§ 1.451-2 Constructive receipt of income.

(a) General rule. Income although not actually reduced to a taxpayer's possession is constructively received by him in the taxable year during which it is credited to his account, set apart for him, or otherwise made available so that he may draw upon it at any time, or so that he could have drawn upon it during the taxable year if notice of intention to withdraw had been given. However, income is not constructively received if the taxpayer's control of its receipt is subject to substantial limitations or restrictions. Thus, if a corporation credits its employees with bonus stock, but the stock is not available to such employees until some future date, the mere crediting on the books of the corporation does not constitute receipt. In the case of interest, dividends, or other earnings (whether or not credited) payable in respect of any deposit or account in a bank, building and loan association, savings

(b) Special rule in case of death. (1) A taxpayer's taxable year ends on the date of his death. See section 443(a)(2) and paragraph (a)(2) of § 1.443-1. In computing taxable income for such year, there shall be included only amounts properly includible under the method of accounting used by the taxpayer. However, if the taxpayer used an accrual method of accounting, amounts accrued only by reason of his death shall not be included in computing taxable income for such year. If the taxpayer uses no regular accounting method, only amounts actually or constructively received during such year shall be included. (For rules relating to the inclusion of partnership income in the return of a decedent partner, see subchapter K, chapter 1 of the Code, and the regulations thereunder.)

(2) If the decedent owned an installment obligation the income from which was taxable to him under section 453, no income is required to be reported in the return of the decedent by reason of the transmission at death of such obligation. See section 453(d)(3). For the treatment of installment obligations acquired by the decedent's estate or by any person by bequest, devise, or inheritance from the decedent, see section 691(a)(4) and the regulations thereunder.

(c) Special rule for employee tips. Tips reported by an employee to his employer in a written statement furnished to the employer pursuant to section 6053(a) shall be included in gross income of the employee for the taxable year in which the written statement is furnished to the employer. For provisions relating to the reporting of tips by an employee to his employer, see section 6053 and § 31.6053-1 of this chapter (Employment Tax Regulations).

(d) Special rule for ratable inclusion of original issue discount. For ratable inclusion of original issue discount in respect of certain corporate obligations issued after May 27, 1969, see section 1232(a)(3).

(e) Special rule for inclusion of qualified tax refund effected by allocation. For rules relating to the inclusion in income of an amount paid by a taxpayer in respect of his liability for a qualified State individual income tax and allocated or reallocated in such a manner as to apply it toward the taxpayer's liability for the Federal income tax, see paragraph (f)(1) of § 301.6361-1 of this chapter (Regulations on Procedure and Administration).

(f) Timing of income from notional principal contracts. For the timing of income with respect to notional principal contracts, see § 1.446-3.
and loan association, or similar institution, the following are not substantial limitations or restrictions on the taxpayer's control over the receipt of such earnings:

(1) A requirement that the deposit or account, and the earnings thereon, must be withdrawn in multiples of even amounts;

(2) The fact that the taxpayer would, by withdrawing the earnings during the taxable year, receive earnings that are not substantially less in comparison with the earnings for the corresponding period to which the taxpayer would be entitled had he left the account on deposit until a later date (for example, if an amount equal to three months' interest must be forfeited upon withdrawal or redemption before maturity of a one year or less certificate of deposit, time deposit, bonus plan, or other deposit arrangement then the earnings payable on premature withdrawal or redemption would be substantially less when compared with the earnings available at maturity);

(3) A requirement that the earnings may be withdrawn only upon a withdrawal of all or part of the deposit or account. However, the mere fact that such institutions may pay earnings on withdrawals, total or partial, made during the last three business days of any calendar month ending a regular quarterly or semiannual earnings period at the applicable rate calculated to the end of such calendar month shall not constitute constructive receipt of income by any depositor or account holder in any such institution who has not made a withdrawal during such period;

(4) A requirement that a notice of intention to withdraw must be given in advance of the withdrawal. In any case when the rate of earnings payable in respect of such a deposit or account depends on the amount of notice of intention to withdraw that is given, earnings at the maximum rate are constructively received during the taxable year regardless of how long the deposit or account was held during the year or whether, in fact, any notice of intention to withdraw is given during the year. However, if in the taxable year of withdrawal the depositor or account holder receives a lower rate of earnings because he failed to give the required notice of intention to withdraw, he shall be allowed an ordinary loss in such taxable year in an amount equal to the difference between the amount of earnings previously included in gross income and the amount of earnings actually received. See section 165 and the regulations thereunder.

