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ESTIMATED FEDERAL INCOME TAX PROCEDURE FOR COMMERCIAL FISHERMEN: QUESTIONS AND ANSWERS

by

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1. Q. What legislation was recently enacted as an income tax aid for commercial fishermen?
 - A. Public Law 87-682 passed by the 87th Congress, September 25, 1962. This Act amends the Internal Revenue Code of 1954 and becomes effective with respect to the taxable years beginning after December 31, 1962.
2. Q. What is the purpose of P.L. 87-682?
 - A. The purpose of this legislation is to extend to fishermen the same treatment accorded farmers in relation to estimated income tax.
3. Q. What are the advantages of this legislation to fishermen?
 - A. The principal advantage resulting from P.L. 87-682 is that individuals having income from fishing have the privilege of filing their declarations of estimated tax and paying such tax by the 15th day after the end of the taxable year, January 15, in the case of a calendar-year taxpayer, rather than filing the declaration by April 15 of the calendar year and making current, quarterly payments of estimated tax.
4. Q. What is the reason for the enactment of this law?
 - A. Probably the most important reason was the recognition that income from fishing (as from farming) is particularly difficult to estimate before the end of the year or at least before the end of the principal fishing season during which the taxpayer obtains the bulk of his income. Also, the income receipts from fishing are likely to be concentrated in the latter part of the year (about two-thirds of the total quantity of all commercially produced fish and shellfish is caught in the last 6 months of the calendar year). Furthermore, record keeping is probably more of a problem in the case of income from fishing than it

is in the case of income from most other types of self-employment.

5. Q. In what ways are those individuals having income from fishing treated differently from taxpayers generally under the system of reporting and paying estimated tax?

A. First, taxpayers other than fishermen (and farmers) who have sufficient income are required to make an estimate on April 15 (in the case of a calendar-year taxpayer) of tax in excess of that withheld and to pay this amount in four quarterly payments on April 15, June 15, September 15, and January 15 [sec. 6073(a) of the Internal Revenue Code]. However, fishermen and farmers, instead of making the estimate in April and paying the quarterly installments, may file an estimate by January 15 of the following year, paying the full estimated tax at the time of filing [secs. 6073(b) and 6153(b)].

Second, taxpayers other than farmers and fishermen, instead of making their fourth payment of the estimated tax on January 15 (in the case of calendar-year taxpayers), are permitted to file their regular income tax return and make their final tax payment by January 31 [sec. 6015(f)]. In the case of farmers and fishermen, this date is February 15 instead of January 31.

Third, the present law for taxpayers other than farmers and fishermen assesses an underpayment penalty in the form of a 6-percent per annum addition to tax on the excess of 70 percent of the actual tax due over the amount paid by withholding and by estimated tax [sec. 6654(b)]. For

farmers and fishermen this percentage is 66 2/3 percent instead of 70 percent.

Fourth, there are four exceptions, or "escape valves" as they are sometimes called [in sec. 6654(d)], which, if any apply, mean that no 6-percent per annum addition to tax is to be made for underpayment of estimated tax. One of these exceptions, or escape valves, provides that in the case of any installments, there is to be no addition to tax if, in the case of taxpayers other than farmers and fishermen, 70 percent of what the tax would be (determined on an annualized basis) for the part of the year up to the installment due date has been paid by that time [sec. 6654(d)(1)(C)]. For farmers and fishermen this percentage is 66 2/3 percent.

6. Q. May all individuals having incomes from fishing use this procedure in filing their declarations of estimated tax?

A. No. Only those who derive two-thirds or more of their income from fishing may use this procedure in filing their declarations of estimated tax.

7. Q. May fishing vessel owners and operators who derive two-thirds of their income from fishing also use this procedure in filing their declarations of estimated tax?

A. The eligibility of such individuals has not yet been determined. The Internal Revenue Service plans to issue regulations covering the application of P.L. 87-682. Pending publication, inquiries should be directed to the nearest office of the Internal Revenue Service.

