

## Extension of Eligibility Rule Waivers for Certain Automatic Changes Made To Comply with the Final Tangible Property Regulations

Notice 2017-6

### PURPOSE

This notice extends the waiver of the eligibility rule set out in section 5.01(1)(f) of Rev. Proc. 2015-13, 2015-5 I.R.B. 419, (which Revenue Procedure was clarified and modified by Rev. Proc. 2015-33, 2015-24 I.R.B.1067, and modified by Rev. Proc. 2016-1, 2016-1 I.R.B. 1) that was provided under Rev. Proc. 2016-29, 2016-21 I.R.B 880, for making certain automatic changes in accounting methods. Specifically, this notice extends this eligibility rule waiver for one year to any taxable year beginning before January 1, 2017, for taxpayers making certain automatic changes to utilize the final tangible property regulations under §§ 162(a) and 263(a) of the Internal Revenue Code (the Code) and for making certain automatic changes to depreciation and dispositions under section 168 of the Code.

### BACKGROUND

On September 19, 2013, the Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) published in the Federal Register (78 Fed. Reg. 57686) final regulations under §§ 1.162-3, 1.162-4, 1.168(i)-1, 1.168(i)-7, 1.168(i)-8, 1.263(a)-1, 1.263(a)-2, and 1.263(a)-3 of the Income Tax Regulations (T.D. 9636). See also 2013-43 I.R.B. 331. Corrections to those regulations were published in the

Federal Register (79 Fed. Reg. 42189) on July 21, 2014, and the final regulations and the corrections thereto are referred to collectively in this notice as the final tangible property regulations. The final tangible property regulations provide guidance on the treatment of amounts paid to acquire, produce, or improve tangible personal property and generally apply to taxable years beginning on or after January 1, 2014, or, at the option of the taxpayer, to taxable years beginning on or after January 1, 2012.

On August 18, 2014, the Treasury Department and the IRS published in the Federal Register (79 Fed. Reg. 48661) final regulations under §§ 1.168(i)-1, 1.168(i)-7, and 1.168(i)-8 (T.D. 9689). See also 2014-36 I.R.B. 456. Corrections to those regulations were published in the Federal Register (79 Fed. Reg. 78696) on December 31, 2014, and the final regulations and the corrections thereto are referred to collectively in this notice as the final depreciation and disposition regulations. The final depreciation and disposition regulations provide guidance regarding accounting for property depreciated under section 168, the Modified Accelerated Cost Recovery System (MACRS), and for dispositions of MACRS property. These rules also generally apply to taxable years beginning on or after January 1, 2014, or, at the option of the taxpayer, to taxable years beginning on or after January 1, 2012.

Except as otherwise provided in the Code or regulations, a change to comply with the final tangible property regulations and the final depreciation and disposition regulations is a change in method of accounting to which the provisions of §§ 446 and 481 and the accompanying regulations apply. A taxpayer seeking to change its method of accounting under these regulations must secure the consent of the Commissioner of

Internal Revenue in accordance with § 1.446-1(e) and follow the administrative procedures issued under § 1.446-1(e)(3)(ii).

Rev. Proc. 2015-13 provides the general procedures under § 446(e) for a taxpayer to obtain the automatic or non-automatic consent of the Commissioner to change a method of accounting. Rev. Proc. 2016-29 provides the list of automatic changes in methods of accounting to which the automatic change procedures of Rev. Proc. 2015-13 apply.

Section 11.08 of Rev. Proc. 2016-29 provides for certain automatic changes to utilize the final tangible property regulations. Section 6.14 of Rev. Proc. 2016-29 provides for automatic changes to permissible methods of accounting for depreciation of MACRS property under sections §§ 1.168(i)-1, 1.168(i)-7, and 1.168(i)-8. In addition, sections 6.15 through 6.17 of Rev. Proc. 2016-29 provide for automatic changes related to dispositions of certain MACRS property under §§ 1.168(i)-1 and 1.168(i)-8.

