



## IRS provides penalty relief for corporations that do not pay estimated tax related to new corporate alternative minimum tax Tax Alert

### Overview

On June 7, 2023 the IRS released [Notice 2023-42](#) (the “Notice”), which grants penalty relief for corporations that do not pay estimated tax related to the new corporate alternative minimum tax (CAMT) for a taxable year that begins after December 31, 2022, and before January 1, 2024.

### Background

The Inflation Reduction Act, ([P.L. 117-169](#)), signed into law by President Biden on August 16, 2022, includes a 15-percent CAMT on “adjusted financial statement income” (AFSI) of an applicable corporation (“Applicable Corporation”), effective for taxable years beginning after December 31, 2022.

AFSI is determined with respect to any corporation for any taxable year, as the net income or loss of the taxpayer as set forth on the taxpayer’s applicable financial statement for such taxable year, with several adjustments set forth in [section 56A](#).

Generally, under [section 59\(k\)](#), a corporation is an Applicable Corporation for a taxable year if it meets an average annual AFSI test for one or more taxable years that are (i) before that taxable year and (ii) end after December 31, 2021, provided an exception does not apply.

On December 27, 2022, the government issued [Notice 2023-7](#), which announced the intention to issue forthcoming proposed regulations addressing the application of the CAMT and to provide interim guidance that taxpayers may rely on until the issuance of the forthcoming proposed regulations. Section 9 of Notice 2023-7 requests comments on a number of different issues including the AFSI computation and determination of a corporation’s status as an Applicable Corporation.

On February 17, 2023, the government released [Notice 2023-20](#), which provides additional interim guidance specific to insurance companies and

certain other taxpayers related to the determination of AFSI. The government has not yet issued proposed regulations.

Corporations are generally required to pay annual estimated income tax in four installments consisting of 25-percent of the required annual payment.

[Section 6655\(a\)](#) imposes an addition to tax (“penalty”) for failure to make a sufficient and timely payment of estimated income tax. Under section 6655(e), the amount of the required installment is the annualized income installment or adjusted seasonal installment for those corporations who establish that such amount is lower than 25-percent of the required annual payment determined under section 6655(d).

## Notice 2023-42

The IRS recognizes that there are a number of issues associated with determining whether a corporation has a CAMT liability for a taxable year that begins after December 31, 2022 and before January 1, 2024 (“Covered CAMT Year”). As a result, the IRS will waive any penalty under section 6655 with respect to a corporation’s CAMT liability for any Covered CAMT Year. For a corporation’s Covered CAMT Year, the corporation’s required installments of estimated tax (including any installment due June 15, 2023) need not include amounts attributable to its CAMT liability. However, if a corporation fails to timely pay its CAMT liability when due, other penalties may apply (e.g., if payment of the CAMT liability is not made by the due date of the corporation’s return, without regard to any extension).

The Notice provides that affected corporations must follow the instructions detailed in section 3.03 of the Notice, including the filing of [Form 2220](#), *Underpayment of Estimated Tax by Corporations*, with their federal income tax return, even if they owe no estimated tax penalty. The Form 2220 must be completed without including the CAMT liability from Schedule J of [Form 1120](#), *U.S. Corporation Income Tax Return* (or other appropriate line of the corporation’s income tax return in the Form 1120 series). Affected corporations must also include an amount of estimated tax penalty on Line 34 of their Form 1120 (or other appropriate line of the corporation’s income tax return in the Form 1120 series), even if that amount is zero. Failure to follow the instructions in the Notice could result in affected taxpayers receiving a penalty notice that will require an abatement request to apply the relief provided by the Notice.

The instructions to Form 2220 will be modified, as necessary, to clarify that no penalty will be imposed for a corporation’s failure to make estimated tax payments of its CAMT liability for any Covered CAMT Year.



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