MS #1303

8. Q. How is the estimated gross income from fishing defined by the Internal Revenue Service?
- A. The definition of estimated gross income will be found in sec. 1.6073-1(b)(3) of T.D. 6678, issued October 1, 1963, reproduced below:

[T.D. 6678]

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

Extension to Fishermen of Same Treatment Accorded Farmers in Relation to Estimated Tax

On July 2, 1963, notice of proposed rule making with respect to the amendments of the Income Tax Regulations (26 CFR Part 1) under sections 6015(f), 6073, 6153, and 6654 of the Internal Revenue Code of 1954 to conform the regulations to changes made by the Act of September 25, 1962 (Pub. Law 87-682, 76 Stat. 575), was published in the FEDERAL REGISTER (28 F.R. 6787). No objection to the rules proposed having been received during the 30-day period prescribed in the notice, the regulations as proposed are hereby adopted.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] MORTIMER M. CAPLIN,
Commissioner of Internal Revenue.

Approved: September 25, 1963.

STANLEY S. SURREY,
Assistant Secretary of the Treasury.

In order to conform the Income Tax Regulations (26 CFR Part 1) under sections 6015(f), 6073, 6153, and 6654 of the Internal Revenue Code of 1954 to the Act of September 25, 1962 (Public Law 87-682, 76 Stat. 575), such regulations are amended as follows:

PARAGRAPH 1. Section 1.6015(f) is amended by revising subsection (f) of section 6015 and the historical note to read as follows:

§ 1.6015(f) Statutory provisions; declaration of estimated income tax by individuals; return as declaration or amendment.

SEC. 6015. *Declaration of estimated income tax by individuals.* * * *

(f) *Return as declaration or amendment.* If on or before January 31 (or February 15, in the case of an individual referred to in section 6073(b), relating to income from farming or fishing) of the succeeding taxable year the taxpayer files a return, for the taxable year for which the declaration is required, and pays in full the amount computed on the return as payable, then, under regulations prescribed by the Secretary or his delegate—

(1) If the declaration is not required to be filed during the taxable year, but is required to be filed on or before January 15, such return shall be considered as such declaration; and

(2) If the tax shown on the return (reduced by the sum of the credits against tax provided by part IV of subchapter A of chapter 1) is greater than the estimated tax shown in a declaration previously made, or in the last amendment thereof, such return shall be considered as the amendment of the declaration permitted by subsection (e) to be filed on or before January 15.

In the application of this subsection in the case of a taxable year beginning on any date other than January 1, there shall be substituted, for the 15th or last day of the months specified in this subsection, the 15th or last day of the months which correspond thereto.

[Sec. 6015(f) as amended by sec. 74, Technical Amendments Act 1958 (72 Stat. 1660); sec. 1(a)(1), Act of Sept. 25, 1962 (Pub. Law 87-682, 76 Stat. 575)]

PAR. 2. Section 1.6015(f)-1 is amended by revising subparagraph (1) of paragraph (a) to read as follows:

§ 1.6015(f)-1 Return as declaration or amendment.

(a) *Time for filing return.* (1) If the taxpayer files his return for the calendar year on or before January 31 (or February 15, in the case of an individual referred to in section 6073(b), relating to income from farming or, with respect to taxable years beginning after December 31, 1962, from fishing) of the succeeding calendar year (or if the taxpayer is on a fiscal year basis, on or before the last day of the first month (in the case of a farmer or, with respect to taxable years beginning after December 31, 1962, a fisherman, the 15th day of the second month) immediately succeeding the close of such fiscal year), and pays in full the amount computed on the return as payable, then—

(i) If the declaration is not required to be filed during the taxable year, but is required to be filed on or before January 15 of the succeeding year (or the date corresponding thereto in the case of a fiscal year), such return shall be considered as such declaration; or

(ii) If a declaration was filed during the taxable year, such return shall be considered as the amendment of the declaration permitted by section 6015(e) to be filed on or before January 15 of the succeeding year (or the date corresponding thereto in the case of a fiscal year). Hence, for example, an individual taxpayer on the calendar year basis who, subsequent to September 1, 1963, first meets the requirements of section 6015(a) which necessitate the filing of a declaration for 1963, may satisfy the requirements as to the filing of such declaration by filing his return for 1963 on or before January 31, 1964 (February 15, 1964, in the case of a farmer or fisherman), and paying in full at the time of such filing the tax shown thereon to be payable. Likewise, if a taxpayer files on or before September 15, 1963, a timely declaration for such year and subsequent

thereto and on or before January 31, 1964, files his return for 1963, and pays at the time of such filing the tax shown by the return to be payable, such return shall be treated as an amended declaration timely filed.

PAR. 3. Section 1.6073 is amended by revising subsections (a) and (b) of section 6073 and by adding a historical note. The amended provisions read as follows:

§ 1.6073 Statutory provisions; time for filing declarations of estimated income tax by individuals.