Section 5 of Rev. Proc. 2015-13 provides certain eligibility rules for a taxpayer that applies for the Commissioner's consent to make a change in method of accounting under the automatic change procedures. Section 5.01(1)(f) provides that the automatic change procedures may not be utilized if the taxpayer has made or requested a change for the same item during any of the five taxable years ending with the year of change. This rule generally precludes a taxpayer from using the automatic change procedures to change the treatment of the same item more than once within a five-year period. However, in order to facilitate the transition to the final tangible property regulations and the final depreciation and disposition regulations, sections 6.14(2)(b), 6.15(2)(b),

6.16(2)(b), 6.17(2)(b), and 11.08(2) of Rev. Proc. 2016-29 provide a waiver of this eligibility rule for a limited period of time. Each of these sections of Rev. Proc. 2016-29 specifically provides that the eligibility rule in section 5.01(1)(f) of Rev. Proc. 2015-13 does not apply to a taxpayer that makes one or more of the changes in method of accounting permitted under that section for any taxable year beginning before January 1, 2016.

## DISCUSSION

The Treasury Department and the IRS are aware that taxpayers continue to request consent to change their methods of accounting to utilize the final tangible property regulations and final depreciation and disposition regulations. To continue to ease taxpayers' transition to these final regulations and to reduce the administrative burden that would result from requiring taxpayers to apply for non-automatic changes of accounting methods for each of the changes specified above, this notice modifies the applicable sections of Rev. Proc. 2016-29 to extend the waiver of the eligibility rule under section 5.01(1)(f) of Rev. Proc. 2015-13 for one year to any taxable year beginning before January 1, 2017. The applicable sections are:

(1) Section 6.14, relating to a change from a permissible to another permissible method of accounting for depreciation of MACRS property under § 1.168(i)-1, § 1.168(i)-7, and § 1.168(i)-8, as applicable;

(2) Section 6.15, relating to a change in method of accounting for dispositions of a building or structural component under § 1.168(i)-8;

(3) Section 6.16, relating to a change in method of accounting for dispositions of

tangible depreciable assets (other than a building or its structural components) under § 1.168(i)-8;

(4) Section 6.17, relating to a change in method of accounting for dispositions of tangible depreciable assets in a general asset account under § 1.168(i)-1; and

(5) Section 11.08, relating to changes in methods of accounting for tangible property under the final tangible property regulations.

Specifically, sections 6.14(2)(b), 6.15(2)(b), 6.16(2)(b), and 6.17(2)(b) of Rev. Proc. 2016-29, which waive certain eligibility rules for making automatic changes under the final depreciation and disposition regulations, are modified by replacing the references to the date, “January 1, 2016,” with the date, January 1, 2017.” In addition, section 11.08(2) of Rev. Proc. 2016-29, which waives certain eligibility rules for making automatic changes under the tangible property regulations, including the eligibility rule under section 5.01(1)(d) of Rev. Proc. 2015-13, is modified by replacing all references to the date, “January 1, 2016,” with the date, “January 1, 2017.” These modifications also apply for purposes of the concurrent automatic changes that are specifically referenced in these sections.

#### TRANSITION RULE

If, before December 20, 2016, a taxpayer properly filed a Form 3115 under the non-automatic change procedures in Rev. Proc. 2015-13 requesting the Commissioner’s consent for a change in method of accounting described in this notice, and the Form 3115 is pending with the national office on December 20, 2016 the taxpayer may choose to make the change of accounting method under the automatic

change procedures in Rev. Proc. 2015-13 by following the requirements and procedures in subsection .02(1) of the EFFECTIVE DATE section in Rev. Proc. 2016-29 with the following modifications:

(1) The references to the date, “May 5, 2016,” are replaced with the date, “December 20, 2016” and

(2) The references to the date, “June 6, 2016,” are replaced with the date, “January 19, 2017.”

#### EFFECT ON OTHER DOCUMENTS

Rev. Proc. 2016-29 is modified.

#### EFFECTIVE DATE

This notice is effective December 20, 2016.

#### CONTACT INFORMATION

The principal author of this notice is Merrill D. Feldstein of the Office of Associate Chief Counsel (Income Tax and Accounting). For further information regarding this notice, contact Ms. Feldstein at (202) 317-5100 (not a toll-free number).