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years in which such payment or payments were received if the right to mine coal or iron ore under the lease expires, terminates, or is abandoned before (with respect to bonuses) any coal or iron ore has been mined; or (with respect to advance royalties) the coal or iron ore that has been paid for in advance is mined. In such recomputation, the lessor is required to treat the bonus payment or payments or any portion of the advance royalty payment or payments attributable to unmined coal or iron ore, as ordinary income and not as received from the sale of coal or iron ore under section 631(c) of the Code.

(2) *Condition for issuing rulings.* Prior to issuing a ruling to lessors who request a ruling that they may treat bonuses or advance royalties received under a lease for coal or iron ore as received from a sale of coal or iron under section 631(c) of the Code, the Internal Revenue Service will require that the lessor enter a closing agreement in which the lessor agrees that—

(i) If the lease under which the lessor received a bonus or an advance royalty expires, terminates, or is abandoned before (with respect to a bonus) any coal or iron ore has been mined or (with respect to an advance royalty) the coal or iron ore that has been paid for in advance is mined, the tax liability of the lessor will be recomputed for the taxable year or years of receipt of (A) the bonus by treating the bonus payment or payments as ordinary income or (B) the advance royalty by treating any portion or the advance royalty payment or payments attributable to unmined coal or iron ore as ordinary income;

(ii) If the recomputation described in paragraph (u)(2)(i) of this section is required, the lessor will pay the additional amount, if any, of all federal income tax finally determined as due and payable by the lessor for the taxable year or years of the receipt of the bonus or advance royalty; and

(iii) If any of the described events has occurred, the lessor will notify the appropriate district director of such event in writing within 90 days of the close of the taxable year in which the lease expires, terminates, or is abandoned.

[32 FR 15990, Nov. 22, 1967]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 601.201, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

§ 601.202 Closing agreements.

(a) *General.* (1) Under section 7121 of the Code and the regulations and delegations thereunder, the Commissioner, or any officer or employee of the Internal Revenue Service authorized in writing by the Commissioner, may enter into and approve a written agreement with a person relating to the liability of such person (or of the person or estate for whom he acts) in respect of any internal revenue tax for any taxable period. Such agreement, except upon a showing of fraud or malfeasance, or misrepresentation of a material fact, shall be final and conclusive.

(2) Closing agreements under section 7121 of the Code may relate to any taxable period ending prior or subsequent to the date of the agreement. With respect to taxable periods ended prior to the date of the agreement, the matter agreed upon may relate to the total tax liability of the taxpayer or it may relate to one or more separate items affecting the tax liability of the taxpayer. A closing agreement may also be entered into in order to provide a ''determination'', as defined in section 1313 of the Code, and for the purpose of allowing a deficiency dividend deduction under section 547 of the Code. But see also sections 547(c)(3) and 1313(a)(4) of the Code and the regulations thereunder as to other types of ''determination'' agreements. With respect to taxable periods ending subsequent to the date of the agreement, the matter agreed upon may related to one or more separate items affecting the tax liability of the taxpayer. A closing agreement with respect to any taxable period ending subsequent to the date of the agreement is subject to any change in or modification of the law enacted subsequent to the date of the agreement and applicable to such taxable period, and each such closing agreement shall so recite. Closing agreements may be entered into even though

under the agreement the taxpayer is not liable for any tax for the period to which the agreement relates. There may be a series of agreements relating to the tax liability for a single period. A closing agreement may be entered into in any case in which there appears to be an advantage in having the case permanently and conclusively closed, or where good and sufficient reasons are shown by the taxpayer for desiring a closing agreement and it is determined by the Commissioner or his representatives that the Government will sustain no disadvantage through consummation of such an agreement.

(b) *Use of prescribed forms.* In cases in which it is proposed to close conclusively the total tax liability for a taxable period ending prior to the date of the agreement, Form 866, Agreement as to Final Determination of Tax Liability generally will be used. In cases in which agreement has been reached as to the disposition of one or more issues and a closing agreement is considered necessary to insure consistent treatment of such issues in any other taxable period Form 906, Closing Agreement as to Final Determination Covering Specific Matters, generally will be used. A request for a closing agreement which determines tax liability may be submitted and entered into at any time before the determination of such liability becomes a matter within the province of a court of competent jurisdiction and may thereafter be entered into in appropriate circumstances when authorized by the court (*e.g.*, in certain bankruptcy situations). The request should be submitted to the district director of internal revenue with whom the return for the period involved was filed. However, if the matter to which the request relates is pending before an office of the Appellate Division, the request should be submitted to that office. A request for a closing agreement which relates only to a subsequent period should be submitted to the Commissioner of Internal Revenue, Washington, DC 20224.

(c) *Approval.* (1) Closing agreements relating to alcohol, tobacco, and firearms, taxes in respect of any prospective transactions or completed transactions affecting returns to be filed may be entered into and approved by the Director, Bureau of Alcohol, Tobacco, and Firearms.

(2) Closing agreements relating to taxes other than those taxes covered in subparagraph (1) of this paragraph in respect of any prospective transactions or completed transactions affecting returns to be filed may be entered into and approved by the Assistant Commissioner (Technical).

