

(d) *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.

(e) *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 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).

(f) *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).

(g) *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 allo-

cated 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).

(h) *Timing of income from notional principal contracts.* For the timing of income with respect to notional principal contracts, see §1.446-3.

(i) *Timing of income from section 467 rental agreements.* For the timing of income with respect to section 467 rental agreements, see section 467 and the regulations thereunder.

[T.D. 6500, 25 FR 11709, Nov. 26, 1960, as amended by T.D. 7001, 34 FR 997, Jan. 23, 1969; T.D. 7154, 36 FR 24996, Dec. 28, 1971; 43 FR 59357, Dec. 20, 1978; T.D. 8491, 58 FR 53135, Oct. 14, 1993; T.D. 8820, 64 FR 26851, May 18, 1999; T.D. 9941, 86 FR 836, Jan. 6, 2021, 86 FR 1256, Jan. 8, 2021]

#### § 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 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 ac-

tually 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 ratable inclusion rules of section 1232(a)(3) apply. See §1.1232-3A. Accrued interest on unwithdrawn insurance policy dividends is gross income to the taxpayer for the first taxable year during which

§ 1.451-3

26 CFR Ch. I (4-1-21 Edition)

such interest may be withdrawn by him.

[T.D. 6723, 29 FR 5342, Apr. 21, 1964, as amended by T.D. 7154, 36 FR 24997, Dec. 28, 1971; T.D. 7663, 44 FR 76782, Dec. 28, 1979]

**§ 1.451-3 Timing of income inclusion for taxpayers with an applicable financial statement using an accrual method of accounting.**

(a) *Definitions.* The following definitions apply for this section:

(1) *AFS income inclusion amount.* The term *AFS income inclusion amount* means the amount of an item of gross income that is required to be included in gross income under the AFS income inclusion rule in paragraph (b)(1) of this section.

(2) *AFS income inclusion rule.* The term *AFS income inclusion rule* has the meaning provided in paragraph (b)(1) of this section.

(3) *AFS inventory inclusion amount.* The term *AFS inventory inclusion amount* has the meaning provided in paragraph (c)(2)(i)(A) of this section.

(4) *AFS revenue.* The term *AFS revenue* means revenue reported in the taxpayer's AFS. The characterization of an amount in the AFS is not determinative of whether the amount is AFS revenue. For example, AFS revenue can include amounts reported as other comprehensive income or adjustments to retained earnings in an AFS. See paragraph (b) of this section for adjustments to AFS revenue that may need to be made to apply the rules of this section.

(5) *Applicable financial statement (AFS).* Subject to the rules in paragraph (a)(5)(iv) of this section, the terms *applicable financial statement* and *AFS* are synonymous and mean the taxpayer's financial statement listed in paragraph (a)(5)(i) through (iii) of this section that has the highest priority, including priority within paragraphs (a)(5)(i)(B) and (a)(5)(ii)(B) of this section. The financial statements are, in order of descending priority:

(i) *GAAP statements.* A financial statement that is certified as being prepared in accordance with United States generally accepted accounting principles (GAAP) and is:

(A) A Form 10-K (or successor form), or annual statement to shareholders,

filed with the United States Securities and Exchange Commission (SEC);

(B) An audited financial statement of the taxpayer that is used for:

(1) Credit purposes;

(2) Reporting to shareholders, partners, or other proprietors, or to beneficiaries; or

(3) Any other substantial non-tax purpose; or

(C) A financial statement, other than a tax return, filed with the Federal Government or any Federal agency, other than the SEC or the Internal Revenue Service (IRS);

(ii) *IFRS statements.* A financial statement that is certified as being prepared in accordance with international financial reporting standards (IFRS) and is:

(A) Filed by the taxpayer with an agency of a foreign government that is equivalent to the SEC, and has financial reporting standards not less stringent than the standards required by the SEC;

(B) An audited financial statement of the taxpayer that is used for:

(1) Credit purposes;

(2) Reporting to shareholders, partners, or other proprietors, or to beneficiaries; or

(3) Any other substantial non-tax purpose; or

(C) A financial statement, other than a tax return, filed with the Federal Government, Federal agency, a foreign government, or agency of a foreign government, other than the SEC, IRS, or an agency that is equivalent to the SEC or the IRS; or

(iii) *Other statements.* A financial statement, other than a tax return, filed with the Federal Government or any Federal agency, a state government or state agency, or a self-regulatory organization including, for example, a financial statement filed with a state agency that regulates insurance companies or the Financial Industry Regulatory Authority. Additional financial statements beyond those included in this paragraph (a)(5)(iii) may be provided in guidance published in the Internal Revenue Bulletin (see § 601.601(d) of this chapter).

(iv) *Additional rules for determining priority.* If a taxpayer restates AFS revenue for a taxable year prior to the date that the taxpayer files its Federal