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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

the director having jurisdiction. Except in certain penalty cases, an investigation of the basis of the offer is required. The examining officer makes a written recommendation for acceptance or rejection of the offer. If the director has jurisdiction over the processing of the offer he or she will:

(i) Reject the offer, or

(ii) Accept the offer if it involves a civil liability under $500, or

(iii) Accept the offer if it involves a civil liability of $500 or more, but less than $100,000, or involves a specific penalty and the District Counsel concurs in the acceptance of the offer, or

(iv) Recommend to the Regional Commissioner the acceptance of the offer if it involves a civil liability of $100,000 or over.

(2)(i) If the district director does not have jurisdiction over the entire processing of the offer, the offer is transmitted to the appropriate District Counsel if the case is one in which:

(a) Recommendations for prosecution are pending in the Office of the Chief Counsel, the Department of Justice, or in an office of a United States attorney, including cases in which criminal proceedings have been instituted but not disposed of and related cases in which offers in compromise have been submitted or are pending;

(b) The taxpayer is in receivership or is involved in a proceeding under any provision of the Bankruptcy Act;

(c) The taxpayer is deceased joint liability cases, where either taxpayer is deceased.

(d) A proposal is made to discharge property from the effect of a tax lien or to subordinate the lien or liens;

(e) An insolvent bank is involved;

(f) An assignment for the benefit of creditors is involved;

(g) A liquidation proceeding is involved; or

(h) Court proceedings are pending, except Tax Court cases.

(ii) The District Counsel considers and processes offers submitted in cases described in paragraphs (c)(2)(i) (*a*) through (*h*) of this section and forwards those offers to the district director, service center director, Regional Counsel, or Office of Chief Counsel in Washington, as appropriate.

(iii) In those cases described in *(a)* of subdivision (i) of this subparagraph no investigation will be made unless specifically requested by the office having jurisdiction of the criminal case.

(iv) In those cases described in *(b)* through *(h)* of subdivision (i) of this subparagraph the district director retains the duplicate copy of the offer and the financial statement for investigation. After investigation, the district director transmits to the appropriate district counsel for consideration and processing his or her recommendation for acceptance or rejection of the offer together with the examining officer's report of the investigation.

(3) The district directors, assistant district directors (including the District Director and Assistant District Director, Foreign Operations District), service center directors, assistant service center directors, Regional Directors of Appeals, and Chiefs and Associate Chiefs, Appeals Offices are authorized to reject any offer in compromise referred for their consideration. Unacceptable offers considered by the District Counsel, Regional Counsel, or Office of Chief Counsel in Washington, or the Appeals office are also rejected by the district directors (including the Director, Foreign Operations District), as applicable. If an offer is not acceptable, the taxpayer is promptly notified of the rejection of that offer. If an offer is rejected, the sum submitted with the offer is returned to the proponent, unless the taxpayer authorizes application of the sum offered to the tax liability. Each Regional Commissioner will perform a post review of offers accepted, rejected, or withdrawn in the district director's office if the offer covers liabilities of $5,000 or more. The post review will cover a sampling of cases processed by the Collection function and all cases processed by the Examination function.

(4) If an offer involving unpaid liability of $100,000 or more is considered acceptable by the office having jurisdiction over the offer, a recommendation for acceptance is forwarded to the National Office or Regional Office, as appropriate for review. If the recommendation for acceptance is approved, the offer is forwarded to the

Regional Counsel or Office of Chief Counsel in Washington, as appropriate, for approval. After approval by the Regional Counsel or Office of Chief Counsel in Washington, as appropriate, it is forwarded to the Assistant Commissioner (Compliance), Director, Collection Division, or Regional Commissioner, as appropriate for acceptance. The taxpayer is notified of the acceptance of the offer in accordance with its terms. Acceptance of an offer in compromise of civil liabilities does not remit criminal liabilities, nor does acceptance of an offer in compromise of criminal liabilities remit civil liabilities.

(d) *Conferences.* Before filing a formal offer in compromise, a taxpayer may request a meeting in the office which would have jurisdiction over the offer to explore the possibilities of compromising unpaid tax liability. After all investigations have been made, the taxpayer may also request a meeting in the office having jurisdiction of the offer to determine the amount which may be accepted as a compromise. If agreement is not reached at such meeting and the district director has processing jurisdiction over the offer, the taxpayer will be informed that the taxpayer may request consideration of the case by an Appeals Office. The request may be in writing or oral. If the tax, penalty, and assessed (but not accrued) interest sought to be compromised exceeds $2,500 for any return, taxable year or taxable period, a written protest is required. Taxpayers and their representatives are required to comply with the applicable conference and practice requirements. See Subpart E of this part.

[32 FR 15990, Nov. 22, 1967, as amended at 33 FR 17238, Nov. 21, 1968; 35 FR 7116, May 6, 1970; 35 FR 15920, Oct. 9, 1970; 43 FR 44510, Sept. 28, 1978; 45 FR 7255, Feb. 1, 1980; 46 FR 26054, May 11, 1981; 49 FR 36499, Sept. 18, 1984; T.D. 8685, 61 FR 58008, Nov. 12, 1996]

§ 601.204 Changes in accounting periods and in methods of accounting.

(a) *Accounting periods.* A taxpayer who changes his accounting period shall, before using the new period for income tax purposes, comply with the provisions of the income tax regulations relating to changes in accounting periods. In cases where the regulations require the taxpayer to secure the consent of the Commissioner to the change, the application for permission to change the accounting period shall be made on Form 1128 and shall be submitted to the Commissioner of Internal Revenue, Washington, DC 20224, within the period of time prescribed in such regulations. See section 442 of the Code and regulations thereunder. If the change is approved by the Commissioner, the taxpayer shall thereafter make his returns and compute his net income upon the basis of the new accounting period. A request for permission to change the accounting period will be considered by the Corporation Tax Division. However, in certain instances, Form 1128 may be filed with the Director of the Internal Revenue Service Center in which the taxpayer files its return. See, for example, Rev. Proc. 66–13, 1966–1 C.B. 626; Rev. Proc. 66–50, 1966–2 C.B. 1260, and Rev. Proc. 68–41, 1968–2 C.B. 943. With respect to partnership adoptions, see § 1.706–1(b) of the Income Tax Regulations.

(b) *Methods of accounting.* A taxpayer who changes the method of accounting employed in keeping his books shall, before computing his income upon such method for purposes of income taxation, comply with the provisions of the income tax regulations relating to changes in accounting methods. The regulations require that, in the ordinary case, the taxpayer secure the consent of the Commissioner to the change. See section 446 of the Code and the regulations thereunder. Application for permission to change the method of accounting employed shall be made on Form 3115 and shall be submitted to the Commissioner of Internal Revenue, Washington, DC, 20224, during the taxable year in which it is desired to make the change. Permission to change the method of accounting will not be granted unless the taxpayer and the Commissioner agree to the terms and conditions under which the change will be effected. The request will be considered by the Corporation Tax Division. However, in certain instances, Form 3115 may be filed with the Director of the Internal Revenue Service Center. See, for example, Rev. Proc. 74–11, 1974–1 C.B. 420.