(3) Closing agreements for a taxable period or periods ended prior to the date of agreement and related specific items affecting other taxable periods (including those covering competent authority determinations in the administration of the operating provisions of the tax conventions of the United States) may be entered into and approved by the Assistant Commissioner (Compliance).

(4) Regional commissioners, assistant regional commissioners (appellate), assistant regional commissioners (examination), district directors (including the Director, Foreign Operations District), chiefs and assistant chiefs of appellate branch offices may enter into and approve closing agreements on cases under their jurisdiction (but excluding cases docketed before the U.S. Tax Court) for a taxable period or periods which end prior to the date of agreement and related specific items affecting other taxable periods.

(5) Regional commissioners, assistant regional commissioners (examination) and (appellate), chiefs and assistant chiefs of appellate branch offices are authorized to enter into and approve closing agreements in cases under their jurisdiction docketed in the U.S. Tax Court but only in respect to related specific items affecting other taxable periods.

(6) Closing agreements providing for the mitigation of economic double taxation under section 3 of the Revenue Procedure 64–54, C.B. 1964–2, 1008, or under Revenue Procedure 69–13, C.B. 1969–1, 402 or for such mitigation and relief under Revenue Procedure 65–17, C.B. 1965–1, 833, may be entered into and approved by the Director, Foreign Operations District.

(7) Closing agreements in cases under the jurisdiction of a district director providing that the taxability of earnings from a deposit or account of the

type described in Revenue Procedure 64–24, C.B. 1964–1 (Part 1), 693, opened prior to November 15, 1962, will be determined on the basis that earnings on such deposits or accounts are not includable in gross income until maturity or termination, whichever occurs earlier, and that the full amount of earnings on the deposit or account will constitute gross income in the year the plan matures, is assigned, or is terminated, whichever occurs first, may be entered into and approved by such district director.

(d) *Applicability of ruling requirements.* The requirement relating to requests for rulings (see § 601.291) shall be applicable with respect to requests for closing agreements pertaining to prospective transactions or completed transactions affecting returns to be filed (see paragraph (c) (2) of this section).

[32 FR 15990, Nov. 22, 1967, as amended at 32 FR 20647, Dec. 21, 1967; 33 FR 17237, Nov. 21, 1968; 34 FR 14601, Sept. 19, 1969; 35 FR 15920, Oct. 9, 1970; 38 FR 4967, Feb. 23, 1973; 42 FR 46520, Sept. 16, 1977; 43 FR 53030, Nov. 15, 1978; 49 FR 36499, Sept. 18, 1984; T.D. 8685, 61 FR 58008, Nov. 12, 1996]

§ 601.203 Offers in compromise.

(a) *General.* (1) The Commissioner may compromise, in accordance with the provisions of section 7122 of the Code, any civil or criminal case arising under the internal revenue laws prior to reference to the Department of Justice for prosecution or defense. Certain functions of the Commissioner with respect to compromise of civil cases involving liability of $100,000 or more, based solely on doubt as to liability, have been delegated to regional commissioners and, for cases arising in the District Office, Foreign Operations District, to the Assistant Commissioner (Compliance). The authority concerning liability of $100,000 or more based on doubt as to collectibility or doubt as to both collectibility and liability has been delegated to the Director, Collection Division and regional commissioners. The authority with respect to compromise of civil cases involving liability under $100,000, and of certain specific penalties has been delegated to district directors, assistant district directors (including the District Director and Assistant District Director, Foreign Operations District), regional directors of Appeals, and chiefs and associate chiefs, Appeals offices. The authority concerning offers in compromise of penalties based solely on doubt as to liability, if the liability is less than $100,000, has also been delegated to service center directors and assistant service center directors. In civil cases involving liability of $500 or over and in criminal cases the functions of the General Counsel are performed by the Chief Counsel for the Internal Revenue Service. These functions are performed in the District Council, Regional Counsel, or National Office as appropriate. (See also paragraph (c) of this section.) In cases arising under Chapters 51, 52, and 53 of the Code, offers are acted upon by the Bureau of Alcohol, Tobacco and Firearms.

(2) An offer in compromise of taxes, interest, delinquency penalties, or specific penalties may be based on either inability to pay or doubt as to liability. Offers in compromise arise usually when payments of assessed liabilities are demanded, penalties for delinquency in filing returns are asserted, or specific civil or criminal penalties are incurred by taxpayers. A criminal liability will not be compromised unless it involves only the regulatory provisions of the Internal Revenue Code and related statutes. However, if the violations involving the regulatory provisions are deliberate and with intent to defraud, the criminal liabilities will not be compromised.

(b) *Use of prescribed form.* Offers in compromise are required to be submitted on Form 656, properly executed, and accompanied by a financial statement on Form 433 (if based on inability to pay). Form 656 is used in all cases regardless of whether the amount of the offer is tendered in full at the time the offer is filed or the amount of the offer is to be paid by deferred payment or payments. Copies of Form 656 and Form 433 may be obtained from district directors. An offer in compromise, should be filed with the district director or service center director.

(c) *Consideration of offer.* (1) An offer in compromise is first considered by