

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 applicable to taxable years ending after Dec. 31, 1969, see section 301(c) of Pub. L. 91-172, set out as a note under section 5 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86-779 applicable with respect to taxable years of real estate investment trusts beginning after Dec. 31, 1960, see section 10(k) of Pub. L. 86-779, set out as an Effective Date note under section 856 of this title.

APPLICABILITY OF CERTAIN AMENDMENTS BY PUB. L. 99-514 IN RELATION TO TREATY OBLIGATIONS OF UNITED STATES

For applicability of amendment by section 701(e)(3) of Pub. L. 99-514 notwithstanding any treaty obligation of the United States in effect on Oct. 22, 1986, see section 1012(aa)(2) of Pub. L. 100-647, set out as a note under section 861 of this title.

§ 444. Election of taxable year other than required taxable year**(a) General rule**

Except as otherwise provided in this section, a partnership, S corporation, or personal service corporation may elect to have a taxable year other than the required taxable year.

(b) Limitations on taxable years which may be elected**(1) In general**

Except as provided in paragraphs (2) and (3), an election may be made under subsection (a) only if the deferral period of the taxable year elected is not longer than 3 months.

(2) Changes in taxable year

Except as provided in paragraph (3), in the case of an entity changing a taxable year, an election may be made under subsection (a) only if the deferral period of the taxable year elected is not longer than the shorter of—

(A) 3 months, or

(B) the deferral period of the taxable year which is being changed.

(3) Special rule for entities retaining 1986 taxable years

In the case of an entity's 1st taxable year beginning after December 31, 1986, an entity may elect a taxable year under subsection (a) which is the same as the entity's last taxable year beginning in 1986.

(4) Deferral period

For purposes of this subsection, except as provided in regulations, the term "deferral period" means, with respect to any taxable year of the entity, the months between—

(A) the beginning of such year, and

(B) the close of the 1st required taxable year ending within such year.

(c) Effect of election

If an entity makes an election under subsection (a), then—

(1) in the case of a partnership or S corporation, such entity shall make the payments required by section 7519, and

(2) in the case of a personal service corporation, such corporation shall be subject to the deduction limitations of section 280H.

(d) Elections**(1) Person making election**

An election under subsection (a) shall be made by the partnership, S corporation, or personal service corporation.

(2) Period of election**(A) In general**

Any election under subsection (a) shall remain in effect until the partnership, S corporation, or personal service corporation changes its taxable year or otherwise terminates such election. Any change to a required taxable year may be made without the consent of the Secretary.

(B) No further election

If an election is terminated under subparagraph (A) or paragraph (3)(A), the partnership, S corporation, or personal service corporation may not make another election under subsection (a).

(3) Tiered structures, etc.**(A) In general**

Except as otherwise provided in this paragraph—

(i) no election may be under subsection (a) with respect to any entity which is part of a tiered structure, and

(ii) an election under subsection (a) with respect to any entity shall be terminated if such entity becomes part of a tiered structure.

(B) Exceptions for structures consisting of certain entities with same taxable year

Subparagraph (A) shall not apply to any tiered structure which consists only of partnerships or S corporations (or both) all of which have the same taxable year.

(e) Required taxable year

For purposes of this section, the term "required taxable year" means the taxable year determined under section 706(b), 1378, or 441(i) without taking into account any taxable year which is allowable by reason of business purposes. Solely for purposes of the preceding sentence, sections 706(b), 1378, and 441(i) shall be treated as in effect for taxable years beginning before January 1, 1987.

(f) Personal service corporation

For purposes of this section, the term "personal service corporation" has the meaning given to such term by section 441(i)(2).

(g) Regulations

The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section, including regulations to prevent the avoidance of subsection (b)(2)(B) or (d)(2)(B) through the change in form of an entity.

(Added Pub. L. 100-203, title X, §10206(a)(1), Dec. 22, 1987, 101 Stat. 1330-397; amended Pub. L. 100-647, title II, §2004(e)(1), (2)(A), (12), (13), Nov. 10, 1988, 102 Stat. 3600, 3602.)

Editorial Notes

AMENDMENTS

1988—Subsec. (a). Pub. L. 100-647, §2004(e)(1)(A), substituted "as otherwise provided in this section" for "as provided in subsections (b) and (c)".

Subsec. (b)(4). Pub. L. 100-647, §2004(e)(13), inserted “except as provided in regulations,” before “the term”.

Subsec. (d)(2)(A). Pub. L. 100-647, §2004(e)(12), inserted “or otherwise terminates such election” after “its taxable year”.

Subsec. (d)(2)(B). Pub. L. 100-647, §2004(e)(1)(C), inserted “or paragraph (3)(A)” after “under subparagraph (A)”.