SEC. 6073. *Time for filing declarations of estimated income tax by individuals—(a) Individuals other than farmers or fishermen.* Declarations of estimated tax required by section 6015 from individuals regarded as neither farmers nor fishermen for the purpose of that section shall be filed on or before April 15 of the taxable year, except that if the requirements of section 6015 are first met—

(1) After April 1 and before June 2 of the taxable year, the declaration shall be filed on or before June 15 of the taxable year, or

(2) After June 1 and before September 2 of the taxable year, the declaration shall be filed on or before September 15 of the taxable year, or

(3) After September 1 of the taxable year, the declaration shall be filed on or before January 15 of the succeeding taxable year.

(b) *Farmers or fishermen.* Declarations of estimated tax required by section 6015 from individuals whose estimated gross income from farming or fishing (including oyster farming) for the taxable year is at least two-thirds of the total estimated gross income from all sources for the taxable year may, in lieu of the time prescribed in subsection (a), be filed at any time on or before January 15 of the succeeding taxable year.

* * * * *
[Sec. 6073 as amended by secs. 1 (a) (2), (b), (c), Act of Sept. 25, 1962 (Pub. Law 87-682, 76 Stat. 575)]

PAR. 4. Section 1.6073-1 is amended by revising paragraphs (a), (b), and (d) to read as follows:

§ 1.6073-1 Time and place for filing declarations of estimated income tax by individuals.

(a) *Individuals other than farmers or fishermen.* Declarations of estimated tax for the calendar year shall be made on or before April 15th of such calendar year by every individual whose anticipated income for the year meets the requirements of section 6015(a). If, however, the requirements necessitating the filing of the declaration are first met, in the case of an individual on the calendar year basis, after April 1st, but before June 2d of the calendar year, the declaration must be filed on or before June 15th; if such requirements are first met after June 1st and before September 2d, the declaration must be filed on or before September 15th; and if such requirements are first met after September 1st, the declaration must be filed on or before January 15th of the succeeding calendar year. In the case of an individual on the fiscal year basis, see § 1.6073-2.

(b) *Farmers or fishermen—(1) In general.* In the case of an individual on a calendar year basis, whose estimated gross income from farming (including oyster farming) or, with respect to taxable years beginning after December 31, 1962, from fishing for the calendar year is at least two-thirds of his total estimated gross income from all sources for such year, his declaration may be filed on or before the 15th day of January of the succeeding calendar year in lieu of the time prescribed in paragraph (a) of this section. For the filing of a return in lieu of a declaration, see paragraph (a) of § 1.6015(f)-1.

(2) *Farmers.* The estimated gross income from farming is the estimated income resulting from oyster farming, the cultivation of the soil, the raising or harvesting of any agricultural or horticultural commodities, and the raising of livestock, bees, or poultry. In other words, the requisite gross income must be derived from the operations of a stock, dairy, poultry, fruit, or truck farm, or plantation, ranch, nursery, range, orchard, or oyster bed. If an individual receives for the use of his land income in the form of a share of the crops produced thereon such income is from farming. As to determination of income of farmers, see sections 61 and 162 and the regulations thereunder.

(3) *Fishermen.* The estimated gross income from fishing is the estimated income resulting from the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish (for example, clams and mussels), crustacea (for example, lobsters, crabs, and shrimps), sponges, seaweeds, or other aquatic forms of animal and vegetable life. The estimated gross income from fishing includes the income expected to be received by an officer or member of the crew of a vessel while the vessel is engaged in any such activity, whether or not the officer or member of the crew is himself so engaged, and, in the case of an individual who is engaged in any such activity in the employ of any person, the income expected to be received by such individual from such employment. In addition, income expected to be received for services performed as an ordinary incident to any such activity is estimated gross income from fishing. Similarly, for example, the estimated gross income from fishing includes income expected to be received from the shore services of an officer or member of the crew of a vessel engaged in any such activity, if such services are an ordinary incident to any such activity. Services performed as an ordinary incident to such activities include, for example, services performed in such cleaning, icing, and packing of fish as are necessary for the immediate preservation of the catch.

* * * * *

(d) *Amendment of declaration.* An amended declaration of estimated tax may be filed during any interval between installment dates prescribed for the taxable year. However, no amended declaration may be filed until after the installment date on or before which the original declaration was filed and only one amended declaration may be filed during each interval between installment dates. An amended declaration shall be filed with the district director with whom the original declaration was filed.

