

year because this Act does not contain the amendments made by section 804(a)(2) (relating to flowthrough 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 reason 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.)

### Editorial Notes

#### 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.

### Statutory Notes and Related Subsidiaries

#### 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 addition to any other penalties provided by law, there shall be paid as a penalty by the person who tendered such instrument, upon notice and demand by the Secretary, in the same manner as tax, an amount equal to 2 percent of the amount of such instrument, except that if the amount of such instrument is less than \$1,250, the penalty under this section shall be \$25 or the amount of such instrument, whichever is the lesser. This section shall not apply if the person tendered such instrument in good faith and with reasonable cause to believe that it would be duly paid.

(Aug. 16, 1954, ch. 736, 68A Stat. 826; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 100-647, title V, §5071(a), Nov. 10, 1988, 102 Stat. 3681; Pub. L. 110-28, title VIII, §8245(a), May 25, 2007, 121 Stat. 200; Pub. L. 111-198, §3(a), July 2, 2010, 124 Stat. 1356.)

### Editorial Notes

#### AMENDMENTS

2010—Pub. L. 111-198, §3(a)(2), substituted “such instrument” for “such check” wherever appearing.

Pub. L. 111-198, §3(a)(1), substituted “If any instrument in payment, by any commercially acceptable means, of any amount” for “If any check or money order in payment of any amount”.

2007—Pub. L. 110-28 substituted “\$1,250” for “\$750” and “\$25” for “\$15”.

1988—Pub. L. 100-647 substituted “2” for “1”, “\$750” for “\$500”, and “\$15” for “\$5”.

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