

S course extending from the Abilene Municipal Airport 5-mile radius zone to the ILS OM; within 2 miles either side of the N course of the Abilene RR extending from the Abilene Municipal Airport 5-mile radius zone to 12 miles N of the RR; within 2 miles either side of the 112° True radial of the Abilene VOR extending from the Abilene Municipal Airport 5-mile radius zone to the Abilene VOR; within a 5-mile radius of Dyess AFB (Lat. 32°25'10" N., Long. 99°51'15" W.); within 2 miles either side of the 354° True radial of the Abilene VOR extending from the Dyess AFB 5-mile radius zone to 12 miles N of the VOR and within 2 miles either side of the 168° and 348° True bearings of the Dyess AFB RBN extending from the Dyess AFB 5-mile radius zone to 12 miles S of the RBN.

This amendment shall become effective 0001 e.s.t., February 9, 1961.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on December 21, 1960.

D. D. THOMAS,
Director, Bureau of
Air Traffic Management.

[F.R. Doc. 60-12044; Filed, Dec. 28, 1960;
8:45 a.m.]

[Airspace Docket No. 60-WA-270]

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

Modification and Revocation of Reporting Points

The purpose of these amendments to §§ 601.4020 and 601.7001 of the regulations of the Administrator is to revoke designated reporting points that the Federal Aviation Agency has determined are no longer required for air traffic management purposes and modify the location of an existing designated reporting point. Flight progress reports over designated locations, automatically initiated by pilots, will facilitate air traffic management and assist the controller in the performance of his duties. However, due to the continuous modernization of the airway structure of the United States, the need for reporting points at particular locations is constantly being revised. Thus the actions taken herein reflect this changing need on the part of air traffic control.

Since these amendments are of a procedural nature and do not assign or reassign the use of navigable airspace, compliance with the notice and public procedure of the Administrative Procedure Act is unnecessary. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, these amendments will become effective more than 30 days after publication.

In consideration of the foregoing, and pursuant to the authority delegated to

me by the Administrator (24 F.R. 4530), the following actions are taken:

1. In the text of § 601.4020 (14 CFR 601.4020) "Gooding, Idaho nondirectional radio beacon;" is deleted.

2. In the text of § 601.7001 (14 CFR 601.7001; 25 F.R. 7489) the following changes are made:

(a) "Eagle INT: The INT of the Thermal, Calif., VORTAC 069° True and the Blythe, Calif., VOR 288° True radials." is deleted and "Eagle INT: The INT of the Twentynine Palms, Calif., VORTAC 154° True and the Blythe, Calif., VOR 288° True radials." is substituted therefor.

(b) "Petersburg, INT: The INT of the Elkins, W. Va., VOR 077° and the Grantsville, Md., VOR 191° radials." is deleted.

These amendments shall become effective 0001 e.s.t. February 9, 1961.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on December 21, 1960.

D. D. THOMAS,
Director, Bureau of
Air Traffic Management.

[F.R. Doc. 60-12045; Filed, Dec. 28, 1960;
8:45 a.m.]

[Airspace Docket No. 60-LA-82]

PART 608—RESTRICTED AREAS

Modification

The purpose of this amendment to § 608.20 of the regulations of the Administrator is to modify the Arco, Idaho, Restricted Area (R-500) (Pocatello Chart).

The Arco Restricted Area is designated for use by the Atomic Energy Commission (AEC) from the surface to unlimited. The AEC has advised that the ceiling of R-500 can be safely lowered from unlimited to 20,000 feet MSL. Therefore, the Federal Aviation Agency (FAA) is modifying R-500 herein to reflect this change.

Since this amendment reduces a burden on the public, compliance with the notice, public procedure, and effective date requirements of section 4 of the Administrative Procedure Act is unnecessary, and it may be made effective immediately.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (25 F.R. 8005), the following action is taken:

In § 608.20 Idaho, the Arco, Idaho, Restricted Area (R-500) (Pocatello Chart) (23 F.R. 8580), "Surface to unlimited." is deleted and "Surface to 20,000 feet MSL." is substituted therefor.

This amendment shall become effective upon the date of publication in the FEDERAL REGISTER.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on December 21, 1960.

D. D. THOMAS,
Director, Bureau of
Air Traffic Management.

[F.R. Doc. 60-12046; Filed, Dec. 28, 1960;
8:45 a.m.]

Title 18—CONSERVATION OF POWER

Chapter I—Federal Power Commission

SUBCHAPTER G—APPROVED FORMS, NATURAL GAS ACT

[Order No. 231; Docket No. R-191]

PART 260—FORMS

Statement of Sales and Revenues of Independent Producers

In this proceeding the Commission has under consideration the amendment of Part 260, entitled "Statements and Reports (Schedules)" of Subchapter G, Approved Forms, Natural Gas Act, Chapter I—Federal Power Commission, Title 18—Conservation of Power, Code of Federal Regulations (18 CFR, Part 260), by the revision of § 260.5 (18 CFR 260.5) and the addition of a new section, § 260.6, so as to prescribe FPC Forms No. 301-A and No. 301-B,¹ both entitled Independent Producers Report.

Section 260.5 and the reporting requirements thereof were first prescribed by Commission Order No. 187, Docket No. R-152, issued May 11, 1956, 21 FR 3146, 15 FPC 802, prescribing FPC Form No. 301, Independent Producers Report of Natural Gas Transactions for the year ending December 31, 1955. By Order No. 198, Docket No. R-162, issued November 19, 1957, 22 FR 9385, 18 FPC 662, § 260.5 was amended to prescribe a Form 301 for the year 1956 with somewhat enlarged reporting requirements. By Order No. 214, Docket No. R-176, issued July 15, 1959, 24 FR 5755, 22 FPC 81, § 260.5 was further amended to prescribe simplified and slightly revised Forms Nos. 301 for 1957 and 1958. The forms prescribed herein are essentially the same as Form No. 301-1957 or Form No. 301-1958. Proposed Form No. 301-A corresponds to Part I of the 1957 or 1958 form, with a minor revision of format. Form No. 301-B corresponds to Parts II and III of the 1957 or 1958 form.

Forms Nos. 301-A and 301-B are prescribed hereinafter to be filed annually. Forms Nos. 301-1957 and 301-1958 were intended for use in reporting for the years 1957 and 1958, respectively. The report forms for the years 1955 and 1956 were similarly intended to cover the years 1955 and 1956, respectively.

The Commission's regulations exempt independent producers from compliance with the comprehensive accounting and reporting requirements of the Commission's regulations under the Natural Gas Act. This exemption is still continued, but the Commission's experience in the regulation of producers convinces it of the necessity for continuing to require at least the minimum data called for in the forms prescribed herein in order that the regulatory responsibilities of the Commission may be viewed in relation to the relative importance and financial effects of such regulation on the regulated producers.

General public notice of the herein-after ordered amendment was given by

¹ Filed as part of original document.

publication of Notice of Proposed Rulemaking in the FEDERAL REGISTER on October 28, 1960 (25 F.R. 10358) and by the mailing of copies of the Notice of Proposed Rulemaking to interested parties including State and Federal regulatory agencies; that Notice being accompanied by copies of the forms as proposed. In giving notice of the proposed amendment, the Commission invited all interested parties to submit data, views, or comments not later than November 14, 1960. The several responses to that invitation included in principal part: various suggestions for revision of the formats of the forms; allegations that there is an undue reporting burden on certain signatory producers; objection to requirement that residue gas and liquid hydrocarbons be reported separately for sales under standard casinghead agreements; objection to the furnishing of information about liquid hydrocarbons; objection to requiring certain small producers to file the proposed forms; suggestion that small operators be required to report in less detail; requests for more time to file for reporting year 1959. All responses have been considered by the Commission.

The Commission finds:

(1) In view of the foregoing and upon consideration of all relevant matters presented, the amendment of the regulations under the Natural Gas Act hereinafter adopted and promulgated, including the forms approved and prescribed therein (as attached hereto), is necessary and appropriate to carry out the provisions of the Natural Gas Act; all in the manner as hereinafter provided.

(2) Good cause exists that the amendment of the Regulations under the Natural Gas Act as hereinafter adopted and promulgated including the forms approved and prescribed therein, shall become effective as hereinafter provided.

The Commission, acting pursuant to authority granted by the Natural Gas Act, particularly sections 10 and 16 thereof (52 Stat. 826, 830; 15 U.S.C. 717i, 717o) orders:

(A) Part 260 of the Commission's regulations entitled "Statements and Reports (Schedules)" of Subchapter G, Approved Forms, Natural Gas Act (18 CFR, Part 260), is hereby amended by the amendment of § 260.5 thereof (18 CFR 260.5) and the addition of a new section thereto, § 260.6, both to read as follows:

§ 260.5 Form No. 301-A, Statement of sales and revenues of independent producers.

