

Part III – Administrative, Procedural, and Miscellaneous

Relief from Certain Additions to Tax for Corporation's Underpayment of Estimated Income Tax under Section 6655

Notice 2023-42

SECTION 1. OVERVIEW

This notice provides relief from the addition to tax under § 6655 of the Internal Revenue Code (Code)¹ in connection with the application of the new corporate alternative minimum tax (CAMT), as added to the Code by the enactment of § 10101 of Public Law 117-169, 136 Stat. 1818 (August 16, 2022), commonly referred to as the Inflation Reduction Act of 2022 (IRA).

SECTION 2. BACKGROUND

.01 CAMT under the IRA. Section 10101 of the IRA amended § 55 to impose the new CAMT based on the “adjusted financial statement income” (AFSI) of an applicable corporation for taxable years beginning after December 31, 2022.

Pursuant to § 59(k)(1), in general, a corporation is an applicable corporation subject to the CAMT for a taxable year if it meets the average annual AFSI test for one or more taxable years that (i) are before that taxable year and (ii) end after December 31, 2021 (Applicable Corporation). Section 55(a) provides that, for the taxable year of an Applicable Corporation, the amount of CAMT imposed by § 55 equals the excess (if any) of (i) the tentative minimum tax for the taxable year, over (ii) the sum

¹ Unless otherwise specified, all “section” or “§” references are to sections of the Code.

of the regular tax, as defined in section § 55(c), for the taxable year plus the tax imposed under § 59A. Section 55(b)(2)(A) provides that, in the case of an Applicable Corporation, the tentative minimum tax for the taxable year is the excess of (i) 15 percent of AFSI for the taxable year (as determined under § 56A), over (ii) the CAMT foreign tax credit for the taxable year (as determined under § 59(l)). In the case of any corporation that is not an Applicable Corporation, § 55(b)(2)(B) provides that the tentative minimum tax for the taxable year is zero. See section 2.01 of Notice 2023-7, 2023-7 I.R.B. 390, for a general description of the CAMT. Notice 2023-7 announced that the Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) intend to issue forthcoming proposed regulations addressing the application of the CAMT and provided interim guidance that taxpayers may rely on until the issuance of the forthcoming proposed regulations. Notice 2023-20, 2023-10 I.R.B. 523, provided additional interim guidance that is intended to clarify further the application of the CAMT.

.02 Estimated taxes. Section 6655(c) and (d)(1)(A) generally provide that, in the case of a corporation, estimated income tax is required to be paid in four installments and the amount of any required installment is 25 percent of the required annual payment. Generally, under § 6655(d)(1)(B), the required annual payment is the lesser of two amounts described in § 6655(d)(1)(B)(i) and (ii). The amount described in § 6655(d)(1)(B)(i) is 100 percent of the tax shown on the return for the taxable year. The amount described in § 6655(d)(1)(B)(ii) is 100 percent of the tax shown on the taxpayer's return for the preceding taxable year, so long as the preceding taxable year was a full twelve months long and the return for such year showed a liability for

tax. However, pursuant to § 6655(d)(2), in the case of a large corporation (as defined under § 6655(g)(2)), the amount described in § 6655(d)(1)(B)(ii) may be applied only for purposes of determining the first installment payment, while the amount described in § 6655(d)(1)(B)(i) must be applied for purposes of determining the required annual payment. Under § 6655(e), the amount of the required installment is the annualized income installment or adjusted seasonal installment for those taxpayers who establish that such amount is lower than 25 percent of the required annual payment determined under § 6655(d). Section 6655(a) imposes an addition to tax for failure to make a sufficient and timely payment of estimated income tax.

SECTION 3. ESTIMATED TAXES

.01 Waiver of addition to tax. In light of challenges associated with determining whether a corporation is an Applicable Corporation and the amount of a corporation's CAMT liability under § 55 for a taxable year that begins after December 31, 2022, and before January 1, 2024 (Covered CAMT Year), and in the interest of sound tax administration, the IRS will waive the addition to tax under § 6655 with respect to a corporation's CAMT liability under § 55 for any Covered CAMT Year. Accordingly, for a corporation's Covered CAMT Year, the corporation's required installments of estimated tax need not include amounts attributable to its CAMT liability under § 55 to prevent the imposition of an addition to tax under § 6655. If a corporation fails to timely pay its CAMT liability under § 55 when due, other sections of the Code may apply; for example, additions to tax could be imposed under § 6651 if payment of the CAMT liability is not made by the due date (without regard to any extension) of the corporation's return.

.02 Instructions to be modified. The instructions to Form 2220, *Underpayment of Estimated Tax by Corporations*, will be modified, as necessary, to clarify that no addition to tax will be imposed under § 6655 based on a corporation's failure to make estimated tax payments of its CAMT liability under § 55 for any Covered CAMT Year, and that a taxpayer may exclude such amounts when calculating the amount of its required annual payment on Form 2220. If necessary, the modified instructions will be posted on <https://www.irs.gov>.

.03 Instructions to avoid penalty notice. Affected taxpayers must still file Form 2220 with their Federal income tax return, even if they owe no estimated tax penalty. The Form 2220 must be completed without including the CAMT liability from Schedule J of Form 1120, *U.S. Corporation Income Tax Return* (or other appropriate line of the corporation's income tax return in the Form 1120 series). Affected taxpayers must also include an amount of estimated tax penalty on Line 34 of their Form 1120 (or other appropriate line of the corporation's income tax return in the Form 1120 series), even if that amount is zero. Failure to follow these instructions could result in affected taxpayers receiving a penalty notice that will require an abatement request to apply the relief provided by this notice.

SECTION 4. APPLICABILITY DATES

The waiver of the addition to tax imposed by § 6655 described in section 3.01 of this notice applies for any Covered CAMT Year.

SECTION 5. DRAFTING AND CONTACT INFORMATION

The principal author of this notice is David Bergman of the Office of the Associate Chief Counsel (Procedure and Administration). Other personnel from the Treasury

Department and the IRS participated in its development. For further information, please contact David Bergman at (202) 317-6845 (not a toll-free number).