the taxpayer would have been liable bears to the sum of the taxes for which the taxpayer and his spouse would have been liable had each spouse filed a separate return for the preceding taxable year. For rules with respect to the allocation of joint payments of estimated tax, see § 1.6654-2(e)(5).

(2) *Examples.* The rule in paragraph (i) of this paragraph may be illustrated by the following examples:

Example 1. H and W filed a joint return for the calendar year 1955 showing taxable income of \$20,000 and a tax of \$5,280. Of the \$20,000 taxable income, \$18,000 was attributable to H, and \$2,000 was attributable to W. H and W filed separate returns for 1956. The tax shown on the return for the preceding taxable year, for purposes of determining the applicability of the exception described in paragraph (a)(1) of this section to an underpayment of estimated tax by H for 1956, is determined as follows:

Taxable income of H for 1955	\$18,000
Tax on \$18,000 (on basis of separate return)	6,200
Taxable income of W for 1955	2,000
Tax on \$2,000 (on basis of separate return)	400
Aggregate tax of H and W (on basis of separate returns)	6,600
Portion of 1955 tax shown on joint return attributable to H (6200/6600×5280)	4,960

Example 2. Assume the same facts as in example (1) and that H and W file a joint declaration of estimated tax for 1956 and pay estimated tax in amounts determined on the basis of their eligibility for three rather than two exemptions for 1956. H and W ultimately file separate income tax returns for 1956. Assume further that the exception described in paragraph (a)(1) of this section does not apply. The tax based on the tax rates and personal exemptions for 1956 but otherwise determined on the basis of the facts shown on the return for 1955 and the law applicable to 1955, for purposes of determining the applicability of the exception described in paragraph (a)(4) of this section to an underpayment of estimated tax by H for 1956, is determined as follows:

Taxable income of H and W for 1955 based on additional personal exemption for 1956	\$19,400
Tax on 1955 income based on joint return rate for 1956	5,076
Portion of 1955 tax attributable to H (computed as in example (1) but allowing benefit of additional exemption to H)	5900/6300
Portion of tax attributable to H based on tax rates and personal exemptions for 1956 but otherwise on facts on 1955 return (\$5900/6300×\$5,076)	\$4,754

Example 3. Assume that H and W had the same taxable income in 1972 as in 1955, and that they filed a joint return for 1972 and

separate returns for 1973. Assume further that H's taxable income for 1972 included net earnings from self-employment in excess of the \$9,000 maximum base for the self-employment tax for 1972, and that the joint return filed by H and W for 1972 showed tax under Chapter 1 (other than section 56) and tax under Chapter 2 totaling \$5,055. The tax shown on the return for 1972, for purposes of determining the applicability of the exception described in paragraph (a)(1) of this section to an underpayment of estimated tax by H for 1973, is determined as follows:

Taxable income of H for 1972	\$18,000
Chapter 1 tax (other than section 56 tax) on \$18,000 (on basis of separate return)	5,170
Self-employment income of H for 1972	9,000
Chapter 2 tax on \$9,000	\$675
<hr/>	
Total of such taxes	\$5,845
Taxable income of W for 1972	2,000
Chapter 1 tax (other than section 56 tax) on \$2,000 (on basis of separate return)	310
<hr/>	
Aggregate tax on H and W (on basis of separate returns)	\$6,155
Portion of 1972 tax shown on joint return attributable to H (5845/6155×\$5,055)	\$4,800.40

(3) *Separate return to joint return.* In the case of a taxpayer who files a joint return for the taxable year with respect to which there is an underpayment of estimated tax and who filed a separate return for the preceding taxable year:

(i) The tax shown on the return for the preceding taxable year, for purposes of determining the applicability of the exception described in paragraph (a)(1) of this section, shall be the sum of both the tax shown on the return of the taxpayer and the tax shown on the return of the taxpayer's spouse for such preceding year, and

(ii) The facts shown on both the taxpayer's return and the return of his spouse for the preceding taxable year shall be taken into account for purposes of determining the applicability of the exception described in paragraph (a)(4) of this section.

(4) *Example.* The rules described in subparagraph (3) of this paragraph may be illustrated by the following example:

Example. H and W filed separate income tax returns for the calendar year 1954 showing tax liabilities of \$2,640 and \$350, respectively. In 1956 they married and participated in the filing of a joint return for that year. In the filing of a joint return for that year. Thus, for the purpose of determining the applicability of the exceptions described in paragraph (a)(1) and (4) of this section to an un-

derpayment of estimated tax for the year 1955, the tax shown on the return for the preceding taxable year is \$2,990 (\$2,640 plus \$350).

