

underpayment, to the extent such underpayment was created or increased by any provision of Pub. L. 99-514, see section 1543 of Pub. L. 99-514, set out as a note under section 6654 of this title.

WAIVER OF ESTIMATED TAX PENALTIES

Pub. L. 99-514, title XVIII, § 1879(a), Oct. 22, 1986, 100 Stat. 2905, provided that: "No addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1954 [now 1986] (relating to failure to pay estimated income tax) for any period before April 16, 1985 (March 16, 1985 in the case of a taxpayer subject to section 6655 of such Code), with respect to any underpayment, to the extent that such underpayment was created or increased by any provision of the Tax Reform Act of 1984 [Pub. L. 98-369, div. A]."

UNDERPAYMENTS OF ESTIMATED TAX FOR 1984

Pub. L. 98-369, div. A, title II, subtitle A, § 218, July 18, 1984, 98 Stat. 766, which provided that no addition to the tax shall be made under section 6655 of this title with respect to any underpayment of an installment required to be paid before July 18, 1984, to the extent such underpayment was created or increased by any provision of this subtitle, and such underpayment was paid in full on or before the last date prescribed for payment of the first installment of estimated tax required to be paid after July 18, 1984, was repealed by Pub. L. 99-514, title XVIII, § 1824, Oct. 22, 1986, 100 Stat. 2846.

WAIVER OF PENALTY FOR UNDERPAYMENT OF ESTIMATED TAX

Pub. L. 94-455, title VIII, § 803(g), Oct. 4, 1976, 90 Stat. 1589, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: "If—

"(1) a corporation made underpayments of estimated tax for a taxable year of the corporation which includes August 1, 1975, because the corporation intended to elect to have the provisions of subparagraph (B) of section 46(a)(1) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as it existed before the date of enactment of this Act [Oct. 4, 1976]) apply for such taxable year, and

"(2) the corporation does not elect to have the provisions of such subparagraph apply for such taxable year because this Act does not contain the amendments made by section 804(a)(2) (relating to flow-through of investment credit), or the provisions of subsection (f) of such section (relating to grace period for certain plan transfers), of the bill H.R. 10612 (94th Congress, 2d Session), as amended by the Senate,

then the provisions of section 6655 of such Code (relating to failure by corporation to pay estimated income tax) shall not apply to so much of any such underpayment as the corporation can establish, to the satisfaction of the Secretary of the Treasury, is properly attributable to the inapplicability of such subparagraph (B) for such taxable year."

DECLARATION OF ESTIMATED TAX

With respect to taxable years beginning before Dec. 30, 1969, if a taxpayer is required to make a declaration, or to pay any amount of estimated tax by reason of amendments made by Pub. L. 91-172, such amount shall be paid ratably on each of the remaining installment dates for the taxable year beginning with the first installment date on or after Dec. 30, 1969; as to any declaration or payment of estimated tax before the first installment date, this section, and sections 6015, 6154, and 6654 of this title shall be applied without regard to amendments made by Pub. L. 91-172, see section 946(b) of Pub. L. 91-172, set out as a note under section 6153 of this title.

TAX SURCHARGE EXTENSION; DECLARATIONS OF ESTIMATED TAX

Requirement of making a declaration or amended declaration of estimated tax or of payment of any amount or additional amount of estimated tax by rea-

son of amendment of sections 51(a)(1)(A), (B), (2)(A) and 963(b) of this title as calling for payment of such amount or additional amount ratably on or before each of remaining installment dates for taxable year beginning with installment date on or after the 30th day after Aug. 7, 1969; application of this section without regard to such amendment with respect to any declaration or payment of estimated tax before such first installment date; and definition of "installment date", see Pub. L. 93-53, § 5(c), Aug. 7, 1969, 83 Stat. 95.

ESTIMATED TAX OF LIFE INSURANCE COMPANIES FOR 1958

Pub. L. 86-69, June 25, 1959, § 3(h), 73 Stat. 140, provided that in the case of a taxpayer subject to tax under section 811 of this title, as in effect before June 25, 1959, no additional tax was to be payable under this section with respect to estimated tax for a taxable year beginning in 1958.

§ 6656. Failure to make deposit of taxes

(a) Underpayment of deposits

In the case of any failure by any person to deposit (as required by this title or by regulations of the Secretary under this title) on the date prescribed therefor any amount of tax imposed by this title in such government depository as is authorized under section 6302(c) to receive such deposit, unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be imposed upon such person a penalty equal to the applicable percentage of the amount of the underpayment.

(b) Definitions

For purposes of subsection (a)—

(1) Applicable percentage

(A) In general

Except as provided in subparagraph (B), the term "applicable percentage" means—

- (i) 2 percent if the failure is for not more than 5 days,
- (ii) 5 percent if the failure is for more than 5 days but not more than 15 days, and
- (iii) 10 percent if the failure is for more than 15 days.

(B) Special rule

In any case where the tax is not deposited on or before the earlier of—

- (i) the day 10 days after the date of the first delinquency notice to the taxpayer under section 6303, or
- (ii) the day on which notice and demand for immediate payment is given under section 6861 or 6862 or the last sentence of section 6331(a),

the applicable percentage shall be 15 percent.

(2) Underpayment

The term "underpayment" means the excess of the amount of the tax required to be deposited over the amount, if any, thereof deposited on or before the date prescribed therefor.

