American Institute of CPAs
1455 Pennsylvania Avenue, NW
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November 14, 2016

Mr. Scott Dinwiddie
Associate Chief Counsel
Income Tax & Accounting
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Re: Revenue Procedure 2015-13, Changes in Methods of Accounting

Dear Mr. Dinwiddie:

The American Institute of CPAs (AICPA) is pleased to submit comments with respect to the accounting method change procedures set forth in Revenue Procedure 2015-13, Changes in Methods of Accounting (Rev. Proc. 2015-13). The AICPA commends the Internal Revenue Service (IRS) and the United States Department of the Treasury ("Treasury") for issuing Rev. Proc. 2015-13, which provides an update to the guidance issued in 1997. The AICPA appreciates that the IRS and Treasury included a number of our suggested changes in Rev. Proc. 2015-13.

The AICPA has identified a number of items in Rev. Proc. 2015-13 that we think the IRS should revise to better achieve the goal of encouraging voluntary compliance with proper tax accounting methods, while limiting the administrative burdens of taxpayers when complying with the rules. Our suggestions include the following:

(a) Provide a single overall issue under consideration standard for taxpayers under examination;

(b) Restore the 90-day window;

(c) Allow taxpayers to elect to accelerate positive Internal Revenue Code (IRC or "Code") section 481(a)[1] adjustments related to accounting method changes made in prior years when an eligible acquisition transaction occurs;

(d) Eliminate the *de minimis* threshold limitations that allow taxpayers to elect a one-year section 481(a) adjustment period for net positive section 481(a) adjustments

[1] All references herein to "section" or "§" are to the Internal Revenue Code of 1986, as amended, or the Treasury regulations promulgated thereunder.

(e) Remove the additional conditions for the exceptions to audit protection for controlled foreign corporations;

(f) Allow a longer period for automatic relief for filing the Covington, Kentucky copy of the Form 3115 for automatic method changes; and

(f) Other filing procedures to minimize administrative compliance burdens.

These comments were developed by the AICPA Tax Methods and Periods Technical Resource Panel and approved by the Tax Executive Committee.

The AICPA is the world's largest member association representing the accounting profession with more than 418,000 members in 143 countries and a history of serving the public interest since 1887. Our members advise clients on federal, state and international tax matters and prepare income and other tax returns for millions of Americans. Our members provide services to individuals, not-for-profit organizations, small and medium-sized businesses, as well as America's largest businesses.

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We appreciate your consideration of our comments and proposed changes that we think are necessary to provide clarification to taxpayers. We welcome a further discussion of these issues and our comments. If you have any questions, please contact me at (408) 924-3508 or annette.nellen@sjsu.edu; or Jennifer Kennedy, Chair, AICPA Tax Methods and Periods Technical Resource Panel, at (703) 918-6951, or jennifer.kennedy@us.pwc.com; or Ogochukwu Anokwute, Lead Technical Manager-AICPA Tax Policy & Advocacy, at (202) 434-9231, or oanokwute@aicpa.org.

Sincerely,

Annette Nellen, CPA, CGMA, Esq.
Chair, AICPA Tax Executive Committee

cc: Mr. Christopher Call, Attorney-Advisor, Office of Tax Legislative Counsel, Department of the Treasury
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Mr. John Moriarty, Deputy Associate Chief Counsel, Income Tax & Accounting, Internal Revenue Service
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Comments on Revenue Procedure 2015-13

Developed by the AICPA Tax Methods and Periods Technical Resource Panel
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Comments on Revenue Procedure 2015-13

I. General Background

Section 446(e) and the related regulations require that a taxpayer who changes its method of accounting on the basis of which the taxpayer regularly computes income in keeping the books must, before computing taxable income under the new method, secure the consent of the Commissioner of the Internal Revenue Service ("the Commissioner"). Generally, a taxpayer must file a Form 3115, *Application for Change in Accounting Method,* to secure the Commissioner's consent to change a method of accounting.[2] For certain "automatic" accounting method changes prescribed in Rev. Proc. 2015-14[3] (which has been amplified, modified and superseded in part by Rev. Proc. 2016-29), a taxpayer, in order to comply with all of the applicable provisions of Rev. Proc. 2015-13[4] and Rev. Proc. 2015-14 must obtain the consent of the Commissioner to change its method of accounting under section 446(e) and the regulations thereunder.[5] To obtain the consent of the Commissioner for "non-automatic" method changes, a taxpayer must follow the rules outlined in Rev. Proc. 2015-13.

Revenue Procedure 2015-13 and Rev. Proc. 2015-14 were released on January 16, 2015 and contain, in part, new procedural rules that differ significantly from the prior rules. The AICPA commends the IRS and Treasury for providing clearer and more flexible rules for taxpayers in changing an accounting method. The AICPA has identified certain issues in Rev. Proc. 2015-13 that we think the IRS and Treasury should modify or clarify and new provisions for addition to the Revenue Procedure. We believe that the proposed revisions will encourage prompt voluntary compliance with the proper tax accounting method principles. The AICPA plans to submit a separate letter regarding Rev. Proc. 2016-29.

II. Modifications to the Procedural Rules for Taxpayers under Examination

A. Apply a Single Issue Under Consideration Exception to the No Back-Year Audit Protection

Recommendations

The AICPA believes that providing an issue under consideration standard, as the sole exception to the no back-year audit protection for taxpayers under examination in Rev. Proc. 2015-13, will further encourage taxpayers to voluntarily comply with proper tax accounting methods in a more timely manner, provide taxpayers with clear and consistent guidance, and assist

[2] Treas. Reg. § 1.446-1(e)(3)(i). The Commissioner may prescribe administrative procedures for a taxpayer to change its method not withstanding paragraph (e)(3)(i) of this provision.
[3] 2015-5 I.R.B. 450.
[4] 2015-5 I.R.B. 419.
[5] Rev. Proc. 2015-13, section 9.

taxpayers in complying with Accounting Standards Codification (ASC) 740-10 (formerly FIN 48)[6] and practitioners with section 6694.

Alternatively, we suggest allowing taxpayers to use the issue under consideration standard only after the taxpayer has been under examination for a period of time.

Background and Analysis

The AICPA commends the government for providing the additional exceptions included in Rev. Proc. 2015-13 that make it easier for taxpayers under examination to make certain accounting method changes while receiving audit protection (*e.g.*, change from a permissible method or with a negative section 481(a) adjustment). However, as stated in our letter, dated February 15, 2008, we believe that the best approach to encourage voluntary compliance and reduce administrative complexity, while still providing examining agents broad authority to make accounting method changes as part of their examination, is to replace the numerous exceptions to obtain audit protection, with a general issue under consideration standard.[7] This standard would provide that taxpayers under examination are not precluded from filing a method change and receiving audit protection unless the item for which the change is requested is an issue under consideration by exam, appeals or a federal court.

An issue under consideration standard is no more difficult to apply or administer than the existing exceptions because in many of the existing exceptions, a request to change a method of accounting is filed under an exception only if the method is not an issue under consideration at exam. As a result, taxpayers that are under examination must still determine whether the applicable method is an issue under consideration. In fact, an issue under consideration standard is easier to apply than considering the various exceptions provided for in Rev. Proc. 2015-13 combined with an issue under consideration standard.

If the IRS is concerned with an IRS examiner's ability to develop issues under an issue under consideration standard, we suggest allowing taxpayers to use the issue under consideration standard only after the taxpayer has been under examination for a period of time, such as 12 months, similar to the requirement for using the three-month window.

B. Restore the 90-day Window

Recommendations

The AICPA suggests that if our single issue under consideration standard is not adopted, the IRS should restore the 90-day window period (and retain the three-month window). The 90-

[6] ASC 740-10, *Income Taxes - Overall*, is applicable to entities preparing financial statements in accordance with U.S. generally accepted accounting principles. It provides guidance for recognizing and measuring tax positions taken or expected to be taken in a tax return that directly or indirectly affect amounts reported in financial statements. It also provides accounting guidance for the related income tax effects of individual tax positions that do not meet the recognition thresholds required in order for any part of the benefit of that tax position to be recognized in an entity's financial statements.