(a) FPC Form No. 301-A Independent Producers Report, being a statement of sales of natural gas made during the reporting year (calendar year or fiscal year ending prior to July 1 next following the calendar year) under rate schedules filed with the Commission pursuant to §§ 154.92 or 154.94 of this chapter, including the instructions and schedules therein contained, is hereby approved and prescribed.

(b) Each independent producer as defined in § 154.91 of this chapter who had

a rate schedule on file with the Commission, pursuant to §§ 154.92 or 154.94 of this chapter, as of the end of the reporting year, shall (1) beginning with reporting year 1960 hereafter annually prepare and file with the Commission on or before the last day of the sixth month following the close of the reporting year one copy of such FPC Form No. 301-A; and (2) for the reporting year 1959 prepare and file with the Commission on or before March 31, 1961, one copy of such FPC Form No. 301-A.

§ 260.6 Form No. 301-B, Statement of sales and revenues of independent producers.

(a) FPC Form No. 301-B Independent Producers Report, being a statement of sales of natural gas totaling two million or more Mcf made during the reporting year (calendar year or fiscal year ending prior to July 1 next following the calendar year) under rate schedules filed with the Commission pursuant to §§ 154.92 or 154.94 of this chapter, including the instructions and schedules therein contained, is hereby approved and prescribed.

(b) In addition to complying with the provisions of § 260.5 of this chapter, each independent producer as defined in § 154.91 of this chapter who had a rate schedule on file with the Commission, pursuant to §§ 154.92 or 154.94 of this chapter, as of the end of the reporting year and whose sales of natural gas totaled two million or more Mcf during the reporting year shall (1) beginning with reporting year 1960 hereafter annually prepare and file with the Commission on or before the last day of the sixth month following the close of the reporting year two copies of such FPC Form No. 301-B; and (2) for the reporting year 1959 prepare and file with the Commission on or before March 31, 1961, two copies of such FPC Form No. 301-B.

(B) Forms Nos. 301-A and 301-B, as approved and prescribed in paragraph (A) above, are attached hereto.

(C) The amendment of the regulations under the Natural Gas Act as adopted and promulgated herein, including the forms approved and prescribed therein, shall become effective 30 days after the issuance of this order.

Issued: December 21, 1960.

By the Commission.

[SEAL] JOSEPH H. GUTRIE,
Secretary.

[F.R. Doc. 60-12048; Filed, Dec. 28, 1960; 8:46 a.m.]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 168—DIRECTORY OF INTERNATIONAL MAIL

Nicaragua Import Prohibitions

In § 168.5 *Individual country regulations*, the country "Nicaragua", under Parcel Post, is revised by amending the last paragraph of the item *Prohibitions*, as added by Federal Register Document

60-11601, 25 F.R. 12884-12885, by deleting "boots" where it appears therein. As so amended, the last paragraph reads as follows:

Prohibitions. * * *

Footwear, including shoes, slippers, and rubbers, except when sent as personal gifts.

(R.S. 161, as amended, secs. 501, 505, 74 Stat. 580, 581, (Pub. Law 86-682); 5 U.S.C. 22, 39 U.S.C. 501, 505)

[SEAL] HERBERT B. WARBURTON,
General Counsel.

[F.R. Doc. 60-12056; Filed, Dec. 28, 1960; 8:46 a.m.]

Title 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

[T.D. 6523]

SUBCHAPTER A—INCOME TAX

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Foreign Corporations and Estimated Income Tax Filing Requirements for Individuals

In order to make provision in the Income Tax Regulations (26 CFR Part 1) for the use of Form 1120F by foreign corporations, and in order to conform such regulations to the amendments made to section 6015(a) of the Internal Revenue Code of 1954 by section 5 of the Act of September 14, 1960 (Public Law 86-779, 74 Stat. 1000), the regulations are amended as follows:

PARAGRAPH 1. Subparagraphs (1) and (2) of § 1.6012-2(g), are amended to read as follows:

§ 1.6012-2 Corporations required to make returns of income.

(g) *Returns by foreign corporations—*

(1) *Nonresident foreign corporations—*
(i) *In general.* A nonresident foreign corporation is not required to make a return of income if the tax liability of the corporation is fully satisfied at the source. A nonresident foreign corporation shall, however, make or have made a return with respect to that portion of its income described in § 1.881-2 upon which the tax has not been fully satisfied at the source, including such income upon which the tax is limited by tax convention. Such return shall be made on Form 1120NB for taxable years ending before December 31, 1960, and on Form 1120F for taxable years ending on or after December 31, 1960. The tax liability of a nonresident foreign corporation is not fully satisfied at the source in any case where, if it were not for the allowance of deductions to such corporation, it would be liable for tax. For example, the tax liability of a nonresident foreign corporation which is a personal holding company (as defined in section 542) is not fully satisfied at the source

if such corporation would be liable for the personal holding company tax imposed by section 541 if it were not for the fact that it may be allowed a deduction for dividends paid (as defined in section 561). See section 545, relating to the definition of undistributed personal holding company income, and section 882 (c) (1), relating to allowance of deductions only if a return is filed.

(ii) *Claim for refund.* Notwithstanding the provisions of subdivision (i) of this subparagraph, a nonresident foreign corporation shall include on its return its entire income described in § 1.881-2, whether or not the tax has been fully satisfied at the source upon a portion thereof, if a claim for refund of an overpayment of tax is made in accordance with section 6402 and §§ 301.6402-2 and 301.6402-3 of this chapter (Regulations on Procedure and Administration). However, if the overpayment to be refunded consists solely of tax deemed to have been paid under section 852(b) (3) (D), relating to undistributed capital gains of a regulated investment company, it is not necessary to include on the return the entire income described in § 1.881-2.

(iii) *Inconsistent regulations.* All regulations inconsistent with the provisions of this paragraph shall be deemed to have been modified accordingly.

(2) *Resident foreign corporations.* Every resident foreign corporation shall make or have made a return of all its income described in § 1.882-1, including such income upon which the tax is limited by tax convention. Such return shall be made on Form 1120 for taxable years ending before December 31, 1960, and on Form 1120F for taxable years ending on or after December 31, 1960.

PAR. 2. Section 1.6015(a) is amended to read as follows:

§ 1.6015(a) Statutory provisions; declaration of estimated income tax by individuals; requirement of declaration.

SEC. 6015 Declaration of estimated income tax by individuals—(a) *Requirement of declaration.* Every individual (other than a nonresident alien with respect to whose wages, as defined in section 3401(a), withholding under chapter 24 is not made applicable, but including every alien individual who is a resident of Puerto Rico during the entire taxable year) shall make a declaration of his estimated tax for the taxable year if—

(1) The gross income for the taxable year can reasonably be expected to exceed—

(A) \$5,000, in the case of—

(i) A single individual other than a head of a household (as defined in section 1(b)(2)) or a surviving spouse (as defined in section 2(b)); or

(ii) A married individual not entitled under subsection (b) to file a joint declaration with his spouse; or

(iii) A married individual entitled under subsection (b) to file a joint declaration with his spouse, but only if the aggregate gross income of such individual and his spouse for the taxable year can reasonably be expected to exceed \$10,000; or

(B) \$10,000, in the case of—

(i) A head of a household (as defined in section 1(b)(2)); or

(ii) A surviving spouse (as defined in section 2(b)); or

(2) The gross income can reasonably be expected to include more than \$200 from sources other than wages (as defined in section 3401(a)).

Notwithstanding the provisions of this subsection, no declaration is required if the estimated tax (as defined in subsection (c)) can reasonably be expected to be less than \$40.

[Sec. 6015(a) as amended by sec. 5, Act of Sept. 14, 1960 (Pub. Law 86-779, 74 Stat. 1000)]

PAR. 3. Paragraph (a) of § 1.6015 (a)—1 is amended to read as follows:

§ 1.6015(a)—1 Declaration of estimated income tax by individuals.

(a) *Requirement—(1) Taxable years beginning after December 31, 1960.* With respect to taxable years beginning after December 31, 1960, a declaration of estimated income tax by an individual is not required if the estimated tax (as defined in section 6015(c)) can reasonably be expected to be less than \$40. In all other cases a declaration shall be made by every citizen of the United States, whether residing at home or abroad, every individual residing in the United States though not a citizen thereof, every nonresident alien who is a resident of Canada, Mexico, or Puerto Rico and who has wages subject to withholding at the source under section 3402, and every nonresident alien who has been, or expects to be, a resident of Puerto Rico during the entire taxable year, if—

(i) The gross income for the taxable year can reasonably be expected to exceed—

(A) \$5,000, in the case of—

(1) A single individual other than a head of a household (as defined in section 1(b)(2)) or a surviving spouse (as defined in section 2(b)); or

(2) A married individual not entitled under section 6015(b) to file a joint declaration with his spouse; or

(3) A married individual entitled under section 6015(b) to file a joint declaration with his spouse, but only if the aggregate gross income of such individual and his spouse for the taxable year can reasonably be expected to exceed \$10,000; or

(b) \$10,000, in the case of—

(1) A head of a household (as defined in section 1(b)(2)); or

(2) A surviving spouse (as defined in section 2(b)); or

(ii) The gross income can reasonably be expected to include more than \$200 from sources other than wages (as defined in section 3401(a)).

(2) *Taxable years beginning before January 1, 1961.* With respect to taxable years beginning before January 1, 1961, a declaration of estimated tax shall be made by every citizen of the United States, whether residing at home or abroad, every individual residing in the United States though not a citizen thereof, every nonresident alien who is a resident of Canada, Mexico, or Puerto Rico and who has wages subject to withholding at the source under section 3402, and every nonresident alien who has been, or expects to be, a resident of Puerto Rico during the entire taxable year, if—

(i) The gross income for the taxable year can reasonably be expected to consist of wages (as defined in section 3401(a)) and of not more than \$100 from sources other than such wages, and can reasonably be expected to exceed—

(A) \$5,000, in the case of a single individual other than a head of a household (as defined in section 1(b)(2)) or a surviving spouse (as defined in section 2(b)) or in the case of a married individual not entitled to file a joint declaration with his spouse; or

(b) \$10,000, in the case of a head of a household (as defined in section 1(b)(2)) or a surviving spouse (as defined in section 2(b)); or

(c) \$5,000, in the case of a married individual entitled under section 6015(b) to file a joint declaration with his spouse, and the aggregate gross income of such individual and his spouse for the taxable year can reasonably be expected to exceed \$10,000; or

(ii) The gross income can reasonably be expected to include more than \$100 from sources other than wages (as defined in section 3401(a)) and can reasonably be expected to exceed the sum of—

(a) The amount obtained by multiplying \$600 by the number of exemptions to which he is entitled under section 151 plus

(b) \$400.

Because this Treasury decision makes only technical and procedural changes, it is hereby found that it is unnecessary to issue this Treasury decision with notice and public procedure thereon under section 4(a) of the Administrative Procedure Act, approved June 11, 1946, or subject to the effective date limitation of section 4(c) of that Act.

(68A Stat. 917; 26 U.S.C. 7805)

[SEAL]

CHARLES I. FOX,
Acting Commissioner of
Internal Revenue.

Approved: December 23, 1960.

DAVID A. LINDSAY,
Acting Secretary of the Treasury.

[F.R. Doc. 60-12083; Filed, Dec. 28, 1960;
8:49 a.m.]

SUBCHAPTER B—ESTATE AND GIFT TAXES

[T.D. 6522]

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

Miscellaneous Amendments

On October 1, 1960, a notice of proposed rule making was published in the FEDERAL REGISTER (25 F.R. 9408), with respect to conforming the Estate Tax Regulations (26 CFR Part 20) to sections 66(c) and 206 (a), (c), and (e) of Public Law 85-866, approved September 2, 1958, relative to the rate at which interest is to be paid on estate tax and to the payment in installments of the estate tax attributable to inclusion in the gross estate of an interest in a closely held business. After consideration of all such relevant matter as was presented by in-

interested persons regarding the rules proposed, the regulations as so published are hereby adopted, subject to the changes set forth below. Such regulations supersede the temporary regulations in Part 24 relating to Certain Estate Tax Matters under Small Business Tax Revision Act of 1958 (26 CFR 24.1-1).

PARAGRAPH 1. Section 20.6166-1 is revised by changing paragraphs (a) and (d) and by inserting a new paragraph (e) (3).

PAR. 2. Section 20.6166-4 is revised by changing paragraphs (a) and (b).

(68A Stat. 917; 26 U.S.C. 7805)

[SEAL]

CHARLES I. FOX,
Acting Commissioner of
Internal Revenue.

Approved: December 23, 1960.

DAVID A. LINDSAY,
Acting Secretary of the Treasury.

In order to conform the Estate Tax Regulations (26 CFR Part 20) to sections 66(c) and 206 (a), (c), and (e) of Public Law 85-866, approved September 2, 1958, relative to the rate at which interest is to be paid on estate tax and to the payment in installments of the estate tax attributable to inclusion in the gross estate of an interest in a closely held business, such regulations are amended as follows:

PARAGRAPH 1. Paragraph (b) of § 20.6151-1 is amended by inserting new subparagraph (3) to read as follows:

§ 20.6151-1 Time and place for paying tax shown on the return.

(b) Extension of time for paying.

(3) Interest in a closely held business. For provisions relating to payment in installments of the estate tax attributable to inclusion in the gross estate of an interest in a closely held business, see §§ 20.6166-1 through 20.6166-4.

PAR. 2. Section 20.6161 is amended by revising subsection (a) (2) of section 6161 and by adding a historical note to read as follows:

§ 20.6161 Statutory provisions; extension of time for paying tax.

Sec. 6161. Extension of time for paying tax—(a) Amount determined by taxpayer on return.

(2) Estate tax. If the Secretary or his delegate finds—

(A) That the payment, on the due date, of any part of the amount determined by the executor as the tax imposed by chapter 11,

(B) That the payment, on the date fixed for the payment of any installment under section 6166, of any part of such installment (including any part of a deficiency prorated to an installment the date for payment of which had not arrived), or

(C) That the payment upon notice and demand of any part of a deficiency prorated under the provisions of section 6166 to installments the date for payment of which had arrived,

would result in undue hardship to the estate, he may extend the time for payment for a reasonable period not in excess of 10 years from the date prescribed by section 6151(a) for payment of the tax.

[Sec. 6161 as amended by sec. 206(c), Small Business Tax Revision Act 1958 (72 Stat. 1684)]

PAR. 3. Paragraph (a) and (c) of § 20.6161-1 are amended to read as follows:

§ 20.6161-1 Extension of time for paying tax shown on the return.

(a) In any case where the district director finds that payment on the due date of any part of the tax shown on the return, or payment of any part of an installment under section 6166 (including any part of a deficiency prorated to an installment the date for payment of which had not arrived) on the date fixed for payment thereof, would impose undue hardship upon the estate, he may extend the time for payment for a period or periods not to exceed one year for any one period and for all periods not to exceed more than 10 years from the date prescribed in section 6151(a) for payment of the tax. See paragraph (a) of § 20.6151-1. In addition, if the district director finds that payment upon notice and demand of any part of a deficiency prorated under the provisions of section 6166 to installments the date for payment of which had arrived would impose undue hardship upon the estate, he may extend the time for payment for a similar period or periods.

(c) An application for such an extension must be in writing and must contain, or be supported by, information in a written statement declaring that it is made under penalties of perjury, showing the undue hardship that would result to the estate if the requested extension were refused. The application, with the supporting information, must be filed with the district director. When received, it will be examined, and, if possible, within 30 days will be denied, granted, or tentatively granted subject to certain conditions of which the executor will be notified. The district director will not consider an application for such an extension of time for payment of the tax or of an installment under section 6166 (including any part of a deficiency prorated to an installment the date for payment of which had not arrived) unless the extension is applied for on or before the date fixed for payment of the tax or the installment. Similarly, the district director will not consider an application for such an extension of time for payment of any part of a deficiency prorated under the provisions of section 6166 to installments the date for payment of which had arrived, unless the extension is applied for on or before the date prescribed for payment of the deficiency as shown by the notice and demand from the district director. If the executor desires to obtain an additional extension of time for payment of any part of the tax shown on the return, or any part of an installment under section 6166 (including any part of a deficiency prorated to an installment), it must be applied for on or before the date of the expiration of the previous extension. The granting of the extension of time for paying the tax is discretionary with

the district director and his authority will be exercised under such conditions as he may deem advisable. If, in the mistaken belief that an estate satisfies the requirements of section 6166, the executor, within the time prescribed in paragraph (e) of § 20.6166-1, files a notification of election to pay estate tax in installments, the notification of election to pay tax in installments will be treated as a timely filed application for an extension, under section 6161, of time for payment of the tax if the executor so requests, in writing, within a reasonable time after being notified by the district director that the estate does not satisfy the requirements of section 6166. A request that the election under section 6166 be treated as a timely filed application for an extension under section 6161 must contain, or be supported by, information in a written statement declaring that it is made under penalties of perjury, setting forth the period of the extension requested, and showing the undue hardship that would result if the requested extension were refused.

PAR. 4. Paragraph (a) of § 20.6161-2 is amended to read as follows:

§ 20.6161-2 Extension of time for paying deficiency in tax.

(a) In any case in which the district director finds that payment, on the date prescribed therefor, of any part of a deficiency would impose undue hardship upon the estate, he may extend the time for payment for a period or periods not to exceed one year for any one period and for all periods not to exceed four years from the date prescribed for payment thereof. However, see § 20.6161-1 for extensions of time for payment of the part of a deficiency which is prorated to installments under the provisions of section 6166.