(b) Examples of constructive receipt. Amounts payable with respect to interest coupons which have matured and are payable but which have not been cashed are constructively received in the taxable year during which the coupons mature, unless it can be shown that there are no funds available for payment of the interest during such year. Dividends on corporate stock are constructively received when unqualifiedly made subject to the demand of the shareholder. However, if a dividend is declared payable on December 31 and the corporation followed its usual practice of paying the dividends by checks mailed so that the shareholders would not receive them until January of the following year, such dividends are not considered to have been constructively received in December. Generally, the amount of dividends or interest credited on savings bank deposits or to shareholders of organizations such as building and loan associations or cooperative banks is income to the depositors or shareholders for the taxable year when credited. However, if any portion of such dividends or interest is not subject to withdrawal at the time credited, such portion is not constructively received and does not constitute income to the depositor or shareholder until the taxable year in which the portion first may be withdrawn. Accordingly, if, under a bonus or forfeiture plan, a portion of the dividends or interest is accumulated and may not be withdrawn until the maturity of the plan, the crediting of such portion to the account of the shareholder or depositor does not constitute constructive receipt. In this case, such credited portion is income to the depositor or shareholder in the year in which the plan matures. However, in the case of certain deposits made after December 31, 1970, in banks, domestic building and loan associations, and
similar financial institutions, the rat-
able inclusion rules of section 1232(a)(3)
apply. See § 1.1232-3A. Accrued interest
on unwithdrawn insurance policy divi-
dends is gross income to the taxpayer
for the first taxable year during which
such interest may be withdrawn by
him.

[T.D. 6723, 29 FR 5342, Apr. 21, 1964; as amend-
T.D. 7663, 44 FR 76782, Dec. 28, 1979]

§ 1.451-3 Long-term contracts.  
(a) Introduction and effective date—(1) In general. Income from a long-term
contract (as defined in paragraph (b)(1)
of this section) may be included in
gross income in accordance with one of
the two long-term contract methods,
namely, the percentage of completion
method (as described in paragraph (c)
of this section) or the completed con-
tract method (as described in para-
graph (d) of this section), or any other
method. Whichever method is chosen
must, in the opinion of the Commis-
sioner, clearly reflect income. See
§ 1.446-1(a)(2) and (c). In addition, it
must be applied consistently to all
long-term contracts within the same
trade or business except that a tax-
payer who has long-term contracts of
substantial duration and long-term
contracts of less than substantial dura-
tion in the same trade or business may
report the income from the contracts
of less than substantial duration pursu-
ant to another proper method of ac-
counting. For example, if a manufac-
turer of heavy machinery has special-
order contracts of a type that gen-
erally take 15 months to complete and
also has contracts of a type that gen-

eral 3 months to complete, the manufac-
turer may use a long-term contract method for the 15-month con-
tracts and a proper inventory method pursuant to section 471 and the regula-
tions thereunder for the 3-month con-
tracts. Similarly, if a construction con-
tractor has construction contracts of a
type that generally take 15 calendar
months to complete and other con-
struction contracts that take only 5
months to complete but that are long-
term contracts because they are not
completed in the taxable years in
which they are entered into (pursuant
to paragraph (b)(1)(i) of this section),
such contractor may either use a long-
term contract method for all the con-
tracts of both types or use a long-term
contract method for the 15-month con-
tracts and another proper method of
accounting for the 5-month contracts.

If a taxpayer distinguishes between
contracts of substantial duration and
other long-term contracts of less than
substantial duration, he must adhere
to a consistently applied standard for
determining substantial duration.

(2) Reporting requirement. When a tax-
payer reports income under the per-
centage of completion method or the
completed contract method, a state-
ment to that effect shall be attached to
his income tax return.

(3) Allocation among activities required.
The percentage of completion method
and the completed contract method
apply only to the accounting for in-
come and expenses attributable to
long-term contracts. The term “ex-
penses attributable to long term con-
tracts” means all direct labor costs
and direct material costs (within the
meaning of paragraph (d)(5)(i) or (6)(i)
of this section), and all indirect costs
except those described in paragraph
(d)(5)(iii) or, in the case of extended pe-
riod long-term contracts, paragraph
(d)(6)(iii). Other income and expense
items, such as investment income, ex-

penses not attributable to such con-
tracts, and costs incurred with respect
to any guarantee, warranty, mainte-
nance, or other service agreement re-

lating to the subject matter of such
contracts, shall be accounted for under
a proper method of accounting. See
section 446(c) and § 1.446-1(b).

(4) Severing and aggregating contracts.
In the case of income attributable to a
long-term contract, whether or not a
long-term contract method is used, for
the purpose of clearly reflecting in-
come it may be necessary in some in-
stances for the Commissioner either to
treat one agreement as several con-
tracts or to treat several agreements
as one contract. The rules of paragraph
(e)(1) of this section shall apply to de-
termine whether an agreement should
be so severed or several agreements so
aggregated.