[7] See AICPA Comments on Proposed Procedural Modifications to Rev. Proc. 97-27 and Rev. Proc. 2002-9 http://www.aicpa.org/advocacy/tax/taxmethodsperiods/downloadabledocuments/tmp%202-15-08.pdf.

day window period facilitates prompt correction of erroneous accounting methods without rewarding taxpayers who do not correct an erroneous method, absent a pending examination.

If the IRS is concerned with providing two window periods of 90 days each, the AICPA suggests retaining the three-month window and reinstating the 90-day window period, but reducing the time period during which each window period applies.

If the IRS decides to keep only one window period, the AICPA recommends that the IRS keep the 90-day window due to the negative financial statement consequences of not being able to obtain audit protection before financial statements are issued.

Background and Analysis

Section 8 of Rev. Proc. 2015-13 allows a taxpayer under IRS examination to request changes in its method of accounting at any time without audit protection. Alternatively, a taxpayer under examination may obtain audit protection if the taxpayer files in a window period or meets an exception, provided that all other conditions in the Revenue Procedure are met.

Per Rev. Proc. 97-27 and Rev. Proc. 2011-14, taxpayers under examination were generally eligible to correct erroneous methods and obtain audit protection by filing in the 90-day window period, which was defined as the first 90 days of the tax year if the taxpayer was under examination for 12 consecutive months at the beginning of the window. However, the 90-day window period was eliminated in Rev. Proc. 2015-13. The 90-day window was critical for taxpayers under examination because it provided the ability to correct erroneous methods (often identified during the preparation of tax provisions) and obtain audit protection during the time the taxpayer was preparing the tax provision for its financial statements.

The AICPA is concerned that the new rules limit the opportunities for taxpayers to address erroneous methods and receive audit protection if they identify erroneous methods during the preparation of their financial statements. Under Rev. Proc. 2015-13, there is no opportunity for a taxpayer to correct an impermissible accounting method when it is identified as part of a financial statement audit, and to obtain audit protection to avoid establishing a reserve under ASC 740-10.

Under Rev. Proc. 2015-13, taxpayers are able to file Form 3115 at any time while under examination. However, taxpayers will only receive audit protection for the same item that is the subject of the Form 3115 for tax years before the year of change if one of the exceptions is met. One of the exceptions is the three-month window, which replaces the 90-day window period in Rev. Proc. 97-27 and Rev. Proc. 2011-14. The three-month window, which begins on the 15th day of the 7th month of the tax year and ends on the 15th day of the 10th month of the tax year, coincides with most taxpayers' extended tax return filing period and has several limitations. Most importantly, the three-month window does not coincide with the preparation of year-end financial statements and tax provisions, preventing taxpayers from filing accounting method changes and receiving audit protection before signing-off on a year-end tax provision. As a result, a taxpayer with an erroneous method generally must recognize a FIN 48 reserve that reverses when the Form 3115 is filed under a window period. Additionally, taxpayers that file their tax returns on time, or prior to the extended due date, are penalized as they are unable to use the new three-month window in order to make an automatic method change for the immediately preceding year as they previously could under the 90-day window period that occurred at the beginning of their year.

In our letter dated July 9, 2013, the AICPA requested that ". . . the IRS *add* an additional 90-day window period consisting of 60 days before the due date (including extensions) of a tax return and 30 days after the due date (including extensions) of a tax return."[8] It was never our intention to eliminate the original 90-day window period. The AICPA's recommendation was to *add* an additional window period for taxpayers who identify erroneous methods during the preparation of tax returns. Our comment letter noted "that providing an additional window period for the 60-day period before a tax return is due and the 30-day period after a tax return is due will further encourage taxpayers to voluntarily comply with proper tax accounting methods, as well as assist taxpayers in complying with ASC 740-10 and practitioners in complying with section 6694."