(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))

(5) *Joint payments of estimated tax—(i) In general.* A husband and wife may make a joint payment of estimated tax even though they are not living together. However, a joint payment of estimated tax may not be made if the husband and wife are separated under a decree of divorce or of separate maintenance. A joint payment of estimated tax may not be made if the taxpayer's spouse is a nonresident alien (including a nonresident alien who is a bona fide resident of Puerto Rico or a possession to which section 931 applies during the entire taxable year), unless an election is in effect for the taxable year under section 6013(g) or (h) and the regulations. In addition, a joint payment of estimated tax may not be made if the taxpayer's spouse has a taxable year different from that of the taxpayer. If a joint payment of estimated tax is made, the amount estimated as the income tax imposed by chapter 1 of the Internal Revenue Code must be computed on the aggregate estimated taxable income of the spouses (see section 6013(d)(3) and § 1.2-1), whereas, if applicable, the amount estimated as the self-employment tax imposed by chapter 2 of the Internal Revenue Code must be computed on the separate estimated self-employment income of each spouse. See sections 1401 and 1402 and § 1.6017-1(b)(1). The liability with respect to the estimated tax, in the case of a joint payment, shall be joint and several.

(ii) *Application to separate returns.* (A) Although a husband and wife may make a joint payment of estimated tax, they, nevertheless, can file separate returns. If they make a joint payment of estimated tax and file separate returns for the same taxable year with respect to which the joint payment was made, the payment made on account of the estimated tax for that taxable year may be treated as a payment on account of the tax liability of either the husband or wife for the taxable year, or

may be divided between them in such manner as they may agree.

(B) In the event the husband and wife fail to agree to a division of the estimated tax payment, such payment shall be allocated between them in accordance with the following rule. The portion of such payment to be allocated to a taxpayer shall be that portion of the aggregate of all such payments as the amount of tax imposed by chapter 1 of the Internal Revenue Code shown on the separate return of the taxpayer (plus, if applicable, the amount of tax imposed by chapter 2 of the Internal Revenue Code shown on the return of the taxpayer) bears to the sum of the taxes imposed by chapter 1 of the Internal Revenue Code shown on the separate returns of the taxpayer and the spouse (plus, if applicable, the sum of the taxes imposed by chapter 2 of the Internal Revenue Code shown on the separate returns of the taxpayer and the spouse).

(6) *Example.* The rule described in paragraph (e)(5) of this section may be illustrated by the following example:

Example. (i) H and W make a joint payment of estimated tax of \$19,500 for the taxable year. H and W subsequently file separate returns for the taxable year showing tax imposed by chapter 1 of the Internal Revenue Code in the amount of \$11,500 and \$8,000, respectively. In addition, H's return shows a tax imposed by chapter 2 of the Internal Revenue Code in the amount of \$500. H and W fail to agree to a division of the estimated tax paid. The amount of the aggregate estimated tax payments allocated to H is determined as follows:

- (A) Chapter 1 tax shown on H's return—\$11,500
- (B) Plus: Amount of tax imposed by chapter 2 shown on H's return—\$500
- (C) Total taxes imposed by chapter 1 and by chapter 2 shown on H's return—\$12,000
- (D) Amount of tax imposed by chapter 1 shown on W's return—\$8,000
- (E) Total taxes imposed by chapter 1 and by chapter 2 on both H's and W's—\$20,000 returns
- (F) Proportion of taxes shown on H's return to total amount— $(\$12,000/\$20,000)$ 60% of taxes shown on both H's and W's returns
- (G) Amount of estimated tax payments allocated to H (60% of \$19,500)—\$11,700

(ii) Accordingly, H's return would show a balance due in the amount of \$300 (\$12,000 taxes shown less \$11,700 estimated tax allocated).

(7) *Death of spouse.* (i) A joint payment of estimated tax may not be made after the death of either the husband or wife. However, if it is reasonable for a surviving spouse to assume that there will be filed a joint return for himself and the deceased spouse for his taxable year and the last taxable year of the deceased spouse, he may, in making a separate payment of estimated tax for his taxable year which includes the period comprising such last taxable year of his spouse, estimate the amount of the tax imposed by chapter 1 of the Internal Revenue Code on his and his spouse's taxable income on an aggregate basis and compute his estimated tax with respect to chapter 1 tax in the same manner as though a joint return had been filed.