PAR. 5. Immediately after § 20.6165-1 the following new sections are inserted:

§ 20.6166 Statutory provisions; extension of time for payment of estate tax where estate consists largely of interest in closely held business.

Sec. 6166. Extension of time for payment of estate tax where estate consists largely of interest in closely held business—(a) Extension permitted. If the value of an interest in a closely held business which is included in determining the gross estate of a decedent who was (at the date of his death) a citizen or resident of the United States exceeds either—

(1) 35 percent of the value of the gross estate of such decedent, or

(2) 50 percent of the taxable estate of such decedent,

the executor may elect to pay part or all of the tax imposed by section 2001 in two or more (but not exceeding 10) equal installments. Any such election shall be made not later than the time prescribed by section 6075(a) for filing the return of such tax (including extensions thereof), and shall be made in such manner as the Secretary or his delegate shall by regulations prescribe. If an election under this section is made, the provisions of this subtitle shall apply as though the Secretary or his delegate were extending the time for payment of the tax. For purposes of this section, value shall be value determined for Federal estate tax purposes.

(b) *Limitation.* The maximum amount of tax which may be paid in installments as provided in this section shall be an amount which bears the same ratio to the tax imposed by section 2001 (reduced by the credits against such tax) as the value of the interest in a closely held business which qualifies under subsection (a) bears to the value of the gross estate.

(c) *Closely held business.* For purposes of this section, the term "interest in a closely held business" means—

(1) An interest as a proprietor in a trade or business carried on as a proprietorship.

(2) An interest as a partner in a partnership carrying on a trade or business, if—

(A) 20 percent or more of the total capital interest in such partnership is included in determining the gross estate of the decedent, or

(B) Such partnership had 10 or less partners,

(3) Stock in a corporation carrying on a trade or business, if—

(A) 20 percent or more in value of the voting stock of such corporation is included in determining the gross estate of the decedent, or

(B) Such corporation had 10 or less shareholders.

For purposes of this subsection, determinations shall be made as of the time immediately before the decedent's death.

(d) *Special rule for interests in two or more closely held businesses.* For purposes of subsections (a), (b), and (h)(1), interests in two or more closely held businesses, with respect to each of which there is included in determining the value of the decedent's gross estate more than 50 percent of the total value of each such business, shall be treated as an interest in a single closely held business. For purposes of the 50-percent requirement of the preceding sentence, an interest in a closely held business which represents the surviving spouse's interest in property held by the decedent and the surviving spouse as community property shall be treated as having been included in determining the value of the decedent's gross estate.

(e) *Date for payment of installments.* If an election is made under subsection (a), the first installment shall be paid on or before the date prescribed by section 6151(a) for payment of the tax, and each succeeding installment shall be paid on or before the date which is one year after the date prescribed by this subsection for payment of the preceding installment.

(f) *Proration of deficiency to installments.* If an election is made under subsection (a) to pay any part of the tax imposed by section 2001 in installments and a deficiency has been assessed, the deficiency shall (subject to the limitation provided by subsection (b)) be prorated to such installments. The part of the deficiency so prorated to any installment the date for payment of which has not arrived shall be collected at the same time as, and as a part of, such installment. The part of the deficiency so prorated to any installment the date for payment of which has arrived shall be paid upon notice and demand from the Secretary or his delegate. This subsection shall not apply if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

(g) *Time for payment of interest.* If the time for payment of any amount of tax has been extended under this section, interest payable under section 6601 on any unpaid portion of such amount shall be paid annually at the same time as, and as a part of, each installment payment of the tax. Interest, on that part of a deficiency prorated under this section to any installment the date for payment of which has not arrived, for the period before the date fixed for the last installment preceding the assessment of

the deficiency, shall be paid upon notice and demand from the Secretary or his delegate. In applying section 6601(b) (relating to the application of the 4-percent rate of interest in the case of certain extensions of time to pay estate tax) in the case of a deficiency, the entire amount which is prorated to installments under this section shall be treated as an amount of tax the payment of which is extended under this section.

(h) *Acceleration of payment—(1) Withdrawal of funds from business; disposition of interest—(A) If—*

(i) Aggregate withdrawals of money and other property from the trade or business, an interest in which qualifies under subsection (a), made with respect to such interest, equal or exceed 50 percent of the value of such trade or business, or

(ii) 50 percent or more in value of an interest in a closely held business which qualifies under subsection (a) is distributed, sold, exchanged, or otherwise disposed of,

then the extension of time for payment of tax provided in this section shall cease to apply, and any unpaid portion of the tax payable in installments shall be paid upon notice and demand from the Secretary or his delegate.

(B) In the case of a distribution in redemption of stock to which section 303 (or so much of section 304 as relates to section 303) applies—

(i) Subparagraph (A)(i) does not apply with respect to withdrawals of money and other property distributed; and for purposes of such subparagraph the value of the trade or business shall be considered to be such value reduced by the amount of money and other property distributed, and

(ii) Subparagraph (A)(ii) does not apply with respect to the stock redeemed; and for purposes of such subparagraph the interest in the closely held business shall be considered to be such interest reduced by the value of the stock redeemed.

This subparagraph shall apply only if, on or before the date prescribed by subsection (e) for payment of the first installment which becomes due after the date of the distribution, there is paid an amount of the tax imposed by section 2001 not less than the amount of money and other property distributed.

(C) Subparagraph (A)(ii) does not apply to an exchange of stock pursuant to a plan of reorganization described in subparagraph (D), (E), or (F) of section 368(a)(1) nor to an exchange to which section 355 (or so much of section 356 as relates to section 355) applies; but any stock received in such an exchange shall be treated for purposes of such subparagraph as an interest qualifying under subsection (a).

(D) Subparagraph (A)(ii) does not apply to a transfer of property of the decedent by the executor to a person entitled to receive such property under the decedent's will or under the applicable law of descent and distribution.

(2) *Undistributed income of estate.* (A) If an election is made under this section and the estate has undistributed net income for any taxable year after its fourth taxable year, the executor shall, on or before the date prescribed by law for filing the income tax return for such taxable year (including extensions thereof), pay an amount equal to such undistributed net income in liquidation of the unpaid portion of the tax payable in installments.

(B) For purposes of subparagraph (A), the undistributed net income of the estate for any taxable year is the amount by which the distributable net income of the estate for such taxable year (as defined in section 643) exceeds the sum of—

(i) The amounts for such taxable year specified in paragraphs (1) and (2) of section 661(a) (relating to deduction for distributions, etc.);

(ii) The amount of tax imposed for the taxable year on the estate under chapter 1; and

(iii) The amount of the Federal estate tax (including interest) paid by the executor during the taxable year (other than any amount paid pursuant to this paragraph).

(3) *Failure to pay installment.* If any installment under this section is not paid on or before the date fixed for its payment by this section (including any extension of time for the payment of such installment), the unpaid portion of the tax payable in installments shall be paid upon notice and demand from the Secretary or his delegate.

(i) *Transitional rules—(1) In general.* If—

(A) A deficiency in the tax imposed by section 2001 is assessed after the date of the enactment of this section, and

(B) The estate qualifies under paragraph (1) or (2) of subsection (a),

the executor may elect to pay the deficiency in installments. This subsection shall not apply if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

(2) *Time of election.* An election under this subsection shall be made not later than 60 days after issuance of notice and demand by the Secretary or his delegate for the payment of the deficiency, and shall be made in such manner as the Secretary or his delegate shall by regulations prescribe.

(3) *Effect of election on payment.* If an election is made under this subsection, the deficiency shall (subject to the limitation provided by subsection (b)) be prorated to the installments which would have been due if an election had been timely made under this section at the time the estate tax return was filed. The part of the deficiency so prorated to any installment the date for payment of which would have arrived shall be paid at the time of the making of the election under this subsection. The portion of the deficiency so prorated to installments the date for payment of which would not have so arrived shall be paid at the time such installments would have been due if such an election had been made.

(4) *Application of subsection (h)(2).* In the case of an election under this subsection, subsection (h)(2) shall not apply with respect to undistributed net income for any taxable year ending before January 1, 1960.

(j) *Regulations.* The Secretary or his delegate shall prescribe such regulations as may be necessary to the application of this section.

(k) *Cross references—(1) Interest.* For provisions requiring the payment of interest at the rate of 4 percent per annum for the period of an extension, see section 6601(b).

(2) *Security.* For authority of the Secretary or his delegate to require security in the case of an extension under this section, see section 6165.

(3) *Period of limitation.* For extension of the period of limitation in the case of an extension under this section, see section 6503(d).

[Sec. 6166 as added by sec. 206(a) Small Business Tax Revision Act 1958 (72 Stat. 1681)]

§ 20.6166-1 Extension of time for payment of estate tax where estate consists largely of interest in closely held business.