The AICPA believes that reinstating the 90-day window period, in addition to the new "three-month" window provided under Rev. Proc. 2015-13, will allow taxpayers to address erroneous methods as they arise during the preparation of year-end financial statements and tax provisions, or during the preparation of tax returns, thereby increasing the number of taxpayers who are in compliance with section 446(e). The AICPA thinks that the additional window period is important to allow taxpayers another opportunity to file method changes under section 446(e) and encourage taxpayers to voluntarily comply with proper tax accounting methods.

If the IRS is concerned with providing two window periods of 90 days each, the AICPA suggests retaining the three-month window and reinstating the 90-day window period, but reducing the time period during which each window period applies. For example, the IRS could make the window periods 60 days each. From a policy point of view, it appears that the reason for the restrictions on filing accounting method changes while a taxpayer is under examination, is that the IRS believes that if potential audit exposure is a consideration in the taxpayer's desire to correct an erroneous method of accounting, the taxpayer is not deserving of the benefits of the "carrot and stick" approach inherent in the voluntary accounting method change procedures. However, in many cases it is the introduction of a new tax preparer or advisor or the substitution of new company personnel that provides the impetus for a taxpayer to correct a long-standing, but erroneous, method of accounting. Thus, the AICPA thinks that many erroneous methods of accounting are discovered during the course of preparing a taxpayer's tax return.

The AICPA's original suggestion to add a 90-day window surrounding the period for filing a tax return was based on the foregoing premise. Under the previous 90-day window period exception, a taxpayer discovering an incorrect method during the tax return preparation process is required to wait several more months until the beginning of the next taxable year to file a Form 3115 to correct the erroneous method. A three-month window period that corresponds with the period of preparation of a taxpayer's tax return would enable a taxpayer to correct its erroneous method in a timelier manner than under the prior 90-day window period.

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[8] See AICPA Comments on Rev. Proc. 97-27 and 2011-14 Method Change Procedures http://www.aicpa.org/Advocacy/Tax/DownloadableDocuments/2013_07_09_Comments_on_Rev_Proc_97-27_and_2011-14_Method_Change_Procedures.pdf.

However, not all erroneous accounting methods are discovered during the tax return preparation process. Moreover, the correction of some types of accounting methods require complex software and systems changes that are not implementable during the three-month period surrounding the preparation of a tax return. Taking these considerations into account, together with the financial reporting considerations noted above, the AICPA believes restoration of the 90-day window is warranted.

With respect to the policy considerations underlying the existence of a 90-day window, regardless of when during a taxpayer's taxable year the window period commences, the 12-month waiting period, together with the issue under consideration restriction, before the 90-day window exception becomes available offers the IRS sufficient protection against situations where a taxpayer's accounting method change is motivated by a pending examination. Restoring the 90-day window, in addition to the retention of the new three-month window, enables taxpayers to correct their erroneous methods of accounting as soon as possible, regardless of when during the taxable year the erroneous method is discovered.

III. Modifications to the Procedural Rules for Section 481(a) Adjustments

A. Expand the Eligible Acquisition Transaction Election

Recommendations

The AICPA recommends that the IRS allow taxpayers to elect to accelerate positive section 481(a) adjustments related to accounting method changes made in prior years when an eligible acquisition transaction occurs.

Background and Analysis

When a change in method in accounting is filed with the IRS within the three-year period prior to certain types of transactions, at least a portion of the tax cost is borne by the acquirer due to the mandatory spread period (usually four years) for positive section 481(a) adjustments. Complicated indemnity provisions or adjustments to purchase price are often necessary to shift the tax burden from the buyer to the seller.

Section 7.03(3)(d) of Rev. Proc. 2015-13 provides relief by permitting the target company in an "eligible acquisition transaction" to elect to accelerate all positive adjustments into the tax year of change, rather than to spread a positive adjustment over multiple (usually four) taxable years. The AICPA applauds the addition of the eligible acquisition transaction election to Rev. Proc. 2015-13. The new election simplifies the remediation of accounting methods issues identified during the due diligence process. Generally, an eligible acquisition transaction means an acquisition of stock ownership in a corporation or controlled foreign corporation (CFC) that either results in the acquisition of control of the target by the acquirer or causes the target's taxable year to end, an acquisition of the target's assets in certain tax-free reorganizations or liquidations, or an acquisition of an ownership interest in a partnership that does not cause a technical termination of the partnership.

