

prohibited by paragraph (c)(1) of this section from collecting by levy or a proceeding in court and for 60 days thereafter. However, if the requesting spouse signs a waiver of the restrictions on collection in accordance with paragraph (c)(2) of this section, the suspension of the period of limitations in section 6502 on collection against the requesting spouse will terminate on the date that is 60 days after the date the waiver is filed with the Internal Revenue Service.

(ii) *Relief under § 1.6015-4.* If a requesting spouse seeks only equitable relief under § 1.6015-4, the restrictions on collection of paragraph (c)(1) of this section do not apply. Accordingly, the request for relief does not suspend the running of the period of limitations on collection.

(4) *Definitions*—(i) *Levy.* For purposes of this paragraph (c), levy means an administrative levy or seizure described by section 6331.

(ii) *Proceedings in court.* For purposes of this paragraph (c), proceedings in court means suits filed by the United States for the collection of Federal tax. Proceedings in court does not refer to the filing of pleadings and claims and other participation by the Internal Revenue Service or the United States in suits not filed by the United States, including Tax Court cases, refund suits, and bankruptcy cases.

(iii) *Assessment to which the election relates.* For purposes of this paragraph (c), the assessment to which the election relates is the entire assessment of the deficiency to which the election relates, even if the election is made with respect to only part of that deficiency.

[T.D. 9003, 67 FR 47285, July 18, 2002]

§ 1.6015-8 Applicable liabilities.

(a) *In general.* Section 6015 applies to liabilities that arise after July 22, 1998, and to liabilities that arose prior to July 22, 1998, that were not paid on or before July 22, 1998.

(b) *Liabilities paid on or before July 22, 1998.* A requesting spouse seeking relief from joint and several liability for amounts paid on or before July 22, 1998, must request relief under section 6013(e) and the regulations thereunder.

(c) *Examples.* The following examples illustrate the rules of this section:

Example 1. H and W file a joint Federal income tax return for 1995 on April 15, 1996. There is an understatement on the return attributable to an omission of H's wage income. On October 15, 1998, H and W receive a 30-day letter proposing a deficiency on the 1995 joint return. W pays the outstanding liability in full on November 30, 1998. In March 1999, W files Form 8857, requesting relief from joint and several liability under section 6015(b). Although W's liability arose prior to July 22, 1998, it was unpaid as of that date. Therefore, section 6015 is applicable.

Example 2. H and W file their 1995 joint Federal income tax return on April 15, 1996. On October 14, 1997, a deficiency of \$5,000 is assessed regarding a disallowed business expense deduction attributable to H. On June 30, 1998, the Internal Revenue Service levies on the \$3,000 in W's bank account in partial satisfaction of the outstanding liability. On August 31, 1998, W files a request for relief from joint and several liability. The liability arose prior to July 22, 1998. Section 6015 is applicable to the \$2,000 that remained unpaid as of July 22, 1998, and section 6013(e) is applicable to the \$3,000 that was paid prior to July 22, 1998.

[T.D. 9003, 67 FR 47285, July 18, 2002]

§ 1.6015-9 Effective date.

Sections 1.6015-0 through 1.6015-9 are applicable for all elections under § 1.6015-2 or 1.6015-3 or any requests for relief under § 1.6015-4 filed on or after July 18, 2002.

[T.D. 9003, 67 FR 47285, July 18, 2002]

§ 1.6016-1 Declarations of estimated income tax by corporations.

(a) *Requirement.* For taxable years ending on or after December 31, 1955, a declaration of estimated tax shall be made by every corporation (including unincorporated business enterprises electing to be taxed as domestic corporations under section 1361), which is subject to taxation under section 11 or 1201(a), or subchapter L, chapter 1 of the Code (relating to insurance companies), if its income tax under such sections or such subchapter L for the taxable year can reasonably be expected to exceed the sum of \$100,000 plus the amount of any estimated credits allowable under section 32 (relating to tax withheld at source on nonresident aliens and foreign corporations and on tax-free covenant bonds), section 33 (relating to taxes of foreign countries and possessions of the United States), and

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section 38 (relating to investment in certain depreciable property).

(b) *Definition of estimated tax.* The term “estimated tax”, in the case of a corporation, means the excess of the amount which such corporation estimates as its income tax liability for the taxable year under section 11 or 1201(a), or subchapter L, chapter 1 of the Code, over the sum of \$100,000 and any estimated credits under sections 32, 33, and 38. However, for the rule with respect to the limitation upon the \$100,000 exemption for members of certain electing affiliated groups, see section 243(b)(3)(C)(v) and the regulations thereunder.

(c) *Examples.* The application of this section may be illustrated by the following examples:

Example 1. M, a corporation subject to tax under section 11, reasonably anticipates that it will have taxable income of \$224,000 for the calendar year 1964. The normal tax and surtax result in an expected liability of \$105,000. M determines that it will not have any allowable credits under sections 32, 33, and 38 for 1964. Since M's expected tax (\$105,000) exceeds the exemption (\$100,000), a declaration of estimated tax is required to be filed, reporting an estimated tax of \$5,000 (\$105,000 – \$100,000) for the calendar year 1964.

Example 2. Under the facts stated in example (1), except that M estimates it will have an allowable foreign tax credit under section 33 in the amount of \$4,000 and an allowable investment credit under section 38 in the amount of \$3,000, no declaration is required, since M's expected tax (\$105,000) does not exceed the \$100,000 plus the allowable credits totaling \$7,000.

[T.D. 6768, 29 FR 14921, Nov. 4, 1964]

§ 1.6016-2 Contents of declaration of estimated tax.

(a) *In general.* The declaration of estimated tax by a corporation shall be made on Form 1120-ES. For the purpose of making the declaration, the estimated tax should be based upon the amount of gross income which the taxpayer can reasonably be expected to receive or accrue as the case may be, depending upon the method of accounting upon the basis of which the taxable income is computed, and the amount of the estimated allowable deductions and credits to be taken into account. Such amounts of gross income, deductions, and credits should be determined upon the basis of facts and circumstances ex-

isting as at the time prescribed for the filing of the declaration as well as those reasonably to be anticipated for the taxable year.

(b) *Use of prescribed form.* Copies of Form 1120-ES will so far as possible be furnished taxpayers by district directors. A taxpayer will not be excused from making a declaration, however, by the fact that no form has been furnished. Taxpayers not supplied with the proper form should make application therefor to the district director in ample time to have their declarations prepared, verified, and filed with the district director on or before the date prescribed for filing the declaration. If the prescribed form is not available a statement disclosing the estimated income tax after the exemption and the credits, if any, should be filed as a tentative declaration within the prescribed time, accompanied by the payment of the required installment. Such tentative declaration should be supplemented, without unnecessary delay, by a declaration made on the proper form.

§ 1.6016-3 Amendment of declaration.

In the making of a declaration of estimated tax the corporation is required to take into account the then existing facts and circumstances as well as those reasonably to be anticipated relating to prospective gross income, allowable deductions, and estimated credits for the taxable year. Amended or revised declarations may be made in any case in which the corporation estimates that its gross income, deductions, or credits will materially change the estimated tax reported in the previous declaration. However, for the rule with respect to the number of amended declarations which may be filed for taxable years beginning after December 31, 1963, see paragraph (d)(2) of § 1.6074-1. Such amended declaration may be made on either Form 1120-ES (marked “Amended”) or on the reverse side of the installment notice furnished the corporation by the district director. See, however, paragraph (b) of § 1.6016-2 for procedure to be followed if the prescribed form is not available.

[T.D. 6768, 29 FR 14922, Nov. 4, 1964]