(a) *In general.* Section 6166 provides that where the value of an interest in a closely held business, which is included in the gross estate of a decedent who was a citizen or resident of the United States at the time of his death, exceeds either (1) 35 percent of the value of the gross estate, or (2) 50 percent of the taxable estate, the executor

may elect to pay part or all of the Federal estate tax in installments. The election to pay the tax in installments applies to deficiencies in tax as well as to the tax shown on the return, unless the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax. Except as otherwise provided in section 6166(i) and § 20.6166-4, the provisions of section 6166 and this section apply only if the due date of the return is after September 2, 1958. See § 20.6166-4 for special rules applicable where the decedent died after August 16, 1954, and the due date of the return was on or before September 2, 1958. See also § 20.6075-1 for the due date of the return, and § 20.6166-2 for definition of the term "interest in a closely held business". Since the election must be made on or before the due date of the return, the provisions of section 6166 will not apply to a deficiency in a case where, for whatever reason, no election was made to pay in installments the tax shown on the return. However, see para-

graph (e) (3) of this section concerning a protective election. The general administrative provisions of subtitle F of the Code are applicable in connection with an election by the executor to pay the estate tax in installments in the same manner in which they are applied in a case where an extension of time under section 6161 is granted for payment of the tax. See paragraph (a) of § 20.6165-1 for provisions requiring the furnishing of security for the payment of the tax in cases where an extension is granted under section 6161.

(b) *Limitation on amount of tax payable in installments.* The amount of estate tax which the executor may elect to pay in installments is limited to an amount A, which bears the same ratio to B (the gross Federal estate tax, reduced by the credits authorized by sections 2011 through 2014 and any death tax convention) as C (the value of the interest in a closely held business which is included in the gross estate) bears to D (the value of the gross estate). Stated algebraically, the limitation (A) equals

Value of interest in a closely held business which is included in the gross estate (C)

Value of gross estate (D)

× Gross Federal estate tax reduced by the credits authorized by sections 2011 through 2014 and any death tax convention (B).

The executor may elect to pay in installments an amount less than the amount computed under the limitation in this paragraph. For example, if the total estate tax payable is \$100,000 and the amount computed under the limitation in this paragraph is \$60,000, the executor may elect to pay in installments some lesser sum such as \$30,000, in which event the executor must pay \$73,000 to the district director on or before the date prescribed by section 6151(a) for payment of the tax. Of such payment, \$70,000 represents tax which the executor either could not elect to pay in installments or did not choose to so elect, and \$3,000 represents a payment of the first installment of the tax which the executor elected to pay in installments.

(c) *Number of installments and dates for payment.* The executor may elect to pay part or all of the tax (determined after application of the limitation contained in paragraph (b) of this section) in two or more, but not exceeding 10, equal annual installments. The first installment shall be paid on or before the date prescribed by section 6151(a) for payment of the tax (see paragraph (a) of § 20.6151-1), and each succeeding installment shall be paid on or before the date which is one year after the date prescribed for the payment of the preceding installment. See § 20.6166-3 for the circumstances under which the privilege of paying the tax in installments will terminate.

(d) *Deficiencies.* The amount of a deficiency which may be paid in installments shall not exceed the difference between the amount of tax which the executor elected to pay in installments and the maximum amount of tax (determined under paragraph (b) of this section) which the executor could have elected to pay in installments on the basis of a return which reflects the adjust-

ments which resulted in the deficiency. This amount is then prorated to the installments in which the executor elected to pay the tax. The part of the deficiency prorated to installments not yet due shall be paid at the same time as, and as a part of, such installments. The part of the deficiency prorated to installments already paid or due shall be paid upon notice and demand from the district director. At the time the executor receives such notice and demand he may, of course, prepay the portions of the deficiency which have been prorated to installments not yet due. See paragraph (h) of this section.

(e) *Notice of election.*—(1) *Filing of notice.* The notice of election to pay the estate tax in installments shall be filed with the district director on or before the due date of the return. However, if the due date of the return is after September 2, 1958, but before November 3, 1958, the election will be considered as timely made if the notice is filed with the district director on or before November 3, 1958. See § 20.6075-1 for the due date of the return.

(2) *Form of notice.* The notice of election to pay the estate tax in installments may be in the form of a letter addressed to the district director. The executor shall state in the notice the amount of tax which he elects to pay in installments, and the total number of installments (including the installment due 15 months after the date of the decedent's death) in which he elects to pay the tax. The properties in the gross estate which constitute the decedent's interest in a closely held business should be listed in the notice, and identified by the schedule and item number at which they appear on the estate tax return. The notice should set forth the facts which formed the basis for the executor's conclusion that the estate qualifies for

the payment of the estate tax in installments.

(3) *Protective election.* In a case where the estate does not qualify under section 6166(a) on the basis of the values as returned, or where the return shows no tax as due, an election may be made, contingent upon the values as finally determined meeting the percentage requirements set forth in section 6166(a), to pay in installments any portion of the estate tax, including a deficiency, which may be unpaid at the time of such final determination and which does not exceed the limitation provided in section 6166(b). The protective election must be made on or before the due date of the return and should state that it is a protective election. In the absence of a statement in the protective election as to the amount of tax to be paid in installments and the number of installments, the election will be presumed to be made for the maximum amount so payable and for the payment thereof in 10 equal annual installments, the first of which would have been due on the date prescribed in section 6151(a) for payment of the tax. The unpaid portion of the tax which may be paid in installments is prorated to the installments which would have been due if the provisions of section 6166(a) had applied to the tax, if any, shown on the return. The part of the unpaid portion of the tax so prorated to installments the date for payment of which would not have arrived before the deficiency is assessed shall be paid at the time such installments would have been due. The part of the unpaid portion of the tax so prorated to any installment the date for payment of which would have arrived before the deficiency is assessed shall be paid upon receipt of notice and demand from the district director. At the time the executor receives such notice and demand he may, of course, prepay the unpaid portions of the tax which have been prorated to installments not yet due. See paragraph (h) of this section.

(f) *Time for paying interest.* Under the provisions of section 6601, interest at the rate of 4 percent per annum shall be paid on the unpaid balance of the estate tax which the executor has elected to pay in installments, and on the unpaid balance of any deficiency prorated to the installments. Interest on such unpaid balance of estate tax shall be paid annually at the same time as, and as a part of, each installment of the tax. Accordingly, interest is computed on the entire unpaid balance for the period from the preceding installment date to the current installment date, and is paid with the current installment. In making such a computation, proper adjustment shall be made for any advance payments made during the period, whether the advance payments are voluntary or are brought about by the operation of section 6166(h)(2). In computing the annual interest payment, the portion of any deficiency which is prorated to installments the date for payment of which has not arrived shall be added to the unpaid balance at the beginning of the annual period during which the assessment of the deficiency occurs. Interest on such

portion of the deficiency for the period from the original due date of the tax to the date fixed for the payment of the last installment preceding the date of assessment of a deficiency shall be paid upon notice and demand from the district director. Any extension of time under section 6161(a)(2) (on account of undue hardship to the estate) for payment of an installment will not extend the time for payment of the interest which is due on the installment date.

(g) *Extensions of time for payment in hardship cases.* The provisions of section 6161, under which extensions of time may be granted for payment of estate tax in cases involving undue hardship, apply to both the portion of the tax which may be paid in installments under section 6166 and the portion of the tax which is not so payable. Therefore, in a case involving undue hardship, the executor may elect under section 6166 to pay in installments the portion of the tax which is attributable to the interest in the closely held business and, in addition, may file an application under section 6161 for an extension of time to pay both the portion of the tax which is not attributable to the interest in the closely held business and such of the installments as are payable within the period of the requested extension. If an executor files a notice of election to pay the tax in installments and thereafter it is determined that the estate does not qualify for the privilege of paying the tax in installments, the executor is not deprived of the right to request an extension under section 6161 of time for payment of the tax to which the purported election applied. See § 20.6161-1 for the circumstances under which a timely filed election to pay the tax in installments will be treated as a timely filed application for an extension of time to pay the tax on account of undue hardship to the estate.

(h) *Prepayments.* Voluntary prepayment may be made at any time of all, or of any part, of the unpaid portion of the tax (including deficiencies) payable in installments. Voluntary prepayments shall be applied in payment of such installments, installment, or part of an installment as the person making the prepayment shall designate. For purposes of this paragraph, a payment described in paragraph (d)(2) of § 20.6166-3 of tax in an amount not less than the amount of money or other property distributed in a section 303 redemption is considered to be a voluntary prepayment to the extent paid before the date prescribed for payment of the first installment after the redemption or, if paid on the date prescribed for payment of such installment, to the extent it exceeds the amount due on the installment. See paragraph (b)(3) of § 20.6166-3 for the application to be made of the prepayment required by section 6166(h)(2).

§ 20.6166-2 Definition of an interest in a closely held business.