The eligible acquisition transaction must occur either in the tax year of the accounting method change or in the subsequent tax year before the due date (including any extension) for filing the target's federal income tax return for the year of change. As a result, this election will allow the target company to bear the tax, related to positive adjustments which are related to impermissible accounting methods, that are identified as part of the due diligence process and corrected in the year prior to a transaction, or the year of a transaction. However, it does not allow the acceleration of positive adjustments related to a method of accounting that the target company changed more than a year before the transaction. Thus, under the current procedure, complicated indemnity provisions are necessary to shift the tax burden from the buyer to the seller when the target company has positive section 481(a) adjustments from accounting method changes filed in prior years that are spread into post-transaction taxable years.

Allowing a target company to elect to accelerate all remaining positive section 481(a) adjustments into the target company's final year would align with the goal of the current eligible acquisition election which allows the target company or seller to bear the tax cost associated with its methods of accounting. This modification also would avoid the need for complicated indemnity provisions in a transaction to shift the tax cost back to the seller.

B. One-Year Spread / *De Minimis* Election

Recommendations

The AICPA suggests eliminating the *de minimis* threshold limitations that allow taxpayers to elect a one-year section 481(a) adjustment period for net positive section 481(a) adjustments. We suggest allowing taxpayers to elect to take a net positive section 481(a) of any dollar amount into account in the year of change.

If the IRS declines to implement the above recommendation, the AICPA recommends that the IRS raise the *de minimis* threshold from $50,000 to at least $250,000. Additionally, the AICPA believes the IRS should permit taxpayers to base the determination of the *de minimis* threshold on the size of the taxpayer making the accounting method change in lieu of using the fixed *de minimis* threshold.

Background and Analysis

The AICPA appreciates the government's efforts in increasing the *de minimis* threshold that allows taxpayers to elect a one-year section 481(a) adjustment period for a net positive adjustment from $25,000 to $50,000. However, the AICPA is not aware of any policy goals that are advanced by denying taxpayers the ability to elect to recognize any net positive section 481(a) adjustment in the tax year of change. Moreover, the statute arguably requires taking a section 481(a) adjustment into account in one year. The genesis of the ability to recognize a net positive section 481(a) adjustment equally over four years was to provide a strong incentive for a taxpayer to self-correct impermissible methods of accounting. Permitting a taxpayer to elect to accelerate recognition of a net positive section 481(a) adjustment has no impact on that incentive, which would continue to encourage taxpayers to correct impermissible accounting methods. In fact, a one-year recognition would incentivize more taxpayers to comply with proper methods because taxpayers that desire a one-year recognition for simplicity or tax reasons view a four-year spread as a disincentive to comply.

If the IRS declines to implement the approach outlined above, the AICPA requests that the IRS consider raising the *de minimis* threshold from $50,000 to at least $250,000. The higher threshold would ensure administrative relief is provided to more taxpayers than the current threshold without upsetting the incentives to self-correct impermissible accounting methods.

Alternatively, if the IRS decides not to eliminate the *de minimis* threshold under section 7.03(3)(c) of Rev. Proc. 2015-13 to make all positive section 481(a) adjustments eligible for an elective one-year recognition, the AICPA recommends the IRS adjust the *de minimis* threshold and base the determination of the amount on the size of the taxpayer making the accounting method change.

The *de minimis* threshold rules apply to all taxpayers regardless of their size. Originally, the *de minimis* threshold was intended to allow taxpayers to recognize small positive section 481(a) adjustments in the year of change that are administratively burdensome to track for four years. The administrative burden in tracking a positive section 481(a) adjustment varies greatly depending on the size of the entity. An adjustment of $50,000 is likely material to a small taxpayer while a $1,000,000 adjustment is likely insignificant to a large taxpayer. Arguably, a $1,000,000 adjustment for the largest taxpayers are more administratively burdensome to track over four years than a $50,000 adjustment small taxpayers. Therefore, a single *de mini*mis threshold amount is not appropriate for all taxpayers. The *de minimis* threshold should reflect the individual taxpayer's needs based on its particular facts and circumstances. Because the effectiveness of the *de minimis* threshold relates to the size of the taxpayer, the AICPA believes the IRS should permit taxpayers to base the determination of the *de minimis* threshold on the size of the taxpayer making the accounting method change in lieu of using a fixed *de minimis* threshold. For example, the IRS could permit a taxpayer to compute the *de minimis* threshold based on a percentage of the average annual gross receipts of the taxpayer for the prior three taxable years in lieu of using the fixed *de minimis* threshold (e.g., $50,000 or $250,000).