Subsec. (d)(3). Pub. L. 100-647, §2004(e)(1)(B), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “No election may be made under subsection (a) with respect to an entity which is part of a tiered structure other than a tiered structure comprised of 1 or more partnerships or S corporations all of which have the same taxable year.”

Subsecs. (f), (g). Pub. L. 100-647, §2004(e)(2)(A), added subsec. (f) and redesignated former subsec. (f) as (g).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provisions of the Revenue Act of 1987, Pub. L. 100-203, title X, to which such amendment relates, see section 2004(u) of Pub. L. 100-647, set out as a note under section 56 of this title.

EFFECTIVE DATE

Pub. L. 100-203, title X, §10206(d), Dec. 22, 1987, 101 Stat. 1330-403, as amended by Pub. L. 100-647, title II, §2004(e)(11), Nov. 10, 1988, 102 Stat. 3602, provided that:

“(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section [enacting this section and sections 280H and 7519 of this title] shall apply to taxable years beginning after December 31, 1986.

“(2) REQUIRED PAYMENTS.—The amendments made by subsection (b) [enacting section 7519 of this title] shall apply to applicable election years beginning after December 31, 1986.

“(3) ELECTIONS.—Any election under section 444 of the Internal Revenue Code of 1986 (as added by subsection (a)) for an entity’s 1st taxable year beginning after December 31, 1986, shall not be required to be made before the 90th day after the date of the enactment of this Act [Dec. 22, 1987].

“(4) SPECIAL RULE FOR EXISTING ENTITIES ELECTING S CORPORATION STATUS.—If a C corporation (within the meaning of section 1361(a)(2) of the Internal Revenue Code of 1986) with a taxable year other than the calendar year—

“(A) made an election after September 18, 1986, and before January 1, 1988, under section 1362 of such Code to be treated as an S corporation, and

“(B) elected to have the calendar year as the taxable year of the S corporation, then section 444(b)(2)(B) of such Code shall be applied by taking into account the deferral period of the last taxable year of the C corporation rather than the deferral period of the taxable year being changed. The preceding sentence shall apply only in the case of an election under section 444 of such Code made for a taxable year beginning before 1989.”

PART II—METHODS OF ACCOUNTING

Subpart

- A. Methods of accounting in general.
- B. Taxable year for which items of gross income included.
- C. Taxable year for which deductions taken.
- D. Inventories.

SUBPART A—METHODS OF ACCOUNTING IN GENERAL

- Sec. 446. General rule for methods of accounting.

- Sec. 447. Method of accounting for corporations engaged in farming.
- 448. Limitation on use of cash method of accounting.

Editorial Notes

AMENDMENTS

1986—Pub. L. 99-514, title VIII, §801(c), Oct. 22, 1986, 100 Stat. 2348, added item 448.

1976—Pub. L. 94-455, title II, §207(c)(1)(B), Oct. 4, 1976, 90 Stat. 1541, added item 447.

§ 446. General rule for methods of accounting

(a) General rule

Taxable income shall be computed under the method of accounting on the basis of which the taxpayer regularly computes his income in keeping his books.

(b) Exceptions

If no method of accounting has been regularly used by the taxpayer, or if the method used does not clearly reflect income, the computation of taxable income shall be made under such method as, in the opinion of the Secretary, does clearly reflect income.

(c) Permissible methods

Subject to the provisions of subsections (a) and (b), a taxpayer may compute taxable income under any of the following methods of accounting—

- (1) the cash receipts and disbursements method;
- (2) an accrual method;
- (3) any other method permitted by this chapter; or
- (4) any combination of the foregoing methods permitted under regulations prescribed by the Secretary.

(d) Taxpayer engaged in more than one business

A taxpayer engaged in more than one trade or business may, in computing taxable income, use a different method of accounting for each trade or business.

(e) Requirement respecting change of accounting method

Except as otherwise expressly provided in this chapter, a taxpayer who changes the method of accounting on the basis of which he regularly computes his income in keeping his books shall, before computing his taxable income under the new method, secure the consent of the Secretary.

(f) Failure to request change of method of accounting

If the taxpayer does not file with the Secretary a request to change the method of accounting, the absence of the consent of the Secretary to a change in the method of accounting shall not be taken into account—

- (1) to prevent the imposition of any penalty, or the addition of any amount to tax, under this title, or
- (2) to diminish the amount of such penalty or addition to tax.

(Aug. 16, 1954, ch. 736, 68A Stat. 151; Pub. L. 94-455, title XIX, §1906 (b)(13)(A), Oct. 4, 1976, 90