(ii) If a husband and wife make a joint payment of estimated tax and thereafter one spouse dies, no further payments of joint estimated tax liability are required from the estate of the decedent. The surviving spouse, however, shall be liable for the payment of any subsequent installments of the joint estimated tax. For the purpose of making an amended payment of estimated tax by the surviving spouse, and the allocation of payments made pursuant to a joint payment of estimated tax between the surviving spouse and the legal representative of the decedent in the event a joint return is not filed, the payment of estimated tax may be divided between the decedent and the surviving spouse in such proportion as the surviving spouse and the legal representative of the decedent may agree.

(iii) If the surviving spouse and the legal representative of the decedent fail to agree to a division of a payment, such payment shall be allocated in accordance with the following rule. The portion of such payment to be allocated to the surviving spouse shall be that portion of the aggregate amount of such payments as the amount of tax imposed by chapter 1 of the Internal Revenue Code shown on the separate return of the surviving spouse (plus, if applicable, the amount of tax imposed by chapter 2 of the Internal Revenue

Code shown on the return of the surviving spouse) bears to the sum imposed by chapter 1 of the Internal Revenue Code shown on the separate returns of the surviving spouse and of the decedent (plus, if applicable, the sum of the taxes imposed by chapter 2 of the Internal Revenue Code shown on the returns of the surviving spouse and of the decedent); and the balance of such payments shall be allocated to the decedent. This rule may be illustrated by analogizing the surviving spouse described in this rule to H in the example contained in paragraph (e)(6) of this section and the decedent in this rule to W in that example.

[T.D. 7427, 41 FR 34029, Aug. 12, 1976, as amended by T.D. 7577, 43 FR 59359, Dec. 20, 1978; T.D. 7585, 44 FR 1105, Jan. 4, 1979; T.D. 8016, 50 FR 11855, Mar. 26, 1985; 50 FR 18244, Apr. 30, 1985; T.D. 8996, 67 FR 35012, May 17, 2002; T.D. 9224, 70 FR 52300, Sept. 2, 2005]

§ 1.6654-3 Short taxable years of individuals.

(a) *In general.* The provisions of section 6654, with certain modifications relating to the application of section 6654(d), which are explained in paragraph (b) of this section, are applicable in the case of a short taxable year.

(b) *Rules as to application of section 6654(d).* (1) 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:

(i) Shown on the return for the preceding taxable year (for purposes of section 6654(d)(1)), or

(ii) Based on the personal exemptions and rates for the current taxable year 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 6654(d)(4)),

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.

(2) If 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 annualizing the taxable income for the months in the taxable year preceding

an installment date, for purposes of section 6654(d)(1)(C), the personal exemptions allowed as deductions under section 151 shall be reduced to the same extent that they are reduced under section 443(c) in computing the tax for a short taxable year.

(3) If “the preceding taxable year” referred to in section 6654(d)(4) was a short taxable year, for purposes of determining the applicability of the exception described in section 6654(d)(4), the tax, computed on the basis in the facts shown on the return for the preceding year, 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 or the taxpayer’s status with respect to personal exemptions for the taxable year with respect to which the underpayment occurs differ from such rates or status applicable to the preceding taxable year, the tax determined in accordance with this subparagraph shall be recomputed to reflect the rates and status applicable to the year with respect to which the underpayment occurs.

[T.D. 6500, 25 FR 12149, Nov. 26, 1960, as amended by T.D. 7427, 41 FR 34033, Aug. 12, 1976; T.D. 9224, 70 FR 52301, Sept. 2, 2005]

§ 1.6654-4 Waiver of penalty for underpayment of 1971 estimated tax by an individual.

(a) *In general.* Section 207 of the Revenue Act of 1971 provides that, in the case of individuals, the penalty prescribed by section 6654(a) and § 1.6654-1 for underpayment of estimated tax shall not apply in certain cases to taxable years beginning after December 31, 1970, and ending before January 1, 1972. The penalty shall be waived only if the taxpayer meets one of the gross income requirements contained in paragraph (b) of this section and if the limitation contained in paragraph (c) of this section is not applicable.

(b) *Gross income requirement.* Except as provided in paragraph (c) of this section, the waiver provided in paragraph (a) of this section shall be applicable only:

(1) If the gross income for the taxable year does not exceed \$10,000 in the case of: