

Revenue Ruling 81-294, 1981-2 CB 237

Illustrations

Situation 1

	Returned Figures	Audited Figures
1 Total tax	50x	100x
2 Deficiency or (overassessment)		50x
3 §6166(a)(2) ratio	50%	80%
4 <i>Maximum tax that could have been deferred under section 6166</i>	25x	80x
5 <i>Increase or (decrease) in maximum deferrable tax</i>		55x
6 Non-deferred tax, due on return due date	25x	25x
7 First installment of deferred tax, due on return due date	2.5x	7.5x
8 Payment made on return due date	27.5x	
9 Payment that should have been made on return due date		32.5
10 Additional deferred tax due or (overpaid)		5x
11		
12 Maximum amount of additional tax that could have been deferred		55x
13 Amount of deficiency		50x
14 Portion of the deficiency that can be deferred (§6166(e) proration to installments)		50x
15		
16 Tax deferred on the return that was filed		25x
17 Portion of the deficiency that can be deferred		50x
18 Total amount of tax payable in installments		75x
19 Annual installment per audit adjustments		7.5x
20		
21 Total tax per audit adjustments		100x
22 Total amount of tax payable in installments per audit adjustments		75x
23 Non-deferred tax due per audit adjustments		25x
24 First installment due per audit adjustments		7.5x
25 Total payment due on return due date per audit adjustments		32.5x
26 Actual payment made on the return due date		27.5x
27 Catch-up payment due per audit adjustments (§6166(e) prorated first installment)		5x

Rev. Rul. 81-294 Situation 1, Comment 1: The section 6166(a)(2) ratio for the maximum amount of tax which may be paid in installments is 80%. This would indicate that 80x of tax could be deferred. However, because of the limitation resulting from the section 6166(e) proration of the deficiency to installments, only 75% of the total tax can be deferred under section 6166.

Revenue Ruling 81-294, 1981-2 CB 237

Illustrations

Situation 2

	Returned Figures	Audited Figures
1 Total tax	50x	50x
2 Deficiency or (overassessment)		0x
3 §6166(a)(2) ratio	50%	60%
4 <i>Maximum tax that could have been deferred under section 6166</i>	25x	30x
5 <i>Increase or (decrease) in maximum deferrable tax</i>		5x
6 Non-deferred tax, due on return due date	25x	25x
7 First installment of deferred tax, due on return due date	2.5x	2.5x
8 Payment made on return due date	27.5x	
9 Payment that should have been made on return due date		27.5x
10 Additional deferred tax due or (overpaid)		0
11		
12 Maximum amount of additional tax that could have been deferred		5x
13 Amount of deficiency		0
14 Portion of the deficiency that can be deferred (§6166(e) proration to installments)		NA
15		
16 Tax deferred on the return that was filed		25x
17 Portion of the deficiency that can be deferred		0
18 Total amount of tax payable in installments		25x
19 Annual installment per audit adjustments		2.5x
20		
21 Total tax per audit adjustments		50x
22 Total amount of tax payable in installments per audit adjustments		25x
23 Non-deferred tax due per audit adjustments		25x
24 First installment due per audit adjustments		2.5x
25 Total payment due on return due date per audit adjustments		27.5x
26 Actual payment made on the return due date		27.5x
27 Catch-up payment due per audit adjustments (§6166(e) prorated first installment)		0

Rev. Rul. 81-294 Situation 2, Comment 1: The audit increase to the value of the closely held business was offset by an increase in the marital deduction, which resulted in a No Change case.

Rev. Rul. 81-294 Situation 2, Comment 2: Only when there is a deficiency that qualifies for the section 6166 deferral can an executor elect to increase the deferred tax amount above the amount elected on the return that was filed. In this example there is no deficiency. The deferred tax remains the same even though the §6166(a)(2) ratio would otherwise have provided for a greater amount of deferred tax.

Revenue Ruling 81-294, 1981-2 CB 237

Illustrations

Situation 3

	Returned Figures	Audited Figures
1 Total tax	50x	60x
2 Deficiency or (overassessment)		10x
3 §6166(a)(2) ratio	50%	40%
4 <i>Maximum tax that could have been deferred under section 6166</i>	25x	24x
5 <i>Increase or (decrease) in maximum deferrable tax</i>		(1x)
6 Non-deferred tax, due on return due date	25x	36x
7 First installment of deferred tax, due on return due date	2.5x	2.4x
8 Payment made on return due date	27.5x	
9 Payment that should have been made on return due date		38.4x
10 Additional deferred tax due or (overpaid)		(0.1x)
11 Additional non-deferred tax due or (overpaid)		21x
12		
13 Maximum amount of additional tax that could have been deferred		0x
14 Amount of deficiency		10x
15 Portion of the deficiency that can be deferred (§6166(e) proration to installments)		0
16		
17 Tax deferred on the return that was filed		25x
18 Portion of the deficiency that can be deferred		0
19 Total amount of tax payable in installments		24x
20 Annual installment per audit adjustments		2.4x
21		
22 Total tax per audit adjustments		60x
23 Total amount of tax payable in installments per audit adjustments		24x
24 Non-deferred tax due per audit adjustments		36x
25 First installment due per audit adjustments		2.4x
26 Total payment due on return due date per audit adjustments		38.4x
27 Actual payment made on the return due date		27.5x
28 Catch-up payment due per audit adjustments (§6166(e) prorated first installment = 0)		10.9x

Rev. Rul. 81-294 Situation 3, Comment 1: The total tax increased on audit, but the percentage attributable to the §6166 election decreased. No part of the deficiency may be deferred.

Rev. Rul. 81-294 Situation 3, Comment 2: The catch-up payment due because of audit adjustments is 10.9x. (11x increase in non-deferred tax due on the return due date less the 0.1x overpayment of the first installment of deferred tax.)

Revenue Ruling 81-294, 1981-2 CB 237

Illustrations

Situation 3

Rev. Rul. 81-294 Situation 3, Comment 3: The 0.1x overpayment of the first installment is not a "payment of a tax payable in installments" for §6403 purposes. It became a payment of non-deferred tax because the audit adjustments reduced the maximum amount of tax eligible for deferral to 24x and created an underpayment of non-deferred tax on the return due date. The first installment per audit adjustments was reduced to 2.4x, and the 9 remaining installments are 2.4x, for a total deferred tax of 24x.

Revenue Ruling 81-294, 1981-2 CB 237

Illustrations

Situation 4

	Returned Figures	Audited Figures
1 Total tax	50x	40x
2 Deficiency or (overassessment)		(10x)
3 §6166(a)(2) ratio	50%	40%
4 <i>Maximum tax that could have been deferred under section 6166</i>	25x	16x
5 <i>Increase or (decrease) in maximum deferrable tax</i>		(9x)
6 Non-deferred tax, due on return due date	25x	24x
7 First installment of deferred tax, due on return due date	2.5x	1.6x
8 Payment made on return due date	27.5x	
9 Payment that should have been made on return due date		25.6x
10 Additional deferred tax due or (overpaid)		(1.9x)
11		
12 Maximum amount of additional tax that could have been deferred		0x
13 Amount of deficiency or (overassessment)		(10x)
14 Portion of the deficiency that can be deferred (§6166(e) proration to installments)		NA
15		
16 Tax deferred on the return that was filed		25x
17 Portion of the deficiency that can be deferred		0
18 Deferred tax payable in installments per audit adjustments		16x
19 Annual installment per audit adjustments		1.6x
20		
21 Total tax per audit adjustments		40x
22 Total amount of tax payable in installments per audit adjustments		16x
23 Non-deferred tax due per audit adjustments		24x
24 First installment due per audit adjustments		1.6x
25 Total payment due on return due date per audit adjustments		25.6x
26 Actual payment made on the return due date		27.5x
27 Due date overpayment of deferred tax per audit adjustments		(1.9x)
28		
29 Unpaid amount of non-deferred tax on return due date per audit adjustments		0x
30 Overpayment of deferred tax on return due date per audit adjustments		(1.9x)
31 Annual installment per audit adjustments		1.6x
32 Overpayment applied to future second annual installment		(1.6x)
33 Balance of second installment payable		0x
34 Balance of overpayment to be applied against the third installment		(0.3x)
35 Third installment payable		1.3x

