

[4830-01-u]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 8775]

RIN 1545-AV79

Election Not to Apply Look-Back Method in De Minimis Cases

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains regulations explaining how a taxpayer elects under section 460(b)(6) not to apply the look-back method to long-term contracts in de minimis cases. The regulations reflect changes to the law made by the Taxpayer Relief Act of 1997 and affect manufacturers and construction contractors whose long-term contracts otherwise are subject to the look-back method.

DATES: Effective date: These regulations are effective July 2, 1998.

Applicability date: These regulations apply to long-term contracts completed in taxable years ending after August 5, 1997.

FOR FURTHER INFORMATION CONTACT: Leo F. Nolan II or John M. Aramburu at (202) 622-4960 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final

regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545-1572. Responses to this collection of information are required for a taxpayer to elect not to apply the look-back method to long-term contracts in de minimis cases. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. The estimated average burden per respondent is 0.2 hours.

Comments concerning the accuracy of this burden estimate should be sent to the **Internal Revenue Service**, Attn: IRS Reports Clearance Officer, OP:FS:FP, Washington, DC 20224, and to the **Office of Management and Budget**, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

This document contains amendments to the Income Tax Regulations (26 CFR Part 1). Section 460(b)(6) of the Internal Revenue Code was added by section 1211 of the Taxpayer Relief Act of 1997, Public Law 105-34, 111 Stat. 788, 998, to provide an

election not to apply the look-back method of section 460(b)(2) to long-term contracts in de minimis cases. These regulations provide guidance concerning this new election.

A notice of proposed rulemaking was published in the **Federal Register** for January 13, 1998 (63 FR 1932). No written comments were received, and no public hearing was requested or held. The proposed regulations under section 460 are adopted by this Treasury decision with one revision. The final regulations provide that for long-term contracts completed in taxable years ending after August 5, 1997, an election not to apply the look-back method under section 460(b)(6) automatically revokes an election under §1.460-6(e) to use the delayed reapplication method.

Special Analyses

It has been determined that this final regulation is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. Moreover, it is hereby certified that the collection of information in these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that the time required to prepare and file an election statement is minimal and will not have a significant impact on those small entities that choose to make the election. In addition, the election need only be made

once by a taxpayer. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required.

Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on the impact of the proposed regulations on small business.

Drafting Information

The principal author of these regulations is Leo F. Nolan II, Office of Assistant Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1--INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by removing the entry for "§1.460-6T" to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. In §1.460-0, the entry for §1.460-6 is amended by adding entries for paragraphs (i) and (j) and the entry for

§1.460-6T is removed to read as follows:

§1.460-0 Outline of regulations under section 460.

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§1.460-6 Look-back method.

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(i) [Reserved].

(j) Election not to apply look-back method in de minimis cases.

* * * * *

Par. 3. In §1.460-6, paragraph (i) is added and reserved and paragraph (j) is added to read as follows:

§1.460-6 Look-back method.

* * * * *

(i) [Reserved].

(j) Election not to apply look-back method in de minimis cases. Section 460(b)(6) provides taxpayers with an election not to apply the look-back method to long-term contracts in de minimis cases, effective for contracts completed in taxable years ending after August 5, 1997. To make an election, a taxpayer must attach a statement to its timely filed original federal income tax return (including extensions) for the taxable year the election is to become effective or to an amended return for that year, provided the amended return is filed on or before March 31, 1998. This statement must have the legend "NOTIFICATION OF ELECTION UNDER SECTION 460(b)(6)"; provide the taxpayer's name and identifying number and the effective date of the election; and identify the trades or businesses that involve long-term contracts. An election applies to all long-term contracts completed during and after the taxable year for which the

election is effective. An election may not be revoked without the Commissioner's consent. For taxpayers who elected to use the delayed reapplication method under paragraph (e) of this section, an election under this paragraph (j) automatically revokes the election to use the delayed reapplication method for contracts subject to section 460(b)(6). A consolidated group of corporations, as defined in §1.1502-1(h), is subject to consistency rules analogous to those in paragraph (e)(2) of this section and in paragraph (d)(4)(ii)(C) of this section (concerning election to use simplified marginal impact method).

§1.460-6T [Removed]

Par. 4. Section 1.460-6T is removed.

PART 602--OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 5. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 6. In §602.101, paragraph (c) is amended by:

- 1. Removing the following entry from the table:

§602.101 OMB Control numbers.

* * * * *

(c) * * *

<u>CFR part or section where identified and described</u>	<u>Current OMB control No.</u>
* * * * *	
1.460-6T.....	1545-1572
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- 2. Revising the entry for §1.460-6 to read as follows:

§602.101 OMB Control numbers.

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(c) * * *

<u>CFR part or section where</u> <u>identified and described</u>	<u>Current OMB</u> <u>control No.</u>
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1.460-6.....	1545-1031
	1545-1572
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Michael P. Dolan
Deputy Commissioner of Internal Revenue

Approved: June 12, 1998

Donald C. Lubick
Assistant Secretary of the Treasury