

§ 1.6081-5

26 CFR Ch. I (4-1-10 Edition)

file an individual income tax return filed after July 1, 2008.

[T.D. 9407, 73 FR 37366, July 1, 2008]

§ 1.6081-5 Extensions of time in the case of certain partnerships, corporations and U.S. citizens and residents.

(a) An extension of time for filing returns of income and for paying any tax shown on the return is hereby granted to and including the fifteenth day of the sixth month following the close of the taxable year in the case of—

(1) Partnerships which are required under section 6072(a) to file returns on the fifteenth day of the fourth month following the close of the taxable year of the partnership, and which keep their records and books of account outside the United States and Puerto Rico;

(2) Domestic corporations which transact their business and keep their records and books of account outside the United States and Puerto Rico;

(3) Foreign corporations which maintain an office or place of business within the United States;

(4) Domestic corporations whose principal income is from sources within the possessions of the United States;

(5) United States citizens or residents whose tax homes and abodes, in a real and substantial sense, are outside the United States and Puerto Rico; and

(6) United States citizens and residents in military or naval service on duty, including non-permanent or short term duty, outside the United States and Puerto Rico.

(b) In order to qualify for the extension under this section—

(1) A statement must be attached to the return showing that the person for whom the return is made is a person described in paragraph (a) of this section; or

(2) If a person described in paragraph (a) of this section requests additional time to file, the person must request the extension on or before the fifteenth day of the sixth month following the close of the taxable year and check the appropriate box on Form 4868, "Application for Automatic Extension of Time To File a U.S. Individual Income Tax Return," or Form 7004, "Application for Automatic Extension of Time

to File Certain Business Income Tax, Information, and Other Returns," whichever is applicable, or in any other manner prescribed by the Commissioner.

(c) For purposes of paragraph (a)(5) of this section, whether a person is a United States resident will be determined in accordance with section 7701(b) of the Code. The term "tax home," as used in paragraph (a)(5), will have the same meaning which it has for purposes of section 162(a)(2) (relating to travel expenses away from home). If a person does not have a regular or principal place of business, that person's tax home will be considered to be his regular place of abode in a real and substantial sense.

(d) In order to qualify for the extension under paragraph (a)(6), the assigned tour of duty outside the United States and Puerto Rico must be for a period that includes the entire due date of the return.

(e) A person otherwise qualifying for the extension under paragraph (a)(5) or paragraph (a)(6) shall not be disqualified because he is physically present in the United States or Puerto Rico at any time, including the due date of the return.

(f) *Effective/applicability date.* This section is applicable for returns of income due after July 1, 2008.

[T.D. 8312, 55 FR 37227, Sept. 10, 1990; 55 FR 41310, Oct. 10, 1990, as amended by T.D. 9163, 69 FR 70550, Dec. 7, 2004; T.D. 9229, 70 FR 67359, Nov. 7, 2005; T.D. 9407, 73 FR 37366, July 1, 2008]

§ 1.6081-6T Automatic extension of time to file estate or trust income tax return (temporary).

(a) *In general.* (1) Except as provided in paragraph (g) of this section, an estate or trust required to file an income tax return on Form 1041, "U.S. Income Tax Return for Estates and Trusts," will be allowed an automatic 5-month extension of time to file the return after the date prescribed for filing the return if the estate or trust files an application under this section in accordance with paragraph (b) of this section. No additional extension will be allowed pursuant to § 1.6081-1(b) beyond the automatic 5-month extension provided by this section.