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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

TD 9131

RIN 1545-BB47

Administrative Simplification of Section 481(a) Adjustment Periods in Various Regulations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains amendments to regulations under sections 263A and 448 of the Internal Revenue Code. The amendments apply to taxpayers changing a method of accounting under the regulations and are necessary to conform the rules governing those changes to the rules provided in general guidance issued by the IRS for changing a method of accounting. Specifically, the amendments will allow taxpayers changing their method of accounting under the regulations to take any adjustment under section 481(a) resulting from the change into account over the same number of taxable years that is provided in the general guidance.

DATES: Effective Date: These regulations are effective on or after June 16, 2004.

FOR FURTHER INFORMATION CONTACT: Christian Wood, 202-622-4930 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On May 12, 2003, the IRS and Treasury published in the **Federal Register** (68 FR 25310) proposed amendments to the regulations (REG-142605-02) under sections 263A and 448 of the Internal Revenue Code (Code). These amendments pertain to the period for taking into account the adjustment required under section 481 to prevent duplications or omissions of amounts resulting from a change in method of accounting under section 263A or 448. Neither public comments in response to the proposed regulations nor any request to speak at a public hearing were received. The proposed regulations under sections 263A and 448 are adopted as revised by this Treasury decision.

The proposed regulations provided that they are applicable to taxable years ending on or after the date those regulations are published as final regulations. However, the proposed regulations allowed taxpayers to rely on them for taxable years ending on or after May 12, 2003, by filing a Form 3115, "Application for Change in Accounting Method," in the time and manner provided in the regulations (in the case of a change in method of accounting under section 448) or applicable administrative procedure (in the case of a change in method of accounting under section 263A) for such a taxable year that reflects a section 481 adjustment period that is consistent with the proposed regulations. Taxpayers may continue to rely on the proposed regulations for taxable years ending on or after May 12, 2003, but ending before June 16, 2004.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 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, and because these 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, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal authors of these regulations are Christian Wood and Grant Anderson of the Office of Associate Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and record keeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is 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. In §1.263A-7, paragraph (b)(2)(ii) is revised to read as follows:

' 1.263A-7 Changing a method of accounting under section 263A.

* * * * *

(b) * * *

(2) * * *

(ii) Adjustment required by section 481(a). In the case of any taxpayer required or permitted to change its method of accounting for any taxable year under section 263A and the regulations thereunder, the change will be treated as initiated by the taxpayer for purposes of the adjustment required by section 481(a). The taxpayer must take the net section 481(a) adjustment into account over the section 481(a) adjustment period as determined under the applicable administrative procedures issued under § 1.446-1(e)(3)(ii) for obtaining the Commissioner's consent to a change in accounting method (for example, see Rev. Proc. 2002-9 (2002-1 C.B. 327) and Rev. Proc. 97-27 (1997-1 C.B. 680) (also see § 601.601(d)(2) of this chapter)). This paragraph applies to taxable years ending on or after June 16, 2004.

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Par. 3. Section 1.448-1 is amended as follows:

1. Paragraphs (g)(2)(i) and (g)(3)(i) are revised.
2. Paragraphs (g)(3)(ii) and (g)(3)(iii) are removed.
3. Paragraph (g)(3)(iv) is redesignated as paragraph (g)(3)(ii) and the introductory language is revised.
4. Paragraph (g)(6) is removed.
5. Paragraph (i)(1) is amended by removing the language "and (4)" and adding "(4), and (5)" in its place.

6. Paragraph (i)(5) is added.

The revisions and addition read as follows:

' 1.448-1 Limitation on the use of the cash receipts and disbursements method of accounting.

* * * * *

(g) * * *

(2) * * *

(i) In general. Except as otherwise provided in paragraphs (g)(2)(ii) and (g)(3) of this section, a taxpayer required by this section to change from the cash method must take the net section 481(a) adjustment into account over the section 481(a) adjustment period as determined under the applicable administrative procedures issued under §1.446-1(e)(3)(ii) for obtaining the Commissioner's consent to a change in accounting method (for example, see Rev. Proc. 2002-9 (2002-1 C.B. 327) and Rev. Proc. 97-27 (1997-1 C.B. 680) (also see § 601.601(d)(2) of this chapter)), provided the taxpayer complies with the provisions of paragraph (h)(2) or (3) of this section for its first section 448 year.

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(3) * * *

(i) Cessation of trade or business. If the taxpayer ceases to engage in the trade or business to which the section 481(a) adjustment relates, or if the taxpayer operating the trade or business terminates existence, and such cessation or termination occurs prior to the expiration of the adjustment period described in paragraph (g)(2)(i) or (ii) of

this section, the taxpayer must take into account, in the taxable year of such cessation or termination, the balance of the adjustment not previously taken into account in computing taxable income. For purposes of this paragraph (g)(3)(i), the determination as to whether a taxpayer has ceased to engage in the trade or business to which the section 481(a) adjustment relates, or has terminated its existence, is to be made under the principles of §1.446-1(e)(3)(ii) and its underlying administrative procedures.

(ii) De minimis rule for a taxpayer other than a cooperative. Notwithstanding paragraph (g)(2)(i) and (ii) of this section, a taxpayer other than a cooperative (within the meaning of section 1381(a)) that is required to change from the cash method by this section may elect to use, in lieu of the adjustment period described in paragraph (g)(2)(i) and (ii) of this section, the adjustment period for de minimis section 481(a) adjustments provided in the applicable administrative procedure issued under §1.446-1(e)(3)(ii) for obtaining the Commissioner's consent to a change in accounting method. A taxpayer may make an election under this paragraph (g)(3)(ii) only if --

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(i) * * *

(5) Effective date of paragraph (g)(2)(i). Paragraph (g)(2)(i) of this section applies to taxable years ending on or after June 16, 2004.

Mark E. Matthews,
Deputy Commissioner for Services and Enforcement.

Approved: June 1, 2004

Gregory F. Jenner,
Acting Assistant Secretary of the Treasury (Tax Policy).