(c) Exception for first-time depositors of employment taxes

The Secretary may waive the penalty imposed by subsection (a) on a person's inadvertent failure to deposit any employment tax if—

- (1) such person meets the requirements referred to in section 7430(c)(4)(A)(ii),

(2) such failure—

(A) occurs during the first quarter that such person was required to deposit any employment tax; or

(B) if such person is required to change the frequency of deposits of any employment tax, relates to the first deposit to which such change applies, and

(3) the return of such tax was filed on or before the due date.

For purposes of this subsection, the term “employment taxes” means the taxes imposed by subtitle C.

(d) Authority to abate penalty where deposit sent to Secretary

The Secretary may abate the penalty imposed by subsection (a) with respect to the first time a depositor is required to make a deposit if the amount required to be deposited is inadvertently sent to the Secretary instead of to the appropriate government depository.

(e) Designation of periods to which deposits apply

(1) In general

A deposit made under this section shall be applied to the most recent period or periods within the specified tax period to which the deposit relates, unless the person making such deposit designates a different period or periods to which such deposit is to be applied.

(2) Time for making designation

A person may make a designation under paragraph (1) only during the 90-day period beginning on the date of a notice that a penalty under subsection (a) has been imposed for the specified tax period to which the deposit relates.

(Aug. 16, 1954, ch. 736, 68A Stat. 826; Pub. L. 91-172, title IX, §943(b), Dec. 30, 1969, 83 Stat. 728; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97-34, title VII, §724(a), (b)(1), (3), Aug. 13, 1981, 95 Stat. 344, 345; Pub. L. 99-509, title VIII, §8001(a), Oct. 21, 1986, 100 Stat. 1951; Pub. L. 101-239, title VII, §7742(a), Dec. 19, 1989, 103 Stat. 2405; Pub. L. 104-168, title III, §304(a), title VII, §701(c)(3), July 30, 1996, 110 Stat. 1458, 1464; Pub. L. 105-206, title III, §3304(a)-(c), July 22, 1998, 112 Stat. 742.)

AMENDMENTS

1998—Subsec. (c)(2). Pub. L. 105-206, §3304(b)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “such failure occurs during the 1st quarter that such person was required to deposit any employment tax, and”.

Subsec. (e). Pub. L. 105-206, §3304(a), added subsec. (e).

Subsec. (e)(1). Pub. L. 105-206, §3304(c), reenacted heading without change and amended text of par. (1) generally. Prior to amendment, text read as follows: “A person may, with respect to any deposit of tax to be reported on such person’s return for a specified tax period, designate the period or periods within such specified tax period to which the deposit is to be applied for purposes of this section.”

1996—Subsec. (c). Pub. L. 104-168, §304(a), added subsec. (c).

Subsec. (c)(1). Pub. L. 104-168, §701(c)(3), substituted “section 7430(c)(4)(A)(ii)” for “section 7430(c)(4)(A)(iii)”.

Subsec. (d). Pub. L. 104-168, §304(a), added subsec. (d).

1989—Pub. L. 101-239 substituted “taxes” for “taxes or overstatement of deposits” as section catchline and amended text generally, revising substance and structure.

1986—Subsec. (a). Pub. L. 99-509 substituted “10 percent” for “5 percent”.

1981—Pub. L. 97-34, §724(b)(1), inserted “or overstatement of deposits” after “taxes” in section catchline.

Subsec. (a). Pub. L. 97-34, §724(b)(3), substituted “Underpayment of deposits” for “Penalty” in heading.

Subsec. (b). Pub. L. 97-34, §724(a), substituted provisions relating to conditions for imposition of penalties for overstated deposit claims and definition of “overstated deposit claim”, for provisions relating to imposition of penalties after due date for return.

1976—Subsec. (a). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

1969—Subsec. (a). Pub. L. 91-172 substituted provisions imposing a penalty of five percent for the failure to deposit on the date prescribed any amount of tax imposed by this title, for provisions imposing a penalty of one percent of the amount of underpayment each month but not to exceed six percent in the aggregate.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title III, §3304(d), July 22, 1998, 112 Stat. 742, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section] shall apply to deposits required to be made after the 180th day after the date of the enactment of this Act [July 22, 1998].

“(2) APPLICATION TO CURRENT LIABILITIES.—The amendment made by subsection (c) [amending this section] shall apply to deposits required to be made after December 31, 2001.”

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-168, title III, §304(b), July 30, 1996, 110 Stat. 1459, provided that: “The amendment made by subsection (a) [amending this section] shall apply to deposits required to be made after the date of the enactment of this Act [July 30, 1996].”

Amendment by section 701(c)(3) of Pub. L. 104-168 applicable in case of proceedings commenced after July 30, 1996, see section 701(d) of Pub. L. 104-168, set out as a note under section 6404 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title VII, §7742(c), Dec. 19, 1989, 103 Stat. 2405, provided that: “The amendments made by this section [amending this section] shall apply to deposits required to be made after December 31, 1989.”

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-509, title VIII, §8001(b), Oct. 21, 1986, 100 Stat. 1951, provided that: “The amendment made by subsection (a) [amending this section] shall apply to penalties assessed after the date of the enactment of this Act [Oct. 21, 1986].”

EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-34, title VII, §724(c), Aug. 13, 1981, 95 Stat. 345, provided that: “The amendments made by this section [amending this section and sections 5684 and 5761 of this title] shall apply to returns filed after the date of the enactment of this Act [Aug. 13, 1981].”

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 applicable with respect to deposits the time for making of which is after Dec. 31, 1969, see section 943(d) of Pub. L. 91-172, set out as a note under section 6651 of this title.

§ 6657. Bad checks

If any instrument in payment, by any commercially acceptable means, of any amount receivable under this title is not duly paid, in ad-