

Part III - Administrative, Procedural, and Miscellaneous

Repeal of the Modification of the Installment Method for Accrual Method Taxpayers

Notice 2001-22

PURPOSE

This notice provides guidance on the application of the Installment Tax Correction Act of 2000, Pub. L. No. 106-573, 114 Stat. 3061 (2000) (the "Installment Tax Correction Act"), to an accrual method taxpayer that disposed of property in an installment sale on or after December 17, 1999, and filed by April 16, 2001, a Federal income tax return reporting the gain on the disposition using an accrual method of accounting rather than the installment method.

BACKGROUND

An installment sale generally is defined in § 453(b) as a disposition of property where at least one payment is to be received after the close of the taxable year in which the disposition occurs. Section 453(a) provides the general rule that income from an installment sale must be taken into account under the installment method. However, § 536(a) of the Ticket to Work and Work Incentives Improvement Act of 1999, Pub. L. No. 106-170, 113 Stat. 1860 (1999), added former § 453(a)(2) to the Code, which provided that the installment method did not apply to income from an installment sale if the income would be reported under an accrual method of accounting without regard to § 453. Former § 453(a)(2) was effective for sales or other dispositions occurring on or after December 17, 1999, the date of enactment.

On December 28, 2000, the Installment Tax Correction Act repealed § 453(a)(2) with respect to sales and other dispositions occurring on or after December 17, 1999. Section 2(b) of the Installment Tax Correction Act provides that the Code (including § 453) should be applied and administered as if § 453(a)(2) had not been enacted.

The installment method does not apply to any disposition for which the taxpayer elects out of the installment method. Section 453(d)(1). A taxpayer that reports an amount realized equal to the selling price on the tax return filed for the taxable year in which the installment sale occurs is considered to have made an effective election out of the installment method. Section 15a.453-1(d)(3)(i) of the temporary Income Tax Regulations. An election out of the installment method with respect to a disposition may be revoked only with the consent of the Secretary. Section 453(d)(3). A revocation is retroactive. Section 15a.453-1(d)(4).

APPLICATION

Consistent with the change in law effected by the Installment Tax Correction Act, an accrual method taxpayer that entered into an installment sale on or after December 17, 1999, and filed a Federal income tax return by April 16, 2001, reporting the sale on an accrual method (and, thus, an amount realized equal to the selling price) has the consent of the Secretary to revoke its effective election out of the installment method, provided the taxpayer files, within the applicable period of limitations, amended Federal income tax return(s) for the taxable year in which the installment sale occurred, and for any other affected taxable year, reporting the gain on the installment method. Thus, a taxpayer may not revoke its effective election out of the installment method if the

taxable year in which any payment on the installment obligation was received has closed.

EFFECT ON OTHER DOCUMENTS

Notice 2000-26, 2000-17 I.R.B. 954, is modified to remove Q&As 1 through 9.

DRAFTING INFORMATION

The principal author of this notice is Merrill D. Feldstein of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information regarding this notice, contact Ms. Feldstein on (202) 622-4950 (not a toll-free call).