

§ 1.6654-2T Exceptions to imposition of the addition to the tax in the case of individuals (temporary).

(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 lesser of the amount in § 1.6654-2(a)(1) or the amount in § 1.6654-2(a)(2).

(1)(i) [Reserved] For further guidance, see § 1.6654-2(a)(1)(i).

(ii) *Special rule for taxable years beginning in 2009.* For any taxable year beginning in 2009, for a qualified individual, the amount described in § 1.6654-2(a)(1)(i) is reduced to 90 percent of that amount.

(A) *Qualified individual* means any individual whose adjusted gross income shown on the individual's return for the preceding taxable year is less than \$500,000 and who certifies, as prescribed in paragraph (a)(1)(ii)(D) of this section, that more than 50 percent of the gross income shown on the return for the preceding taxable year was income from a small business.

(B) *Income from a small business* means income from the operation of a bona fide trade or business of which the individual was an owner during calendar year 2009, and that on average had fewer than 500 employees in calendar year 2008.

(C) The trade or business may be organized as, or take the legal form of, a corporation, partnership, limited liability company, or sole proprietorship.

(D) A qualified individual shall file a certification of the individual's qualification in the manner and at the time prescribed by the Internal Revenue Service in forms, publications, or other guidance.

(a)(2) through (e) [Reserved] For further guidance, see § 1.6654-2(a)(2) through (e).

(f) *Effective/applicability date.* Paragraph (a) of this section applies to any taxable year beginning in 2009.

(g) *Expiration date.* The applicability of paragraph (a) of this section expires on or before February 26, 2013.

[T.D. 9480, 75 FR 9102, Mar. 1, 2010]

§ 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:

(i) A single individual who is neither a head of a household (as defined in section 2(b)) nor a surviving spouse (as defined in section 2(a)), or

(ii) A married individual not entitled under section 6013 to file a joint return for the taxable year, or

(2) If the gross income for the taxable year does not exceed \$20,000 in the case of:

(i) A head of a household (as defined in section 2(b)) or

(ii) A surviving spouse (as defined in section 2(a)), or

(3) If the aggregate gross income for the taxable year does not exceed \$20,000 in the case of a married individual (entitled under section 6013 to file a joint return for the taxable year) and his spouse.

(c) *Limitation.* Notwithstanding any other provision of this section, the waiver provided in paragraph (a) of this

section shall not be applicable if, in the taxable year, the taxpayer has income from sources other than wages (as defined in section 3401(a)) in excess of \$200 (\$400 in the case of a husband and wife entitled to file a joint return for the taxable year under section 6013). Thus, for example, even if the aggregate gross income of a husband and wife (entitled under section 6013 to file a joint return for the taxable year) does not exceed \$20,000, the waiver of the penalty for underpayment of estimated tax shall not apply if the husband and wife have, in the aggregate, income from sources other than wages in excess of \$400.

[T.D. 7282, 38 FR 19028, July 17, 1973]

§ 1.6654-5 Payments of estimated tax.

(a) *In general.* A payment of estimated tax by an individual shall be determined on Form 1040-ES. For the purpose of determining the estimated tax, the amount of gross income which the taxpayer can reasonably expect to receive or accrue, depending upon the method of accounting upon which taxable income is computed, and the amount of the estimated allowable deductions and credits to be taken into account in computing the amount of estimated tax, shall be determined upon the basis of the facts and circumstances existing at the time prescribed for determining the estimated tax, as well as those reasonably to be anticipated for the taxable year. If, therefore, the taxpayer is employed at the date prescribed for making an estimated tax payment at a given wage or salary, the taxpayer should presume, in the absence of circumstances indicating the contrary, for the purpose of the estimated tax payment that such employment will continue to the end of the taxable year at the wage or salary received by the taxpayer as of such date. In the case of income other than wages and salary, the regularity in the payment of income, such as dividends, interest, rents, royalties, and income arising from estates and trusts is a factor to be taken into consideration. Thus, if the taxpayer owns shares of stock in a corporation, and dividends have been paid regularly for several years upon the stock, the taxpayer should, in the absence of information