

Section 446.—General Rule for Methods of Accounting

26 CFR 1.446-1: General rule for methods of accounting.

T.D. 8719

**DEPARTMENT OF THE TREASURY
Internal Revenue Service
26 CFR Parts 1, 301 and 601**

Requirements Respecting the Adoption or Change of Accounting Method; Extensions of Time to Make Elections

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations relating to the

procedure for requesting a change in accounting method and to the standards for granting an extension of time to request a change in accounting method. The regulations provide for a longer period of time for filing an application for change in accounting method with the Commissioner. The regulations also provide that an extension of time to file an application for change in accounting method will be granted only in unusual and compelling circumstances. The regulations affect taxpayers requesting a change in method of accounting for federal income tax purposes. The text of these temporary regulations also serves as the text of REG-209837-96 and REG-105299-97, page 8.

DATES: These regulations are effective May 15, 1997.

For dates of applicability of these regulations, see §§ 1.446-1T(e)(3)(iii), 301.9100-1T(h) and 601.204T(e) of these regulations.

FOR FURTHER INFORMATION CONTACT: Cheryl L. Oseekey at (202) 622-4970 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Regulations on Income Taxes (26

CFR part 1), the Regulations on Procedure and Administration (26 CFR part 301), and the Statement of Procedural Rules (26 CFR part 601) relating to the requirements for changes in method of accounting and extensions of time to make elections. Proposed and temporary regulations relating to extensions of time to make elections were published in the **Federal Register** for June 27, 1996 (61 FR 29714 and 61 FR 33365). These regulations extend the time for filing an application for change in accounting method under § 1.446-1(e)(3)(i) and amend §§ 301.9100-1T and 301.9100-3T to provide that an extension of time to file an application for change in accounting method beyond the year provided in these regulations will be granted only in unusual and compelling circumstances.

Explanation of Provisions

Section 446(e) requires that a taxpayer obtain the Commissioner's consent before changing a method of accounting. Sections 1.446-1(e)(3)(i) and 601.204(b) require the taxpayer to file a Form 3115, Application for Change in Accounting Method, with the Commissioner within the first 180 days of the taxable year in which the taxpayer desires to make the change. Sections 301.9100-1T and 301.9100-3T provide limited relief for extending the time to file a Form 3115 (not to exceed 90 days from the deadline for filing the Form 3115 except in unusual and compelling circumstances).

Sections 1.446-1(e)(3)(i) and 601.204(b) are amended to provide that a taxpayer must file a Form 3115 with the Commissioner during the taxable year in which the taxpayer desires to make the change in method of accounting. Taxpayers are encouraged to file the Form 3115 as early as possible during the year of change to provide the IRS adequate time to process the application prior to the original due date of the taxpayer's return.

In addition, §§ 301.9100-1T and 301.9100-3T are amended to provide that an extension of time to file a Form 3115 (i.e., beyond the taxable year) will only be granted in unusual and compelling circumstances.

These amendments are effective for Forms 3115 filed on or after May 15, 1997.

Special Analyses

It has been determined that this Treasury decision 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. Sections 1.446-1(e)(3)(i) and 601.204(b) require a taxpayer to file a Form 3115, Application for Change in Accounting Method, with the Commissioner within the first 180 days of the taxable year in which the taxpayer desires to make the change. The temporary regulations in this document, §§ 1.446-1T(e)(3)(i) and 601.204T(b), merely extend the time for filing the Form 3115 and, therefore, do not contain a new collection of information. Thus, because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

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

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Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1, 301, and 601 are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

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

Par. 2. Section 1.446-1, paragraph (e)(3)(i) is amended by adding a sentence at the end of the paragraph to read as follows:

§ 1.446-1 General rule for methods of accounting.

* * * * *

(e)(3) * * * For any Form 3115 filed on or after May 15, 1997, see § 1.446-1T(e)(3)(i)(B).

Par. 3. Section 1.446-1T is added to read as follows:

§ 1.446-1T General rule for methods of accounting (temporary).

(a) through (d) [Reserved] For further guidance, see § 1.446-1(a) through (d).

(e) *Requirement respecting the adoption or change of accounting method.*

(1) and (2) [Reserved] For further guidance, see § 1.446-1 (e)(1) and (2).

(3)(i)(A) [Reserved] For further guidance, see § 1.446-1(e)(3)(i).

(B) For any Form 3115 filed on or after May 15, 1997, permission to change a taxpayer's method of accounting will not be granted unless the taxpayer agrees to the Commissioner's prescribed terms and conditions for effecting the change, including the taxable year or years in which any adjustment necessary to prevent amounts from being duplicated or omitted is to be taken into account.

(ii) and (iii) [Reserved] For further guidance, see § 1.446-1(e)(3) (ii) and (iii).

PART 301—PROCEDURE AND ADMINISTRATION

Par. 4. The authority citation for part 301 continues to read in part as follows:

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

Par. 5. In § 301.9100-1T, paragraph (h) is amended by adding a sentence at the end of the paragraph to read as follows:

§ 301.9100-1T Extensions of time to make elections (temporary).

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(h) * * * In addition, § 301.9100-3T(c)(2)(i) is effective for any Form 3115 filed on or after May 15, 1997.

Par. 6. In § 301.9100-3T, paragraph (c)(2)(i) is revised to read as follows:

§ 301.9100-3T Other extensions (temporary).

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(c) * * *

(2) * * *

(i) Subject to the procedure described in § 1.446-1T(e)(3)(i) of this chapter (requiring the advance written consent of the Commissioner);

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PART 601—STATEMENT OF PROCEDURAL RULES

Par. 7. The authority citation for part 601 continues to read as follows:

Authority: 26 U.S.C. 301 and 552, unless otherwise noted.

Par. 8. Section 601.204, paragraph (b) is amended by adding a sentence at the end of the paragraph to read as follows:

§ 601.204 *Changes in accounting periods and in methods of accounting.*

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(b) * * * For any Form 3115 filed on or after May 15, 1997, see § 601.204T-(b)(2).

Par. 9. Section 601.204T is added to read as follows:

§ 601.204T *Changes in accounting periods and in methods of accounting (temporary).*

(a) [Reserved] For further guidance, see § 601.204(a).

(b) *Methods of accounting.* (1) [Reserved] For further guidance, see § 601.204(b).

(2) For any Form 3115 filed on or after May 15, 1997, application for permission to change the method of accounting employed shall be made on Form 3115 and filed with the Commissioner during the taxable year in which the taxpayer desires to make the change in method of accounting. Permission to change the method of accounting will not be granted unless the taxpayer and the Commissioner agree to the terms and conditions under which the change will be effected.

(c) and (d) [Reserved] For further guidance, see § 601.204(c) and (d).

Margaret Milner Richardson,
Commissioner of Internal Revenue.

Approved May 2, 1997.

Donald C. Lubick,
Assistant Secretary of the Treasury.

(Filed by the Office of the Federal Register on May 14, 1997, 8:45 a.m., and published in the issue of the Federal Register for May 15, 1997, 62 F.R. 26740)