

§ 145.4061-1

that was or would have been treated as the first retail sale of the article under the temporary regulations published in the September 13, 1985, issue of the FEDERAL REGISTER (50 FR 37350) (“the interim regulations”) will be treated as a taxable sale for purposes of this section. The tax on a sale or lease after September 30, 1987, will be based on a price determined under paragraph (d) of this section. For example, if a vehicle was sold on January 3, 1987, to a purchaser who intended to resell the article and who was not in the business of leasing to any extent, the sale would not have been taxable under the interim regulations even though the seller did not receive a certificate indicating the purchaser’s intent to resell the article. If such a sale was not treated as a taxable sale by the parties, and the purchaser resells the article, the resale will be treated as a taxable sale of the article under paragraph (a)(2) of this section.

(ii) *Sales treated as first retail sale by purchaser and seller.* If the sale of an article after November 11, 1985, and before October 1, 1987, was treated as a taxable sale by the parties and tax was paid with respect to the article under the interim regulations, the subsequent sale of the article by the purchaser will not be treated as a taxable sale under paragraph (a)(2) of this section.

[T.D. 7882, 48 FR 14362, Apr. 4, 1983, as amended by T.D. 8050, 50 FR 37351, Sept. 13, 1985; T.D. 8200, 53 FR 16869, May 12, 1988; T.D. 8774, 63 FR 35804, July 1, 1998; T.D. 8879, 65 FR 17164, Mar. 31, 2000]

§ 145.4061-1 Application to manufacturers tax.

The provisions of § 145.4051-1(e) (1) and (2), relating to the definition of tractors and trucks, shall apply to section 4061(a)(1) for sales made on or after January 7, 1983. However, an incomplete chassis cab will be treated as a truck chassis for sales made on or after January 7, 1983, and before April 1, 1983. For purposes of section 4061, gross vehicle weight shall be determined under § 48.4061(a)-1(f)(3) (i) through (iv) for sales made on or after January 7, 1983, and before April 1, 1983.

PARTS 151-155 [RESERVED]

26 CFR Ch. I (4-1-25 Edition)

PART 156—EXCISE TAX ON GREENMAIL

Subpart A—Tax on Greenmail

Sec.

156.5881-1 Imposition of excise tax on greenmail.

Subpart B—Procedure and Administration

156.6001-1 Notice or regulations requiring records, statements, and special returns.

156.6011-1 General requirement of return, statement, or list.

156.6060-1 Reporting requirements for tax return preparers.

156.6061-1 Signing of returns and other documents.

156.6065-1 Verification of returns.

156.6071-1 Time for filing returns relating to greenmail.

156.6081-1 Automatic extension of time for filing a return due under chapter 54.

156.6091-1 Place for filing chapter 54 (Greenmail) tax returns.

156.6091-2 Exceptional cases.

156.6107-1 Tax return preparer must furnish copy of return and claim for refund to taxpayer and must retain a copy or record.

156.6109-1 Tax return preparers furnishing identifying numbers for returns or claims for refund.

156.6151-1 Time and place for paying of tax shown on returns.

156.6161-1 Extension of time for paying tax or deficiency.

156.6165-1 Bonds where time to pay tax or deficiency has been extended.

156.6694-1 Section 6694 penalties applicable to tax return preparer.

156.6694-2 Penalties for understatement due to an unreasonable position.

156.6694-3 Penalty for understatement due to willful, reckless, or intentional conduct.

156.6694-4 Extension of period of collection when tax return preparer pays 15 percent of a penalty for understatement of taxpayer’s liability and certain other procedural matters.

156.6695-1 Other assessable penalties with respect to the preparation of tax returns or claims for refund for other persons.

156.6696-1 Claims for credit or refund by tax return preparers.

156.7701-1 Tax return preparer.

AUTHORITY: 26 U.S.C. 6001, 6011, 6061, 6071, 6091, 6161, and 7805.

Section 156.6060-1 also issued under 26 U.S.C. 6060(a);

Section 156.6081-1 also issued under 26 U.S.C. 6081(a);

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Internal Revenue Service, Treasury

§ 156.6060-1

Section 156.6109-2 also issued under 26 U.S.C. 6109(a);

Section 156.6695-1 also issued under 26 U.S.C. 6695(b).

SOURCE: T.D. 8379, 56 FR 65685, Dec. 18, 1991, unless otherwise noted.

Subpart A—Tax on Greenmail

§ 156.5881-1 Imposition of excise tax on greenmail.

(a) *In general.* Section 5881 of the Code imposes a tax equal to 50 percent of the gain or other income realized by any person on the receipt of greenmail, whether or not the gain or other income is recognized.

(b) *Transactions occurring on or after March 31, 1988.* For transactions occurring on or after March 31, 1988, greenmail is defined as any consideration transferred by a corporation (or any person acting in concert with the corporation) to directly or indirectly acquire stock of the corporation from any shareholder if:

(1) The transferring shareholder has held the stock (as determined under section 1223) for less than two years before entering into the agreement to transfer the stock,

(2) The shareholder, any person acting in concert with the shareholder, or any person related to the shareholder or to a person acting in concert with the shareholder made or threatened to make a public tender offer for stock of the corporation at some time during the two-year period ending on the date of the acquisition of the stock by the corporation, and

(3) The acquisition is pursuant to an offer that was not made on the same terms to all shareholders.

(c) *Transactions occurring before March 31, 1988.* For transactions occurring before March 31, 1988, greenmail has the same meaning as in paragraph (b) of this section, except that it does not include any consideration transferred by any person acting in concert with the corporation described in that paragraph.

(d) *Effective date.* Generally, section 5881 of the Code applies to consideration received after December 22, 1987, in taxable years ending after that date. However, section 5881 does not apply to any acquisition of stock pursuant to a

written binding contract in effect on December 15, 1987, and at all times thereafter before the acquisition.

Subpart B—Procedure and Administration

§ 156.6001-1 Notice or regulations requiring records, statements, and special returns.

(a) *In general.* Any person subject to tax under chapter 54 (Greenmail) of the Code shall keep such complete and detailed records as are sufficient to enable the district director to determine accurately the amount of liability under chapter 54.

(b) *Notice by district director requiring returns, statements, or the keeping of records.* The district director may require any person, by notice served upon him, to make such returns, render such statements, or keep such specific records as will enable the district director to determine whether or not the person is liable for tax under chapter 54 of the Code.

(c) *Retention of records.* The records required by this section shall be kept at all times available for inspection by authorized internal revenue officers or employees, and shall be retained so long as the contents thereof may become material in the administration of any internal revenue law.

[T.D. 8379, 56 FR 65685, Dec. 18, 1991; 57 FR 5931, Feb. 18, 1992]

§ 156.6011-1 General requirement of return, statement, or list.

Every person liable for tax under section 5881 of the Code shall file a return with respect to the tax on the form prescribed by the Internal Revenue Service (Form 8725). Each such person shall include therein the information required by the form and the instructions issued with respect thereto.

§ 156.6060-1 Reporting requirements for tax return preparers.

(a) *In general.* A person that employs one or more tax return preparers to prepare a return or claim for refund under section 5881 of the Internal Revenue Code, other than for the person, at any time during a return period,

§ 156.6061-1

shall satisfy the record keeping and inspection requirements in the manner stated in § 1.6060-1 of this chapter.

(b) *Effective/applicability date.* This section is applicable to returns and claims for refund filed after December 31, 2008.

[T.D. 9436, 73 FR 78461, Dec. 22, 2008]

§ 156.6061-1 Signing of returns and other documents.

Any return, statement, or other document required to be made with respect to a tax imposed by chapter 54 (Greenmail) of the Code or the regulations thereunder shall be signed by the person required to file the return, statement, or other document, or by the persons required or duly authorized to sign in accordance with the regulations, forms, or instructions prescribed with respect to such return, statement, or document. An individual's signature on such a return, statement, or other document shall be prima facie evidence that the individual is authorized to sign the return, statement, or other document.

§ 156.6065-1 Verification of returns.

If a return, statement, or other document made under the provisions of chapter 54 (Greenmail) or of subtitle F of the Code, or the regulations thereunder with respect to any tax imposed by chapter 54, or the form and instructions issued with respect to such return, statement, or other document, requires that it shall contain or be verified by a written declaration that it is made under the penalties of perjury, it must be so verified by the person or persons required to sign such return, statement, or other document. In addition, any other statement or document submitted under any provision of chapter 54 or of subtitle F of the Code, or the regulations thereunder with respect to any tax imposed by chapter 54 may be required to contain or be verified by written declaration that is made under the penalties of perjury.

§ 156.6071-1 Time for filing returns relating to greenmail.

(a) *In general.* Returns required by § 156.6011-1 (relating to liability for tax on greenmail under section 5881) shall be filed on or before the ninetieth day

following receipt of any portion of the greenmail. Greenmail is considered to be received when gain or other income is realized, as determined according to the taxpayer's method of accounting, without regard to any provision of the Code providing for deferral of recognition.

(b) *Returns relating to greenmail received before the date these regulations become final.* Returns required by § 156.6011-1 that relate to greenmail received on or before December 18, 1991, shall be filed on or before March 18, 1992.

§ 156.6081-1 Automatic extension of time for filing a return due under chapter 54.

(a) *In general.* A taxpayer required to file a return on Form 8725, "Excise Tax on Greenmail," will be allowed an automatic 6-month extension of time to file the return after the date prescribed for filing the return if the taxpayer files an application under this section in accordance with paragraph (b) of this section.

(b) *Requirements.* To satisfy this paragraph (b), a taxpayer must—

(1) Submit a complete application on Form 7004, "Application for Automatic Extension of Time to File Certain Business Income Tax, Information, and Other Returns," or in any other manner prescribed by the Commissioner;

(2) File the application on or before the date prescribed for filing the return with the Internal Revenue Service office designated in the application's instructions; and

(3) Remit the amount of the properly estimated unpaid tax liability on or before the date prescribed for payment.

(c) *No extension of time for the payment of tax.* An automatic extension of time for filing a return granted under paragraph (a) of this section will not extend the time for payment of any tax due on such return.

(d) *Termination of automatic extension.* The Commissioner may terminate an automatic extension at any time by mailing to the taxpayer a notice of termination at least 10 days prior to the termination date designated in such notice. The Commissioner must mail the notice of termination to the address shown on the Form 7004 or to the

taxpayer's last known address. For further guidance regarding the definition of last known address, see § 301.6212-2 of this chapter.

(e) *Penalties.* See section 6651 for failure to file or failure to pay the amount shown as tax on the return.

(f) *Effective/applicable dates.* This section is applicable for applications for an automatic extension of time to file a return due under chapter 54, filed after July 1, 2008.

[T.D. 9407, 73 FR 37370, July 1, 2008]

§ 156.6091-1 Place for filing chapter 54 (Greenmail) tax returns.

Except as provided in § 156.6091-2 (relating to exceptional cases):

(a) *Individuals, estates, and trusts.* In general, tax returns under chapter 54 of the Code of individuals, estates, and trusts shall be filed with any person assigned the responsibility to receive returns in the local Internal Revenue Service office that serves the legal residence or the principal place of business of the person required to make the return.

(b) *Corporations.* In general, tax returns under chapter 54 of the Code of corporations shall be filed with any person assigned the responsibility to receive returns in the local Internal Revenue Service office that serves the principal place of business or the principal office or agency of the corporation.

(c) *Partnerships.* In general, tax returns under chapter 54 of the Code of partnerships shall be filed with any person assigned the responsibility to receive returns in the local Internal Revenue Service office that serves the principal place of business or the principal office or agency of the partnership.

(d) *Returns of taxpayers outside the United States.* The return of a person (other than a partnership or a corporation) outside the United States having no legal residence or principal place of business or agency in the United States, or the return of a partnership or a corporation having no principal place of business or principal office or agency in the United States, shall be filed with the Internal Revenue Service, Philadelphia, PA 19255, or as other-

wise directed in the applicable forms and instructions.

(e) *Returns filed with service centers or by hand carrying.* Notwithstanding paragraph (a), (b), (c), or (d) of this section, unless a return is filed by hand carrying, whenever instructions applicable to tax returns under chapter 54 of the Code provide that the returns be filed with a service center, the returns must be so filed in accordance with the instructions. Returns that are filed by hand carrying shall be filed with any person assigned the responsibility to receive hand-carried returns in the local Internal Revenue Service office in accordance with paragraphs (a), (b), (c), or (d) of this section.