(a) *In general.* For purposes of §§ 20.6166-1, 20.6166-3, and 20.6166-4, the term "interest in a closely held business" means

(1) An interest as a proprietor in a trade or business carried on as a proprietorship.

(2) An interest as a partner in a partnership carrying on a trade or business if 20 percent or more of the total capital interest in the partnership is included in determining the decedent's gross estate or if the partnership had 10 or less partners.

(3) Stock in a corporation carrying on a trade or business if 20 percent or more in value of the voting stock of the corporation is included in determining the decedent's gross estate or if the corporation had 10 or less shareholders.

(b) *Number of partners or shareholders.* The number of partners of the partnership or shareholders of the corporation is determined as of the time immediately before the decedent's death. Where an interest in a partnership, or stock in a corporation, is the community property of husband and wife, both the husband and the wife are counted as partners or shareholders in arriving at the number of partners or shareholders. Similarly, if stock is held by co-owners, tenants in common, tenants by the entirety, or joint tenants, each co-owner, tenant in common, tenant by the entirety, or joint tenant is counted as a shareholder.

(c) *Carrying on a trade or business.* (1) In order for the interest in a partnership or the stock of a corporation to qualify as an interest in a closely held business it is necessary that the partnership or the corporation be engaged in carrying on a trade or business at the time of the decedent's death. However, it is not necessary that all the assets of the partnership or the corporation be utilized in the carrying on of the trade or business.

(2) In the case of a trade or business carried on as a proprietorship, the interest in the closely held business includes only those assets of the decedent which were actually utilized by him in the trade or business. Thus, if a building was used by the decedent in part as a personal residence and in part for the carrying on of a mercantile business, the part of the building used as a residence does not form any part of the interest in the closely held business. Whether an asset will be considered as used in the trade or business will depend on the facts and circumstances of the particular case. For example, if a bank account was held by the decedent in his individual name (as distinguished from the trade or business name) and it can be clearly shown that the amount on deposit represents working capital of the business as well as nonbusiness funds (e.g., receipts from investments, such as dividends and interest), then that part of the amount on deposit which represents working capital of the business will constitute a part of the interest in the closely held business. On the other hand, if a bank account is held by the decedent in the trade or business name and it can be shown that the amount represents nonbusiness funds as well as working capital, then only that part of the amount on deposit which represents working capital of the business will constitute a part of the interest in

the closely held business. In a case where an interest in a partnership or stock of a corporation qualifies as an interest in a closely held business, the decedent's entire interest in the partnership, or the decedent's entire holding of stock in the corporation, constitutes an interest in a closely held business even though a portion of the partnership or corporate assets is used for a purpose other than the carrying on of a trade or business.

(d) *Interests in two or more closely held businesses.* For purposes of paragraphs (a) and (b) of § 20.6166-1 and paragraphs (d) and (e) of § 20.6166-3, interests in two or more closely held businesses shall be treated as an interest in a single closely held business if more than 50 percent of the total value of each such business is included in determining the value of the decedent's gross estate. For the purpose of the 50 percent requirement set forth in the preceding sentence, an interest in a closely held business which represents the surviving spouse's interest in community property shall be considered as having been included in determining the value of the decedent's gross estate.

§ 20.6166-3 Acceleration of payment.

(a) *In general.* Under the circumstances described in this section all or a part of the tax which the executor has elected to pay in installments shall be paid before the dates fixed for payment of the installments. Upon an estate's having undistributed net income described in paragraph (b) of this section for any taxable year after its fourth taxable year, the executor shall pay an amount equal to such undistributed net income in liquidation of the unpaid portion of the tax payable in installments. Upon the happening of any of the events described in paragraphs (c), (d), and (e) of this section, any unpaid portion of the tax payable in installments shall be paid upon notice and demand from the district director.

(b) *Undistributed net income of estate.* (1) If an estate has undistributed net income for any taxable year after its fourth taxable year, the executor shall pay an amount equal to such undistributed net income in liquidation of the unpaid portion of the tax payable in installments. The amount shall be paid to the district director on or before the time prescribed for the filing of the estate's income tax return for such taxable year. For this purpose extensions of time granted for the filing of the income tax return are taken into consideration in determining the time prescribed for filing the return and making such payment. In determining the number of taxable years, a short taxable year is counted as if it were a full taxable year.

(2) The term "undistributed net income" of the estate for any taxable year for purposes of this section is the amount by which the distributable net income of the estate, as defined in section 643, exceeds the sum of—

(i) The amount for such year specified in section 661(a)(1) and (2),

(ii) The amount of the Federal income tax imposed on the estate for such

taxable year under chapter 1 of the Code, and

(iii) The amount of the Federal estate tax, including interest thereon, paid for the estate during such taxable year (other than any amount paid by reason of the application of this acceleration rule).

(3) The payment described in subparagraph (1) of this paragraph shall be applied against the total unpaid portion of the tax which the executor elected to pay in installments, and shall be divided equally among the installments due after the date of such payment. The application of this subparagraph may be illustrated by the following example:

Example. The decedent died on January 1, 1959. The executor elects under section 6166 to pay tax in the amount of \$100,000 in 10 installments of \$10,000. The first installment is due on April 1, 1960. The estate files its income tax returns on a calendar year basis. For its fifth taxable year (calendar year 1963) it has undistributed net income of \$6,000. If the prepayment of \$6,000 required by section 6166(h) (2) (A), and due on or before April 15, 1964, is paid before the fifth installment (due April 1, 1964), the \$6,000 is apportioned equally among installments 5 through 10, leaving \$9,000 as the amount due on each of such installments. However, if the prepayment of \$6,000 is paid after the fifth installment, it is apportioned equally among installments 6 through 10, leaving \$8,800 as the amount due on each of such installments.

(c) *Failure to pay installment on or before due date.* If any installment of tax is not paid on or before the date fixed for its payment (including any extension of time for the payment thereof), the whole of the unpaid portion of the tax which is payable in installments becomes due and shall be paid upon notice and demand from the district director. See paragraph (c) of § 20.6166-1 for the dates fixed for the payment of installments. See also § 20.6161-1 for the circumstances under which an extension of time for the payment of an installment will be granted.

(d) *Withdrawal of funds from business.* (1) In any case where money or other property is withdrawn from the trade or business and the aggregate withdrawals of money or other property equal or exceed 50 percent of the value of the trade or business, the privilege of paying the tax in installments terminates and the whole of the unpaid portion of the tax which is payable in installments becomes due and shall be paid upon notice and demand from the district director. The withdrawals of money or other property from the trade or business must be in connection with the interest therein included in the gross estate, and must equal or exceed 50 percent of the value of the entire trade or business (and not just 50 percent of the value of the interest therein included in the gross estate). The withdrawal must be a withdrawal of money or other property which constitutes "included property" within the meaning of that term as used in paragraph (d) of § 20.2032-1. The provisions of this section do not apply to the withdrawal of money or other property which constitutes "excluded property" within the meaning of that term as used in such paragraph (d).

(2) If a distribution in redemption of stock is (by reason of the provisions of section 303 or so much of section 304 as relates to section 303) treated for income tax purposes as a distribution in full payment in exchange for the stock so redeemed, the amount of such distribution is not counted as a withdrawal of money or other property made with respect to the decedent's interest in the trade or business for purposes of determining whether the withdrawals of money or other property made with respect to the decedent's interest in the trade or business equal or exceed 50 percent of the value of the trade or business. However, in the case described in the preceding sentence the value of the trade or business for purposes of applying the rule set forth in subparagraph (1) of this paragraph is the value thereof reduced by the proportionate part thereof which such distribution represents. The proportionate part of the value of the trade or business which the distribution represents is determined at the time of the distribution, but the reduction in the value of the trade or business represented by it relates back to the time of the decedent's death, or the alternate valuation date if an election is made under section 2032, for purposes of determining whether other withdrawals with respect to the decedent's interest in the trade or business constitute withdrawals equaling or exceeding 50 percent of the value of the trade or business. See example (3) of paragraph (e) (6) of this section for illustration of this principle. The rule stated in the first sentence of this subparagraph does not apply unless after the redemption, but on or before the date

prescribed for payment of the first installment which becomes due after the redemption, there is paid an amount of estate tax not less than the amount of money or other property distributed. Where there are a series of section 303 redemptions, each redemption is treated separately and the failure of one redemption to qualify under the rule stated in the first sentence of this subparagraph does not necessarily mean that another redemption will not qualify.

