

Part III - Administrative, Procedural, and Miscellaneous

Accounting Period Guidance

Notice 99-19

PURPOSE

This notice invites public comment on possible changes to published guidance concerning accounting period changes. Among possible changes under consideration are: (1) revising the criteria used to establish a substantial business purpose, including what constitutes a natural business year; and (2) allowing more accounting period changes to be made automatically.

BACKGROUND

Section 441 of the Internal Revenue Code provides that taxable income must be computed on the basis of the taxpayer's taxable year. In general, the term "taxable year" means the taxpayer's annual accounting period, which can be a calendar or fiscal year, or a period of less than 12 months for which a return is made (*i.e.*, a short period). The term "annual accounting period" means the annual period on the basis of which the taxpayer regularly computes its income in keeping its books. Special rules under the Code and Income Tax Regulations require particular accounting periods for certain taxpayers such as domestic international sales corporations and foreign sales corporations (§ 441(h)), personal service corporations (§ 441(i)), certain trusts (§ 644), partnerships (§ 706), real estate investment trusts (§ 859), real estate mortgage investment

conduits (§ 860D(a)(5)), specified foreign corporations (§ 898), S corporations (§ 1378), and members of affiliated groups that file consolidated returns (Treas. Reg. § 1.1502-76).

Section 442 provides that if a taxpayer changes its annual accounting period, the new accounting period becomes the taxpayer's taxable year only if the change is approved by the Secretary. In addition, adoptions of fiscal years by certain taxpayers are treated as accounting period changes and thus can become the taxpayer's taxable year only with the approval of the Secretary. (*See e.g.*, § 706(b)(1)(C)).

Section 1.442-1(b) provides that approval for an accounting period change will not be granted unless the taxpayer and the Commissioner agree to the terms, conditions, and adjustments under which the change will be effected. In general, a change of annual accounting period will be approved where the taxpayer establishes a substantial business purpose for making the change.

Under the Code and regulations, certain taxpayers are allowed to change their annual accounting periods automatically without securing the prior approval of the Commissioner (*see, e.g.*, § 859(b) and Treas. Reg. §§ 1.442-1(c), (d), and (e)). In addition, the Service has issued several revenue procedures, such as Rev. Proc. 92-13, 1992-1 C.B. 665; Rev. Proc. 87-32, 1987-2 C.B. 396; and Rev. Proc. 66-50, 1966-2 C.B. 1260, that enable taxpayers to obtain automatic approval of changes in their accounting periods, if specific conditions are satisfied.

REQUEST FOR PUBLIC COMMENT

The Service is considering what, if any, changes should be made in order to clarify and simplify published guidance concerning accounting period changes. Accordingly, the Service and Treasury request comments on possible changes to current accounting period guidance including, but not limited to, the following:

(1) What changes should be made to the rules governing the approval of accounting period change requests? For example, what changes, if any, should be made to the substantial business purpose requirement? *See* Treas. Reg. § 1.442-1(b)(1). How should deferral or shifting of income, or acceleration or shifting of deductions, (“deferral”) be considered in determining whether to approve an accounting period change request? For example, should safe harbors permitting de minimis deferral be established? If an accounting period change that creates deferral is permitted, what terms and conditions should apply to the change? Should all taxpayers, regardless of their form (*e.g.*, corporation, partnership, S corporation), be subject to the same criteria for approval? Should the rules for establishing a natural business year be revised, and if so, how? *See* Rev. Proc. 74-33, 1974-2 C.B. 489.

(2) How should the current automatic accounting period change procedures be organized, clarified, and simplified? *See, e.g.*, Treas. Reg. § 1.442-1, Rev. Proc. 92-13, Rev. Proc. 87-32, and Rev. Proc. 66-50. Should the Service provide procedures for automatic approval to change accounting periods in additional situations? If so, what types of situations would warrant such automatic approval, and what, if any, terms and conditions should apply to such changes?

Taxpayers may submit comments in writing to:

Internal Revenue Service
Attn: CC:DOM:CORP:R (Notice 99-19, Room 5226).
P.O. Box 7604
Ben Franklin Station
Washington, D.C. 20044

Alternatively, taxpayers may submit comments electronically at:

<http://www.irs.ustreas.gov/prod/cover.html> (the IRS Internet site).

All comments should be received by June 18, 1999. The comments submitted will be

available for public inspection and copying.

DRAFTING INFORMATION

The principal author of this notice is Martin Scully of the Office of Assistant Chief Counsel (Income Tax and Accounting). For further information regarding this notice contact Mr. Scully on (202) 622-4960 (not a toll-free call).