

from the last date prescribed for payment of the tax for such year (determined without regard to any extensions of time for filing the return) through the date preceding the date on which the election is made. Where the election under section 4(a) of the Act results in a decrease in tax for any year to which the election applies, interest is computed in accordance with section 6611 of the Code (or corresponding provisions of prior law) from the date of overpayment through the date preceding the date on which the election is made. Where there is a net increase in tax as a result of the election under section 4(a) of the Act, no interest shall be imposed on any underpayment (and no interest shall be paid on any overpayment) attributable to the dealer reserve income adjustment for any year to which the election applies for the period commencing with the date such election is made and ending on the date prescribed for filing the return (determined without regard to extensions of time) for the taxable year in which the election is made. This rule applies regardless of whether the election under section 4(b) of the Act is made. If there is no net increase in tax, interest on any underpayment or overpayment attributable to the dealer reserve income adjustment for any taxable year to which the election applies for the period commencing with the date of the election shall be determined in accordance with §§ 301.6601-1 and 301.6611-1 of this chapter (Regulations on Procedure and Administration).

(b) *Installment period*—(1) *Where payment is not accelerated.* If the election under section 4(b) of the Act is made to pay the net increase in tax in installments, no interest will be imposed on such net increase in tax for the period beginning with the due date fixed under section 4(c) of the Act for the first installment payment and ending with the date fixed under such section for the last installment payment unless payment of the unpaid installments is accelerated under other provisions of the Act. See subsections (f) and (g) of section 4 of the Act.

(2) *Where payment is accelerated.* Where payment of the unpaid installments is accelerated because of the ter-

mination of the installment privilege, interest will be computed under section 6601 of the Code on the entire unpaid net increase in tax for the applicable period set forth below:

(i) In the case of acceleration under section 4(f) of the Act for reasons other than nonpayment of an installment, from the date of the notice and demand for payment of the unpaid tax to the date of payment; or

(ii) In the case of acceleration under section 4(g) of the Act for nonpayment of an installment, from the date fixed for payment of the installment to the date of payment.

When payment is accelerated under section 4(f) of the Act, however, no interest will be charged where payment of the unpaid installments is made within 10 days of issuance of the notice and demand for such payment.

[T.D. 6490, 25 FR 8373, Sept. 1, 1960]

§ 1.9002-6 Acquiring corporation.

Section 5(d) of the Act provides that for purposes of such Act in the case of the acquisition of the assets of a corporation by another corporation in a distribution or transfer described in section 381(a) of the Code the acquiring corporation shall be treated as if it were the distributor or transferor corporation.

[T.D. 6490, 25 FR 8373, Sept. 1, 1960]

§ 1.9002-7 Statute of limitations.

(a) *Extension of period for assessment and refund or credit.* Under section 5(e) of the Act, if an election is made to have the Act apply, and if the assessment of any deficiency, or the refund or credit of any overpayment attributable to the election, for any taxable year to which the Act applies was not prevented on June 21, 1959, by the operation of any law or rule of law (except as provided in paragraph (b) of this section, relating to closing agreements and compromises), but would be so prevented prior to September 1, 1961, the period within which such assessment, or such refund or credit, may be made with respect to such taxable year shall not expire prior to September 1, 1961. An election under either section 3 or 4 of the Act will be considered to be a consent to the extension of the period

of limitation for purposes of assessment for any year to which the Act applies. Thus, for example, if, as the result of an election under section 4(a) of the Act, assessment of a deficiency for the taxable year 1955 was not prevented by the statute of limitations, a judicial decision that had become final, or otherwise, on June 21, 1959, but would (except for section 5(e) of the Act) be prevented on a later date, as for instance September 1, 1959, then for purposes of applying section 4 of the Act, assessment may be made at any time prior to September 1, 1961, with respect to such year if the taxpayer made an election under the Act prior to September 1, 1960. Section 5(e) of the Act will, in no event, operate to shorten the period of limitation otherwise applicable with respect to any taxable year.

(b) *Years closed by closing agreement or compromise.* For purposes of the Act, if the assessment of any deficiency or a refund or credit of any overpayment for any taxable year was not prevented on June 21, 1959, but is prevented on the date of an election under section 3 or 4 of the Act by the operation of the provisions of chapter 74 of the Code (relating to closing agreements and compromises), assessment, refund, or credit will, nevertheless, be considered as being prevented on June 21, 1959.

[T.D. 6490, 25 FR 8373, Sept. 1, 1960]

§ 1.9002-8 Manner of exercising elections.

(a) *By whom election is to be made—(1) In general.* Generally, the taxpayer to whom the Act applies will exercise the elections provided therein. In the case of a partnership or a corporation electing under the provisions of subchapter S, chapter 1 of the Code, the election shall be exercised by the persons specified in subparagraphs (2) and (3) of this paragraph, respectively.

(2) *Partnerships.* In the case of a partnership, the election under section 3 or 4(a) of the Act shall be exercised by the partnership. If an election is made by the partnership under section 4(a) of the Act, any election under section 4(b) of the Act to pay the net increase in tax in installments shall be made by each partner separately. The determination as to whether the net increase in tax resulting from the elec-

tion under section 4(a) of the Act exceeds \$2,500 shall be made with reference to the increase or decrease in the tax of each partner attributable to the adjustment to his distributive share of the partnership income resulting from the election.

(3) *Subchapter S corporations.* In the case of an electing small business corporation under subchapter S, chapter 1 of the Code, the election under section 3 or 4(a) of the Act shall be made by such corporation. An election under section 4(b) of the Act to pay the net increase in tax in installments shall, to the extent the net increase in tax resulting from the election is attributable to adjustments to income for taxable years for which the corporation was not an electing small business corporation, be made by the corporation. The determination as to whether the net increase in tax for such taxable years exceeds \$2,500 shall be made with reference to the increase or decrease in tax of the corporation. Any election under section 4(b) of the Act to pay the net increase in tax in installments shall, to the extent the increase in tax is attributable to years for which the corporation was an electing small business corporation, be made by the shareholders separately. The determination in such a case as to whether the net increase in tax for such taxable years exceeds \$2,500 shall be made with reference to the increases or decreases in the tax of each shareholder attributable to the adjustments to taxable income of the electing small business corporation resulting from the election.

(b) *Time and manner of making elections—(1) In general.* Any election made under the Act shall be made by the taxpayers described in paragraph (a) of this section before September 1, 1960, by filing a statement with the district director with whom such taxpayer's income tax return for the taxable year in which the election is made is required to be filed. A copy of the statement of election shall be attached to and filed with such taxpayer's income tax return for such taxable year.

(2) *Election to have section 481 apply.* An election under section 3 of the Act shall be made in the form of a statement which shall include the following: