

Part III - Administrative, Procedural, and Miscellaneous

PENALTY RELIEF RELATED TO ADVANCE PAYMENTS OF THE PREMIUM TAX CREDIT FOR 2014

Notice 2015-9

Purpose

This Notice provides limited relief for taxpayers who have a balance due on their 2014 income tax return as a result of reconciling advance payments of the premium tax credit against the premium tax credit allowed on the tax return. Specifically, this Notice provides relief from the penalty under § 6651(a)(2) of the Internal Revenue Code for late payment of a balance due and the penalty under § 6654(a) for underpayment of estimated tax. To qualify for the relief, taxpayers must meet certain requirements described below. This relief applies only for the 2014 taxable year.

This relief does not apply to any underpayment of the individual shared responsibility payment resulting from the application of § 5000A because such underpayments are not subject to either the § 6651(a)(2) penalty or the § 6654(a) penalty.

Background

Section 6651(a)(2) imposes a penalty on a failure to pay (on or before the due date for payment, including any extension of time for payment) an amount shown as tax on any return. However, the § 6651(a)(2) penalty is not imposed if the taxpayer shows that the failure was due to reasonable cause and not willful neglect. In general, individuals must pay the tax shown on the return by April 15.

Section 6654(a) imposes a penalty in the case of an underpayment of estimated tax by an individual. Generally, taxpayers are required to make tax payments on non-wage income in quarterly installments. An underpayment of estimated tax is the excess of the required quarterly estimated tax payment over the amount actually paid on or before the due date for the payment. Most taxpayers will avoid this penalty if they owe less than \$1,000 in tax on their 2014 income tax return after subtracting their withholding, or if their withholding and estimated taxes total at least 90% of the tax for taxable year 2014, or 100% of the tax shown on their 2013 taxable year return. Additionally, § 6654(e)(3) authorizes the Internal Revenue Service (the Service) to waive the § 6654(a) penalty for underpayments of estimated tax in unusual circumstances to the extent its imposition would be against equity and good conscience.

Beginning in 2014, an eligible individual covered, or whose family member is covered, under a qualified health plan through an Affordable Insurance Exchange (Exchange), also called a Health Insurance Marketplace, is allowed a premium tax credit under § 36B.

Section 1412 of the Patient Protection and Affordable Care Act, Pub. L. No. 111-

148, 124 Stat. 119, and the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, 124 Stat. 1029, provides that a taxpayer may receive assistance in paying premiums for coverage in a qualified health plan through advance payments of the premium tax credit. Advance credit payments are made directly to the insurance provider. The amount of the advance credit payments is determined when an individual enrolls in a qualified health plan through an Exchange and is based on projected household income and family size for the year of coverage.

A taxpayer claims the premium tax credit on the income tax return for the taxable year of coverage. The amount of the credit is based on actual household income and family size for the year reflected on the tax return. Under § 36B(f)(2) and § 1.36B-4(a)(1)(i) of the Income Tax Regulations, a taxpayer must reconcile, or compare, the amount of premium tax credit allowed on the tax return with advance credit payments. Changes in the circumstances on which the advance credit payments are based could result in a difference between the amount of advance credit payments and the premium tax credit to which the taxpayer is entitled. If advance credit payments are more than the premium tax credit allowed on the return, the difference (excess advance payments) is treated as additional tax and may result in either a smaller refund or a larger balance due (or, if the premium tax credit allowed is more than the advance credit payments made, the excess credit amount may result in a larger refund or lower balance due). Taxable year 2014 is the first year for which taxpayers will be required to reconcile advance credit payments with the premium tax credit.

Penalty Relief for 2014

Some taxpayers who have a balance due on their 2014 income tax returns attributable to the reconciliation of their advance credit payments and the premium tax credit calculated on their returns may not be able to pay by the due date for payment, generally April 15. Taxpayers who do not pay their entire tax liability by the due date for payment generally would be liable for the § 6651(a)(2) penalty for failure to pay, unless they requested and were granted relief due to reasonable cause. Additionally, some taxpayers may discover when they reconcile advance credit payments with the premium tax credit that their estimated tax payments were understated, potentially making these taxpayers liable for the § 6654(a) estimated tax penalty. Therefore, in consideration of these factors, and consistent with the authority in § 6651(a)(2) and § 6654(e)(3) to provide relief from penalties for taxpayers, this Notice provides relief from the § 6651(a)(2) and § 6654(a) penalties for taxpayers who satisfy the requirements in this Notice.

Pursuant to this Notice, the Service will abate the § 6651(a)(2) penalty for taxable year 2014 for taxpayers who (i) are otherwise current with their filing and payment obligations; (ii) have a balance due for the 2014 taxable year due to excess advance payments of the premium tax credit; and (iii) report the amount of excess advance credit payments on their 2014 tax return timely filed, including extensions (Line 46 of Form 1040 or Line 29 of Form 1040A).

Further, the Service will waive the § 6654 penalty for taxable year 2014 for an

underpayment of estimated tax for taxpayers who have an underpayment attributable to excess advance credit payments if the taxpayers (i) are otherwise current with their filing and payment obligations; and (ii) report the amount of the excess advance credit payments on a 2014 tax return timely filed, including extensions.

For purposes of this Notice, taxpayers will be treated as current with their filing and payment obligations if as of the date they file their 2014 income tax returns, they (i) have filed, or filed an extension for, all currently required federal tax returns, and (ii) paid or have entered into an installment agreement (which is not in default), an offer in compromise, or both to satisfy a federal tax liability. If a taxpayer has not paid a tax due because there is a genuine dispute between the taxpayer and the Service that has not been finally determined as to the existence or amount of the correct tax liability under the law, then the amount of tax in dispute will be treated as being current during the pendency of the dispute.

Taxpayers should be aware that this Notice does not extend the time to file a return. To obtain an automatic extension of time to file, a taxpayer should file Form 4868, "Application for Automatic Extension of Time to File U.S. Individual Income Tax Return," on or before April 15, 2015. Additionally, § 6601 imposes interest on amounts of tax not paid by the due date, determined without regard to an extension of time for payment. Taxpayers will be required to pay interest on the balance due from the original deadline to pay, which is generally April 15, 2015, even if they qualify for penalty relief under this Notice. Nothing in this Notice affects the ability of a taxpayer to claim

relief based on existing law and procedures.

Procedure for Claiming Penalty Relief

Requesting relief from the failure to pay penalty

Generally, the Service automatically assesses the § 6651(a)(2) penalty against taxpayers and sends a notice demanding payment. When responding to such a notice, taxpayers should submit a letter to the address listed in the notice that contains the statement: "I am eligible for the relief granted under Notice 2015-9 because I received excess advance payment of the premium tax credit."

Taxpayers who file their returns by April 15, 2015 will be entitled to relief under this Notice even if they have not fully paid the underlying liability by the time they request relief.

Taxpayers who file their returns after April 15, 2015 must fully pay the underlying liability by April 15, 2016 to be eligible for relief under this Notice.

Interest will accrue until the underlying liability is fully paid. See Publication 4849, *Can't Pay the Tax You Owe?*, for further information on how to pay your past due federal income tax liability.

Requesting relief from the estimated tax penalty

To request a waiver of the § 6654(a) penalty as provided in this Notice, taxpayers should check box A in Part II of Form 2210, complete page 1 of the form, and include the form with their return, along with the statement: "Received excess advance payment of the premium tax credit." Taxpayers do not need to attach documentation from the

Exchange, explain the circumstances under which they received an excess advance payment, or complete any page other than page 1 of the Form 2210. Taxpayers also do not need to figure the amount of penalty for the penalty to be waived.

Contact Information

The principal author of this Notice is Danielle W. Pierce of the Office of Associate Chief Counsel (Procedure & Administration). For further information regarding this Notice, contact Danielle Pierce at (202) 317-6845 (not a toll-free call).