Section 6654.—Failure by Individual to Pay Estimated Income Tax

26 CFR 1.6654–2:Exceptions to imposition of the addition to the tax in the case of individuals.

Estimated tax penalty safe harbor. This ruling addresses the application of section 6654(d)(1)(B)(ii) of the Code where an individual filed a late original return for the preceding year.

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PURPOSE

This revenue ruling provides guidance on whether the Internal Revenue Service will impose an addition to tax for the underpayment of estimated tax under section 6654(a) of the Internal Revenue Code as to an individual whose timely estimated tax payments for the current taxable year meet the requirement of section 6654(d)(1)(B)(ii) based on tax shown on a late-filed return for the preceding taxable year.

LAW AND ANALYSIS

Section 6654(a) provides for an addition to tax for the taxable year if there is an underpayment of estimated tax by an individual.

Section 6654(b)(1) provides that the amount of the underpayment shall be the excess of the required installment over the amount of the installment paid on or before the due date for the installment.

Section 6654(c)(1) provides that there shall be four required installments for each taxable year.

Section 6654(d)(1)(A) provides generally that the amount of any required installment shall be 25 percent of the required annual payment. Section 6654(d)(1)(B) provides that the term "required annual payment" means the lesser of (i) 90 percent of tax shown on the return for the taxable year (or, if no return is filed, 90 percent of tax for such year), or (ii) 100 percent of tax shown on the return of the individual for the preceding taxable year. If the adjusted gross income shown on the return of the individual for the preceding taxable year exceeds $150,000, the required annual payment is 110 percent of tax shown on such return. *See* section 6654(d)(1)(C). If the preceding taxable year was not a taxable year of 12 months or if the individual did not file a return for such preceding taxable year, the required annual payment is 90 percent of tax shown on the return for the current taxable year. *See* section 6654(d)(1)(B).

Section 1.6654–2(a) of the Income Tax Regulations provides that the addition to 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 least of the amounts in § 1.6654–2(a).

Section 1.6654–2(a)(1) echoes section 6654(d)(1)(B)(ii) and describes the amount that is required to be paid on or before the date prescribed for payment if the required annual installment is based on tax shown on the return for the preceding taxable year, provided that the preceding taxable year was a year of 12 months and a return showing a liability for tax was filed for such year.

The only nonmonetary limitations on the application of section 6654(d)(1)(B)(ii) are the two stated above. Neither the Code nor the regulations require that the individual have filed the preceding taxable year's return by the due date. Similarly, neither the Code nor the regulations provide that section 6654(d)(1)(B)(ii) will not apply if the individual filed the return for the preceding taxable year after the due date.

HOLDING

Accordingly, when an individual files a late return for the preceding taxable year and pays as required the installments properly predicated on tax shown on that return, the Service will not impose the addition to tax under section 6654(a) for the underpayment of estimated tax for the current taxable year.

EFFECT ON OTHER REVENUE RULING(S)

None.

DRAFTING INFORMATION

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