

Notice of Proposed Rulemaking

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

REG-209837-96; REG-105299-97

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In T.D. 8719, page 4, the IRS is issuing 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 those temporary regulations also serves as the text of these proposed regulations.

DATES: Written comments must be received by August 13, 1997.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG-209837-96 and REG-105299-97), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG-209837-96 and REG-105299-97), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC. Taxpayers may also submit comments electronically via the internet by selecting the "Tax Regs" option on the IRS Home Page, or by submitting comments directly to the IRS internet site at http://www.irs.ustreas.gov/prod/tax_regs/comments.html.

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

SUPPLEMENTARY INFORMATION:

Background

Temporary regulations T.D. 8719 amend 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 will be granted only in unusual and compelling circumstances.

The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the rules provided by the regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking 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 proposed regulations in this document 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, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS (a signed original and eight (8) copies if the comments are written). All comments will be available for public inspection and copy. A public hearing may be scheduled if requested in writing by a person that timely submits comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

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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Proposed Amendments to the Regulations

Accordingly, 26 CFR parts 1, 301, and 601 are proposed to be 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 is amended by revising paragraph (e)(3)(i) to read as follows:

§ 1.446-1 General rule for methods of accounting.

[The text of proposed paragraph (e)(3)(i) is the same as the text in § 1.446-1T(e)(3)(i) published in T.D. 8719.]

PART 301—PROCEDURE AND ADMINISTRATION

Par. 3. The authority citation for part 301 continues to read in part as follows:

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

Par. 4. In § 301.9100-1, paragraph (h) is added to read as follows:

§ 301.9100-1 Extensions of time to make elections.

[The text of proposed paragraph (h) is the same as the text of § 301.9100-

1T(h) published June 27, 1996, at 61 FR 33368, and amended in T.D. 8719.]

Par. 5. In proposed § 301.9100–3, published June 27, 1996, at 61 FR 33409, paragraph (c)(2)(i) is revised to read as follows:

§ 301.9100–3 Other extensions.

[The text of proposed paragraph (c)(2)(i) is the same as the text in § 301.9100–3T(c)(2)(i) published in T.D. 8719.]

PART 601—STATEMENT OF PROCEDURAL RULES

Par. 6. The authority citation for part 601 continues to read as follows:

Authority: 26 U.S.C. 301 and 552.
* * *

Par. 7. In § 601.204, paragraph (b) is revised to read as follows:

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

[The text of proposed paragraph (b) is the same as the text in § 601.204T(b) published in T.D. 8719.]

Margaret Milner Richardson,
Commissioner of Internal Revenue.

(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. 26755)