(3) The application of this paragraph may be illustrated by the following examples, in each of which the executor elected to pay the estate tax in installments:

Example (1). A, who died on July 1, 1957, owned an 80 percent interest in a partnership which qualified as an interest in a closely held business. B owned the other 20 percent interest in the partnership. On the date of A's death the value of the business was \$200,000 and the value of A's interest therein was included in his gross estate at \$160,000. On October 1, 1958, when the value of the business was the same as at A's death, the executor withdrew \$80,000 from the business. On December 1, 1958, when the value of the remaining portion of the business was \$160,000, the executor withdrew \$20,000 from the business and B withdrew \$10,000. On February 1, 1959, when the value of the then remaining portion of the business was \$150,000 the executor withdrew \$15,000. The withdrawals of money or other property from the trade or business with respect to the interest therein included in the gross estate are considered as not having equaled or exceeded 50 percent of the value of the trade or business until February 1, 1959. The executor is considered as having withdrawn 40 percent of the value of the trade or business on October 1, 1958, computed as follows:

\$80,000 (withdrawal)	
\$200,000 (value of trade or business at time of withdrawal)	× 100 percent = 40 percent

Immediately following the October withdrawal the remaining portion of the business represents 60 percent of the value of the trade or business in existence at the time of A's death (100 percent less 40 percent withdrawn). The executor is considered as

having withdrawn 7.5 percent of the value of the trade or business on December 1, 1958, and B as having withdrawn 3.75 percent of the value thereof at that time, computed as follows:

Executor's withdrawal—	
\$20,000 (withdrawal)	
\$160,000 (value of trade or business at time of withdrawal)	× 60 percent = 7.5 percent
B's withdrawal—	
\$10,000 (withdrawal)	
\$160,000 (value of trade or business at time of withdrawal)	× 60 percent = 3.75 percent

Immediately following the December withdrawal the then remaining portion of the business represented 48.75 percent of the value of the trade or business in existence at the time of A's death (100 percent less 40 percent withdrawn by executor in October, 7.5 percent withdrawn by executor in December, and 3.75 percent withdrawn by B in December). It should be noted that while at this point the total withdrawals by the executor and B from the trade or business exceed 50 percent of the value thereof, the

aggregate of the withdrawals by the executor were less than 50 percent of the value of the trade or business. Also it should be noted that while the total withdrawals by the executor exceeded 50 percent of the value of A's interest in the trade or business, they did not exceed 50 percent of the value of the entire trade or business. The executor is considered as having withdrawn 4.875 percent of the value of the trade or business on February 1, 1959, computed as follows:

\$15,000 (withdrawal)	
\$150,000 (value of trade or business at time of withdrawal)	× 48.75 percent = 4.875 percent

As of February 1, 1959, the total withdrawals from the trade or business made with respect to A's interest therein was 52.375 percent of the value of the trade or business.

Example (2). The decedent's 40-percent interest in the XYZ partnership constituted an interest in a closely held business. Since the decedent's interest in the closely held

business amounted to less than 50 percent of the value of the business, money or other property equaling or exceeding 50 percent of the value of the business could not be withdrawn from the decedent's interest in the business. Therefore, withdrawals of money or other property from this trade or business never would accelerate the payment of the tax under the provisions of this paragraph.

Example (3). The decedent died on September 1, 1957. He owned 100 shares of B Corporation (the total number of shares outstanding at the time of his death) and a 75 percent interest in a partnership of which C was the other partner. The B Corporation stock and the interest in the partnership together make up the interest in the closely held business which was included in the decedent's gross estate. The B Corporation stock was included in the gross estate at a value of \$400,000 and the interest in the partnership was included at a value of \$300,000. On November 1, 1957, at which time the value of the corporation's assets had not changed, in a section 303 redemption the executor surrendered 26 shares of B Corporation stock for \$104,000. On December 1, 1957, at which time the value of the partnership's assets had not changed, the partners withdrew 90 percent of the assets of the partnership, with the executor receiving \$270,000 and C receiving \$90,000. The estate tax amounts to \$240,000, of which the executor elected under section 6166 to pay \$140,000 in 10 installments of \$14,000 each. On December 1, 1958, the due date for paying the estate tax which was not payable in installments and for paying the first installment under section 6166, the executor paid estate tax of \$114,000, of which \$100,000 represented the tax not payable in installments and \$14,000 represented the first installment. Inasmuch as after the section 303 distribution and on or before the due date of the first installment (December 1, 1958) after the section 303 distribution the executor paid as estate tax an amount not less than the amount of the distribution, the section 303 distribution does not constitute a withdrawal of money or other property from the business for purposes of section 6166(h)(1). Therefore, the value of the trade or business is reduced by the amount of the section 303 distribution. Accordingly, the value of the entire trade or business is \$696,000, of which \$400,000 represents the value of the partnership and \$296,000 represents the value of the B Corporation stock. Since the executor is considered as having withdrawn only \$270,000 (the withdrawal from the partnership) from the trade or business, the withdrawal of money or other property from the trade or business made with respect to the decedent's interest therein was $\frac{270,000}{696,000}$ of the value of the entire trade or business, or less than 50 percent thereof.

(e) Disposition of interest in business.

(1) In any case where in the aggregate 50 percent or more of the decedent's interest in a closely held business has been distributed, sold, exchanged, or otherwise disposed of, the privilege of paying the tax in installments terminates and the whole of the unpaid portion of the tax which is payable in installments becomes due and shall be paid upon notice and demand from the district director. A transfer by the executor of an interest in the closely held business to a beneficiary or trustee named in the decedent's will or to an heir who is entitled to receive it under the applicable intestacy law does not constitute a distribution thereof for purposes of determining whether 50 percent or more of an interest in a closely held business has been distributed, sold, exchanged, or otherwise disposed of. However, a subsequent

transfer of the interest by the beneficiary, trustee, or heir will constitute a distribution, sale, exchange, or other disposition thereof for such purposes. The disposition must be a disposition of an interest which constitutes "included property" within the meaning of that term as used in paragraph (d) of § 20.2032-1. The provisions of this section do not apply to the disposition of an interest which constitutes "excluded property" within the meaning of that term as used in such paragraph (d).

(2) The phrase "distributed, sold, exchanged, or otherwise disposed of" comprehends all possible ways by which an interest in a closely held business ceases to form a part of the gross estate. The term includes the surrender of a stock certificate for corporate assets in complete or partial liquidation of a corporation pursuant to section 331. The term also includes the surrender of stock for stock pursuant to a transaction described in subparagraphs (A), (B), or (C) of section 368(a)(1). In general the term does not, however, extend to transactions which are mere changes in form. It does not include a transfer of assets to a corporation in exchange for its stock in a transaction with respect to which no gain or loss would be recognizable for income tax purposes under section 351. It does not include an exchange of stock in a corporation for stock in the same corporation or another corporation pursuant to a plan of reorganization described in subparagraphs (D), (E), or (F) of section 368(a)(1), nor to an exchange to which section 355 (or so much of section 356 as relates to section 355) applies. However, any stock received in an exchange to which the two preceding sentences apply shall for purposes of this paragraph be treated as an interest in a closely held business.

(3) An interest in a closely held business may be "distributed" by either a trustee who received it from the executor, or a trustee of an interest which is included in the gross estate under sections 2035 through 2038, or section 2041. See subparagraph (1) of this paragraph relative to the distribution of an interest by the executor to the person entitled to receive it under the decedent's will or an intestacy law.

(4) An interest in a closely held business may be "sold, exchanged, or otherwise disposed of" by (i) the executor; (ii) a trustee or other donee to whom the decedent in his lifetime transferred the interest included in his gross estate under section 2035 through 2038, or section 2041; (iii) a beneficiary, trustee, or heir entitled to receive the property from the executor under the decedent's will or under the applicable law of descent and distribution, or to whom title to the interest passed directly under local law; (iv) a surviving joint tenant or tenant by the entirety; or (v) any other person.

(5) If a distribution in redemption of stock is (by reason of the provisions of section 303 or so much of section 304 as relates to section 303) treated for income tax purposes as a distribution in full payment in exchange for the

stock redeemed, the stock so redeemed is not counted as distributed, sold, exchanged, or otherwise disposed of for purposes of determining whether 50 percent or more of the decedent's interest in a closely held business has been distributed, sold, exchanged, or otherwise disposed of. However, in the case described in the preceding sentence the interest in the closely held business for purposes of applying the rule set forth in subparagraph (1) of this paragraph is such interest reduced by the proportionate part thereof which the redeemed stock represents. The proportionate part of the interest which the redeemed stock represents is determined at the time of the redemption, but the reduction in the interest represented by it relates back to the time of the decedent's death, or the alternate valuation date if an election is made under section 2032, for purposes of determining whether other distributions, sales, exchanges, and dispositions of the decedent's interest in the closely held business equal or exceed in the aggregate 50 percent of such interest. See example (3) of subparagraph (6) of this paragraph for illustration of this principle. The rule stated in the first sentence of this subparagraph does not apply unless after the redemption, but on or before the date prescribed for payment of the first installment which becomes due after the redemption, there is paid an amount of estate tax not less than the amount of money or other property distributed. Where there are a series of section 303 redemptions, each redemption is treated separately and the failure of one redemption to qualify under the rule stated in the first sentence of this subparagraph does not necessarily mean that another redemption will not qualify.