[T.D. 8379, 56 FR 65685, Dec. 18, 1991; 57 FR 5931, Feb. 18, 1992, as amended by T.D. 9156, 69 FR 55746, Sept. 16, 2004]

§ 156.6091-2 Exceptional cases.

Notwithstanding the provisions of § 156.6091-1, the Commissioner may permit the filing of any tax return under chapter 54 (Greenmail) of the Code in any local Internal Revenue Service office.

[T.D. 8379, 56 FR 65685, Dec. 18, 1991, as amended by T.D. 9156, 69 FR 55747, Sept. 16, 2004]

§ 156.6107-1 Tax return preparer must furnish copy of return and claim for refund to taxpayer and must retain a copy or record.

(a) *In general.* A person who is a signing tax return preparer of any return or claim for refund of tax under section 5881 of the Internal Revenue Code shall furnish a completed copy of the return or claim for refund to the taxpayer and retain a completed copy or record in the manner stated in § 1.6107-1 of this chapter.

(b) *Effective/applicability date.* This section is applicable to returns and claims for refund filed after December 31, 2008.

[T.D. 9436, 73 FR 78461, Dec. 22, 2008]

§ 156.6109-1 Tax return preparers furnishing identifying numbers for returns or claims for refund.

(a) *In general.* Each tax return or claim for refund for tax under section

§ 156.6151-1

26 CFR Ch. I (4-1-25 Edition)

5881 of the Internal Revenue Code prepared by one or more signing tax return preparers must include the identifying number of the preparer required by § 1.6695-1(b) of this chapter to sign the return or claim for refund in the manner stated in § 1.6109-2 of this chapter.

(b) *Effective/applicability date.* Paragraph (a) of this section is applicable to returns and claims for refund filed after December 31, 2008.

[T.D. 9436, 73 FR 78461, Dec. 22, 2008]

§ 156.6151-1 Time and place for paying of tax shown on returns.

The tax under chapter 54 (Greenmail) of the Code shown on any return shall, without notice of assessment and demand, be paid to the internal revenue officer with whom the return is filed at the time and place for filing such return (determined without regard to any extension of time for filing the return). For provisions relating to the time and place for filing such return, see §§ 156.6071-1 and 156.6091-1. For provisions relating to the extension of time for paying the tax, see § 156.6161-1.

§ 156.6161-1 Extension of time for paying tax or deficiency.

(a) *In general*—(1) *Tax shown or required to be shown on return.* A reasonable extension of the time for payment of the amount of any tax imposed by chapter 54 (Greenmail) of the Code and shown or required to be shown on any return may be granted by the appropriate district director at the request of the taxpayer. The period of such extension shall not exceed 6 months from the date for payment of such tax.

(2) *Deficiency.* The time for payment of any amount determined as a deficiency in respect of tax imposed by chapter 54 of the Code may, at the request of the taxpayer, be extended by the internal revenue officer to whom the tax is required to be paid. The extension may be for a period not to exceed 18 months from the date fixed for payment of the deficiency, as shown on the notice and demand. In exceptional cases, a further extension for a period not in excess of 12 months may be granted. No extension of time for payment of a deficiency shall be granted if the deficiency is due to negligence, to

intentional disregard of rules and regulations, or to fraud with intent to evade tax.

(3) *Extension of time for filing distinguished.* The granting of an extension of time for filing a return does not operate to extend the time for the payment of the tax or any part thereof unless so specified in the extension.

(b) *Certain rules relating to extensions of time for paying income tax to apply.* The provisions of § 1.6161-1 (b), (c), and (d) of this chapter (relating to a requirement for undue hardship, to the application for extension, and to payment pursuant to an extension) shall apply to extensions of time for payment of the tax imposed by chapter 54 of the Code.

§ 156.6165-1 Bonds where time to pay tax or deficiency has been extended.