PAR. 5. Section 1.6073-2 is amended to read as follows:

§ 1.6073-2 Fiscal years.

(a) *Individuals other than farmers or fishermen.* In the case of an individual on the fiscal year basis, the declaration must be filed on or before the 15th day of the 4th month of the taxable year. If, however, the requirements of section 6015(a) are first met after the 1st day of the 4th month and before the 2d day of the 6th month, the declaration must be filed on or before the 15th day of the 6th month of the taxable year.

If such requirements are first met after the 1st day of the 6th month, and before the 2d day of the 9th month, the declaration must be filed on or before the 15th day of the 9th month of the taxable year. If such requirements are first met after the 1st day of the 9th month, the declaration must be filed on or before the 15th day of the 1st month of the succeeding fiscal year. Thus, if an individual taxpayer has a fiscal year ending on June 30, 1956, his declaration must be filed on or before October 15, 1955, if the requirements of section 6015 (a) are met on or before October 1, 1955. If, however, such requirements are not met until after October 1, 1955, and before December 2, 1955, the declaration need not be filed until December 15, 1955.

(b) *Farmers or fisherman.* An individual on the fiscal year basis whose estimated gross income from farming or, with respect to taxable years beginning after December 31, 1962, from fishing (as defined in paragraph (b) of § 1.6073-1) is at least two-thirds of his total estimated gross income from all sources for such taxable year may file his declaration on or before the 15th day of the month immediately following the close of his taxable year.

PAR. 6. Section 1.6073-3 is amended to read as follows:

§ 1.6073-3 Short taxable years.

(a) *Individuals other than farmers or fishermen.* In the case of short taxable years the declaration shall be filed on or before the 15th day of the 4th month of such taxable year if the requirements of section 6015(a) are met on or before the 1st day of the 4th

month of such year. If such requirements are first met after the 1st day of the 4th month but before the 2d day of the 6th month, the declaration must be filed on or before the 15th day of the 6th month. If such requirements are first met after the 1st day of the 6th month but before the 2d day of the 9th month, the declaration must be filed on or before the 15th day of the 9th month. If, however, the period for which the declaration is filed is one of 4 months, or one of 6 months and the requirements of section 6015(a) are not met until after the 1st day of the 4th month, or one of 9 months and such requirements are not met until after the 1st day of the 6th month, the declaration may be filed on or before the 15th day of the succeeding taxable year.

(b) *Farmers or fishermen.* In the case of an individual whose estimated gross income from farming or, with respect to taxable years beginning after December 31, 1962, from fishing (as defined in paragraph (b) of § 1.6073-1) for a short taxable year is at least two-thirds of his total estimated gross income from all sources for such taxable year, his declaration may be filed on or before the 15th day of the month immediately following the close of such taxable year.

PAR. 7. Section 1.6153 is amended by revising subsection (b) of section 6153 and by adding a historical note. The amended provision reads as follows:

§ 1.6153 Statutory provisions; installment payments of estimated income tax by individuals.

SEC. 6153. *Installment payments of estimated income tax by individuals.* * * *

(b) *Farmers or fishermen.* If an individual referred to in section 6073(b) (relating to income from farming or fishing) makes a declaration of estimated tax after September 15 of the taxable year and on or before January 15 of the succeeding taxable year, the estimated tax shall be paid in full at the time of the filing of the declaration.

[Sec. 6153 as amended by sec. 1 (a) (3), (c), Act of Sept. 25, 1962 (Pub. Law 87-682, 76 Stat. 575)]

PAR. 8. Section 1.6153-1 is amended by revising paragraph (b) to read as follows:

§ 1.6153-1 Payment of estimated tax by individuals.

(b) *Farmers or fishermen.* Special provisions are made with respect to the filing of the declaration and the payment of the tax by an individual whose estimated gross income from farming or, with respect to taxable years beginning after December 31, 1962, from fishing is at least two-thirds of his total gross income from all sources for the taxable year. As to what constitutes income

from farming or fishing within the meaning of this paragraph, see paragraph (b) of § 1.6073-1. The declaration of such an individual may be filed on or before January 15 of the succeeding taxable year in lieu of the time prescribed for individuals generally. Where such an individual makes a declaration of estimated tax after September 15 of the taxable year, the estimated tax shall be paid in full at the time of the filing of the declaration.