(6) The application of this paragraph may be illustrated by the following examples, in each of which the executor elected to pay the tax in installments:

Example (1). The decedent died on October 1, 1957. He owned 8,000 of the 12,000 shares of D Corporation outstanding at the time of his death and 3,000 of the 5,000 shares of E Corporation outstanding at that time. The D Corporation stock was included in the gross estate at \$50 per share, or a total of \$400,000. The E Corporation stock was included in the gross estate at \$100 per share, or a total of \$300,000. On November 1, 1958, the executor sold the 3,000 shares of E Corporation and on February 1, 1959, he sold 1,000 shares of D Corporation. Since the decedent's shares of D Corporation and E Corporation together constituted the interest in a closely held business, the value of such interest was \$700,000 (\$400,000 plus \$300,000) and the D Corporation stock represented $\frac{400,000}{700,000}$ thereof and the E Corporation stock represented $\frac{300,000}{700,000}$ thereof. While the sale of 3,000 shares of E Corporation on November 1, 1958, was a sale of the decedent's entire interest in E Corporation and a sale of more than 50 percent of the outstanding stock of E Corporation, nevertheless it constituted a sale of only $\frac{300,000}{700,000}$ of the interest in the closely held business. The sale of 1,000 shares of D Corporation stock on February 1, 1959, represented a sale of $\frac{50,000}{700,000}$ of the interest in the closely held business. The numerator of \$50,000 is determined as follows:

$\frac{1,000 \text{ (shares sold)}}{8,000 \text{ (shares owned)}} \times \$400,000 \text{ (value of shares owned, as included in gross estate)}$

Taken together the two sales represented a sale of 50 percent ($\frac{350,000}{700,000}$) of the interest in the closely held business. Therefore, as of February 1, 1959 (the date of the sale of 1,000 shares of E Corporation), 50 percent or more in value of the interest in the closely held business is considered as distributed, sold, exchanged, or otherwise disposed of.

Example (2). The decedent died on September 1, 1958. The interest owned by him in a closely held business consisted of 100 shares of the M Corporation. On February 1, 1959, in a section 303 redemption, 20 shares were redeemed for cash and an amount equivalent to the proceeds was paid on the Federal estate tax before the date of the next installment. On July 1, 1959, the executor sold 40 of the remaining shares of the stock. The section 303 redemption is not considered to be a distribution, sale, exchange, or other disposition of the portion of the interest represented by the 20 shares redeemed. As a result of the section 303 redemption the remaining 80 shares represent the decedent's entire interest in the closely held business for purposes of determining whether in the aggregate 50 percent or more of the interest in the closely held business has been distributed, sold, exchanged, or otherwise disposed of. The sale on July 1, 1959, of the 40 shares represents a sale of 50 percent of the interest in the closely held business.

Example (3). The facts are the same as in example (2) except that the 40 shares were sold on December 1, 1958 (before the section 303 redemption was made) instead of on July 1, 1959 (after the section 303 redemption was made). The sale of the 40 shares in December represents, as of that date, a sale of 40 percent of the interest in the closely held business. However, the section 303 redemption of 20 shares does not count as a distribution, sale, exchange, or other disposition of the interest, but it does reduce the interest to 80 shares (100 shares less 20 shares redeemed) for purposes of determining whether other distributions, sales, exchanges, and dispositions in the aggregate equal or exceed 50 percent of the interest in the closely held business. Since the reduction of the interest to 80 shares relates back to the time of the decedent's death, or the alternate valuation date if an election is made under section 2032, the sale of the 40 shares, as recomputed represents a sale of 50 percent of the interest. However, since the sale of the 40 shares did not represent a sale of 50 percent of the interest until the section 303 distribution was made, February 1, 1959 (the date of the section 303 distribution) is considered the date on which 50 percent of the interest was distributed, sold, exchanged, or otherwise disposed of.

(f) **Information to be furnished by executor.** (1) If the executor acquires knowledge of the happening of any transaction described in paragraph (d) or (e) of this section which, in his opinion, standing alone or when taken together with other transactions of which he has knowledge, would result in

(i) Aggregate withdrawals of money or other property from the trade or business equal to or exceeding 50 percent of the value of the entire trade or business, or

(ii) Aggregate distributions, sales, exchanges, and other dispositions equal to or exceeding 50 percent of the interest in the closely held business which was included in the gross estate,

the executor shall so notify the district director, in writing, within 30 days of acquiring such knowledge.

(2) On the date fixed for payment of each installment of tax (determined without regard to any extension of time for the payment thereof), other than the final installment, the executor shall furnish the district director, in writing, with either

(i) A complete disclosure of all transactions described in paragraphs (d) and (e) of this section of which he has knowledge and which have not previously been made known by him to the district director, or

(ii) A statement that to the best knowledge of the executor all transactions described in paragraphs (d) and (e) of this section which have occurred have not produced a result described in subparagraph (1) (i) or (ii) of this paragraph.

(3) The district director may require the submission of such additional information as is deemed necessary to establish the estate's right to continue payment of the tax in installments.

§ 20.6166-4 Special rules applicable where due date of return was before September 3, 1958.

(a) **In general.** Section 206(f) of the Small Business Tax Revision Act of 1958 (72 Stat. 1685) provides that section 6166(i) of the Code shall apply in cases where the decedent died after August 16, 1954, but only if the date for filing the estate tax return (including extensions thereof) expired before September 3, 1958. Therefore, the privilege of paying the estate tax in installments as described in §§ 20.6166-1 through 20.6166-3 is available also in cases where the due date of the return is before September 3, 1958, but under somewhat different circumstances. These differences are explained in paragraphs (b) through (e) of this section. Therefore, except as otherwise provided in paragraphs (b) through (e) of this section, the regulations contained in §§ 20.6166-1 through 20.6166-3 apply also in cases where the due date of the return is before September 3, 1958. See § 20.6075-1 for the due date of the return. The value of the gross estate as determined for purposes of a deficiency in tax assessed after September 2, 1958, and the value at which the interest in the closely held business, to which the election applies, is included in such value of the gross estate are used in ascertaining whether an estate coming within the purview of section 6166(i) and this section satisfies the percentage requirements as to qualification set forth in section 6166(a).

(b) **Tax to which election applies.** In a case where the due date of the return was before September 3, 1958, an election to pay estate tax in installments does not apply to the tax shown on the return nor to a deficiency in tax assessed before that date. It does apply to a deficiency in tax assessed after September 2, 1958, unless the deficiency is due to negligence, to intentional disregard

of rules and regulations, or to fraud with intent to evade tax. The amount of the deficiency which may be paid in installments shall not exceed that proportion of the total tax (including the deficiency) which is determined by applying thereto the ratio set forth in paragraph (b) of § 20.6166-1. See paragraph (c) of this section for the method of prorating the deficiency to the installments.

(c) **Proration of deficiency to installments.** The deficiency in tax which may be paid in installments is prorated to the installments which would have been due if the provisions of section 6166(a) had applied to the tax shown on the return and if an election had been timely made at the time the estate tax return was filed. The part of the deficiency so prorated to any installment the date for payment of which would have arrived before the election is made shall be paid at the time the election is made. The portion of the deficiency so prorated to installments the date for payment of which would not have arrived before the election is made shall be paid at the time such installments would have been due if such an election had been made.

(d) **Notice of election.** The notice of election to pay the deficiency in installments shall be filed with the district director not later than 60 days after issuance of notice and demand by the district director for payment of the deficiency. The number of installments in which the executor elects to pay the deficiency includes those installments the dates for payment of which would have arrived within the meaning of paragraph (c) of this section. See paragraph (c) (2) of § 20.6166-1 for further information relative to the notice of election.

(e) **Undistributed income of estate.** In any case where the due date of the estate tax return was before September 3, 1958, the provisions of paragraph (b) of § 20.6166-3 (providing for acceleration of payment of estate tax by amount of estate's undistributed net income for any taxable year after its fourth taxable year) shall not apply with respect to the estate's undistributed net income for any taxable year ending before January 1, 1960.

PAR. 6. Section 20.6601 is amended by revising subsection (b) of section 6601 and by adding a historical note to read as follows:

§ 20.6601 Statutory provisions; interest on underpayment, nonpayment, or extensions of time for payment, of tax.

Sec. 6601. Interest on underpayment, nonpayment, or extensions of time for payment, of tax. . . .

(b) **Extensions of time for payment of estate tax.** If the time for payment of an amount of tax imposed by chapter 11 is extended as provided in section 6161(a)(2) or 6166, or if the time for payment of an amount of such tax is postponed or extended as provided by section 6163, interest shall be paid at the rate of 4 percent, in lieu of 6 percent as provided in subsection (a).

[Sec. 6601 as amended by sec. 66(c), Technical Amendments Act 1958 (72 Stat. 1658); sec. 206(e), Small Business Tax Revision Act 1958 (72 Stat. 1685)]

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