Revenue Ruling 81-294, 1981-2 CB 237

Illustrations

Situation 4

36	Each of the seven remaining installments	1.6x
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Rev. Rul. 81-294 Situation 4, Comment 1: The total tax decreased 10x on audit, and the percentage attributable to the §6166 election also decreased. There is an overassessment instead of a deficiency.

Rev. Rul. 81-294 Situation 4, Comment 2: Section 6166(e) applies only to a deficiency. There is no proration *per se* of an overassessment or tax decrease.

Revenue Ruling 81-294, 1981-2 CB 237

Illustrations

Situation 5

	Returned Figures	Audited Figures
1 Total tax	50x	60x
2 Deficiency or (overassessment)		10x
3 §6166(a)(2) ratio	50%	50%
4 <i>Maximum tax that could have been deferred under section 6166</i>	25x	30x
5 <i>Increase or (decrease) in maximum deferrable tax</i>		5x
6 Non-deferred tax, due on return due date	25x	30x
7 First installment of deferred tax, due on return due date	2.5x	3x
8 Payment made on return due date	27.5x	
9 Payment that should have been made on return due date		33x
10 Non-deferred tax underpayment on return due date		5x
11 First installment underpayment on return due date		0.5x
12		
13 Second installment due	2.5x	3x
14 Second installment paid	2.5x	2.5x
15 Underpayment of second installment per audit adjustments		0.5x
16 Additional deferred tax paid on second installment due date	20x	20x
17 Balance of deferred tax remaining unpaid	0x	5x
18		
19 Maximum amount of additional tax that could have been deferred		5x
20 Amount of deficiency or (overassessment)		10x
21 Portion of the deficiency that can be deferred (§6166(e) proration to installments)		5x
22		
23 Tax deferred on the return that was filed		25x
24 Portion of the deficiency that can be deferred		5x
25 Deferred tax payable in installments per audit adjustments		30x
26 Annual installment per audit adjustments		3x
27		
28 Total payment due on return due date per audit adjustments		33x
29 Actual payment made on the return due date		27.5x
30 Due date underpayment of tax per audit adjustments		5.5x

Revenue Ruling 81-294, 1981-2 CB 237

Illustrations

Situation 5

31

32	Underpayment of non-deferred tax on return due date per audit adjustments	5x
33	Underpayment of first installment on return due date per audit adjustments	0.5x
34	Underpayment of second installment	0.5x
35	Catch-up payment due per audit adjustments	6x
36	Each of the eight remaining installments	0.5x

Rev. Rul. 81-294 Situation 5, Comment 1: The total tax increased 10x on audit, but the percentage attributable to the §6166 election remained 50%.

Rev. Rul. 81-294 Situation 5, Comment 2: The estate paid the second annual installment of 2.5x, and at the same time also paid 20x, the balance of deferred tax which it believed was due, to pay off the account. However, the IRS had not yet completed its audit of the return.

Rev. Rul. 81-294 Situation 5, Comment 3: The audit adjustments resulted in total deferred tax of 30x, an increase of 5x to the deferred tax reported on the return filed. The voluntary 20x payment made in an attempt to pay off the account reduced the unpaid balance of deferred tax after audit to only 5x, and the annual installments are 0.5x.

Note that the deficiency installments of 0.5x are combined with the previously elected installments of 2.5x, for a total annual installment of 3x.