If an extension of time for payment is granted under section 6161 of the Code, the district director or the director of the service center may, if he deems it necessary, require a bond for the payment of the amount in respect to which the extension is granted in accordance with the terms of the extension. However, the bond shall not exceed double the amount with respect to which the extension is granted. For provisions relating to form of bonds, see the regulations under section 7101 of the Code contained in part 301 of title 26 (Regulations on Procedure and Administration).

§ 156.6694-1 Section 6694 penalties applicable to tax return preparer.

(a) *In general.* For general definitions regarding section 6694 penalties applicable to preparers of tax returns or claims for refund for tax under section 5881 of the Internal Revenue Code, see § 1.6694-1 of this chapter.

(b) *Effective/applicability date.* Paragraph (a) of this section is applicable to returns and claims for refund filed, and advice provided, after December 31, 2008.

[T.D. 9436, 73 FR 78461, Dec. 22, 2008]

§ 156.6694-2 Penalties for understatement due to an unreasonable position.

(a) *In general.* A person who is a tax return preparer of any return or claim for refund of tax under section 5881 of the Internal Revenue Code (Code) shall be subject to penalties under section 6694(a) of the Code in the manner stated in § 1.6694-2 of this chapter.

(b) *Effective/applicability date.* This section is applicable to returns and claims for refund filed, and advice provided, after December 31, 2008.

[T.D. 9436, 73 FR 78461, Dec. 22, 2008]

§ 156.6694-3 Penalty for understatement due to willful, reckless, or intentional conduct.

(a) *In general.* A person who is a tax return preparer of any return or claim for refund of tax under section 5881 of the Internal Revenue Code (Code) shall be subject to penalties under section 6694(b) of the Code in the manner stated in § 1.6694-3 of this chapter.

(b) *Effective/applicability date.* This section is applicable to returns and claims for refund filed, and advice provided, after December 31, 2008.

[T.D. 9436, 73 FR 78461, Dec. 22, 2008]

§ 156.6694-4 Extension of period of collection when tax return preparer pays 15 percent of a penalty for understatement of taxpayer's liability and certain other procedural matters.

(a) *In general.* For rules relating to the extension of period of collection when a tax return preparer who prepared a return or claim for refund for tax under section 5881 of the Internal Revenue Code pays 15 percent of a penalty for understatement of taxpayer's liability and procedural matters relating to the investigation, assessment and collection of the penalties under section 6694(a) and (b), the rules under § 1.6694-4 of this chapter will apply.

(b) *Effective/applicability date.* This section is applicable to returns and claims for refund filed, and advice provided, after December 31, 2008.

[T.D. 9436, 73 FR 78461, Dec. 22, 2008]

§ 156.6695-1 Other assessable penalties with respect to the preparation of tax returns or claims for refund for other persons.

(a) *In general.* A person who is a tax return preparer of any return or claim for refund of tax under section 5881 of the Internal Revenue Code (Code) shall be subject to penalties for failure to furnish a copy to the taxpayer under section 6695(a) of the Code, failure to sign the return under section 6695(b) of the Code, failure to furnish an identification number under section 6695(c) of the Code, failure to retain a copy or list under section 6695(d) of the Code, failure to file a correct information return under section 6695(e) of the Code, and negotiation of a check under section 6695(f) of the Code, in the manner stated in § 1.6695-1 of this chapter.

(b) *Effective/applicability date.* This section is applicable to returns and claims for refund filed after December 31, 2008.

[T.D. 9436, 73 FR 78462, Dec. 22, 2008]

§ 156.6696-1 Claims for credit or refund by tax return preparers.

(a) *In general.* For rules for claims for credit or refund by a tax return preparer who prepared a return or claim for refund for tax under section 5881 of the Internal Revenue Code, the rules under § 1.6696-1 of this chapter will apply.

(b) *Effective/applicability date.* This section is applicable to returns and claims for refund filed, and advice provided, after December 31, 2008.

[T.D. 9436, 73 FR 78462, Dec. 22, 2008]

§ 156.7701-1 Tax return preparer.

(a) *In general.* For the definition of a tax return preparer, see § 301.7701-15 of this chapter.

(b) *Effective/applicability date.* This section is applicable to returns and claims for refund filed, and advice provided, after December 31, 2008.

[T.D. 9436, 73 FR 78462, Dec. 22, 2008]