PAR. 9. Section 1.6654 is amended by revising subsection (b)(1) of section 6654 and so much of subparagraph (C) of subsection (d)(1) of section 6654 as precedes clause (i), and by adding a historical note. The amended provisions read as follows:

§ 1.6654 Statutory provisions; failure by individual to pay estimated income tax.

SEC. 6654. *Failure by individual to pay estimated income tax.* * * *

(b) *Amount of underpayment.* * * *

(1) The amount of the installment which would be required to be paid if the estimated tax were equal to 70 percent (66 $\frac{2}{3}$ percent in the case of individuals referred to in section 6073(b), relating to income from farming or fishing) of the tax shown on the return for the taxable year or, if no return was filed, 70 percent (66 $\frac{2}{3}$ percent in the case of individuals referred to in section 6073(b) relating to income from farming or fishing) of the tax for such year, over

(d) *Exception.* * * *

(1) * * *

(C) An amount equal to 70 percent (66 $\frac{2}{3}$ percent in the case of individuals referred to in section 6073(b), relating to income from farming or fishing) of the tax for the taxable year computed by placing on an annualized basis the taxable income for the months in the taxable year ending before the month in which the installment is required to be paid. For purposes of this subparagraph, the taxable income shall be placed on an annualized basis by—

[Sec. 6654 as amended by sec. 1(a)(4), Act of Sept. 25, 1962 (Pub. Law 87-682, 76 Stat. 575)]

PAR. 10. Section 1.6654-1 is amended by revising subparagraph (1)(i) of paragraph (a) and Example (1) in paragraph (c) to read as follows:

§ 1.6654-1 Addition to the tax in the case of an individual.

(a) *In general.* (1) * * *

(i) 70 percent (66 $\frac{2}{3}$ percent in the case of individuals referred to in section 6073(b), relating to income from farming or, with respect to taxable years beginning after December 31, 1962, from fishing) of the tax shown on the return for the taxable year or, if no return was filed, 70 percent (66 $\frac{2}{3}$ percent in

the case of individuals referred to in section 6073(b), relating to income from farming or, with respect to taxable years beginning after December 31, 1962, from fishing) of the tax for such year, divided by the number of installment dates prescribed for such taxable year, over

(c) *Examples.* * * *

Example (1). An individual taxpayer files his return for the calendar year 1955 on April 15, 1956, showing a tax of \$40,000. He has paid a total of \$20,000 of estimated tax in four equal installments of \$5,000 on each of the four installment dates prescribed for such year. No other payments were made prior to the date the return was filed. Since the amount of each installment paid by the last date prescribed for payment thereof is less than one-quarter of 70 percent of the tax shown on the return, the addition to the tax is applicable in respect of the underpayment existing as of each installment date and is computed as follows:

| | |
|---|----------|
| (1) Amount of tax shown on return..... | \$40,000 |
| (2) 70 percent of item (1)..... | 28,000 |
| | <hr/> |
| (3) One-fourth of item (2)..... | 7,000 |
| (4) Deduct amount paid on each installment date..... | 5,000 |
| | <hr/> |
| (5) Amount of underpayment for each installment date (item (3) minus item (4))..... | 2,000 |
| (6) Addition to the tax: | |
| 1st installment—period 4-15-55 to 4-15-56..... | \$120 |
| 2d installment—period 6-15-55 to 4-15-56..... | 100 |
| 3d installment—period 9-15-55 to 4-15-56..... | 70 |
| 4th installment—period 1-15-56 to 4-15-56..... | 30 |
| | <hr/> |
| Total..... | 320 |

PAR. 11. Section 1.6654-2 is amended by revising so much of subparagraph (3) of paragraph (a) as precedes subdivision (i). This amended provision reads as follows:

§ 1.6654-2 Exceptions to imposition of the addition to the tax in the case of individuals.

(a) *In general.* * * *

(3) The amount which would have been required to be paid on or before the date prescribed for payment if the estimated tax were an amount equal to 70 percent (66 $\frac{2}{3}$ percent in the case of individuals referred to in section 6073(b), relating to income from farming or, with respect to taxable years beginning after December 31, 1962, from fishing) of the tax computed by placing on an annual basis the taxable income for the calendar months in the taxable year preceding such date. The taxable income shall be placed on an annual basis by—

[F.R. Doc. 63-10379; Filed, Sept. 30, 1963; 8:48 a.m.]