IV. Modification to the Procedural Rules for Foreign Corporations

The AICPA believes that the procedural changes made to Rev. Proc. 2015-13 for certain foreign corporations have made it more difficult for many United States (U.S.) multinational corporations to voluntarily comply with proper tax accounting principles by filing applications for accounting method changes on behalf of their controlled foreign corporations or 10/50 corporations (collectively "foreign corporations" or "FCS"). The AICPA further believes that the changes (1) force many multinational corporations to either remain on impermissible methods or make unauthorized method changes; (2) are contrary to the general tax policy underlying Rev. Proc. 2015-13 (namely, to encourage taxpayers to voluntarily comply with proper tax accounting principles); and (3) draw distinctions between domestic and foreign corporations in situations where Congress, the IRS and Treasury have consistently indicated that they should receive similar treatment. See section 964 and Treas. Reg. §§ 1.964-1(a)(1) and 1.964-1(c)(1)(vi).

A. Elimination of the 120-Day Window for FCS

Recommendations

The AICPA recommends that the IRS delete section 3.08(4) of Rev. Proc. 2015-13 from the Revenue Procedure. We recommend that the definitions applicable to domestic corporations in section 3.08(1) of Rev. Proc. 2015-13 apply to all taxpayers, including foreign corporations. This definition would align the issue under consideration definition for foreign corporations with the definition for domestic corporations.

To address the concern that aligning the definitions would lead to no issues under consideration for a foreign corporation, the AICPA suggests changing the examination practice of sending general examination plans and information document requests (IDR) indicating that earnings and profits are reviewed during the examination.

The AICPA also recommends that the IRS provide a third example in section 3.08(1) contrasting when an item is an issue under consideration for a foreign corporation and when it is not an issue under consideration, in a manner similar to the two examples already in this section.

Background and Analysis

Taxpayers under examination that are changing from impermissible accounting methods with positive section 481(a) adjustments generally will seek to file their method change applications within the three-month or 120-day windows in order to obtain audit protection. Taxpayers changing from impermissible methods generally seek audit protection to avoid interest and penalties, as well as additional complexities arising if the IRS raises the same issue as part of an examination of an earlier tax year. Thus, availability of the three-month and 120-day windows is critical for a taxpayer with a positive section 481(a) adjustment to voluntarily change from an impermissible method.

However, under the updated procedures in section 8.02(1)((b)(iii) of Rev. Proc. 2015-13, the 120-day window is no longer available for a foreign corporation. Due to the restrictions for a foreign corporation to file in the previous 90-day window (and now the three-month window) as discussed in more detail below, the 120-day window historically has been the only opportunity for a foreign corporation to voluntarily change from an improper method with a positive section 481(a) adjustment and obtain the same favorable terms and conditions applicable to domestic corporations. That is, due to the broad definition of issue under consideration in the predecessor method change revenue procedures, most foreign corporations could only change from an impermissible method in the 120-day window once the examination ended and all outstanding IDRs closed.

To alleviate the need to wait for the 120-day window (and address the concern where taxpayers have overlapping examination cycles and thus open IDRs/issues under consideration even when a 120-day window opens), the AICPA, in a previous comment letter, recommended that the IRS institute a procedure to close outstanding IDRs that IRS examinations no longer intend to pursue.[9] This procedure would make taxpayers eligible to file method changes for issues that are no longer under consideration. The IRS chose not to implement that procedure. Further in Rev. Proc. 2015-13, the IRS specifically states that IDRs remain issues under consideration until the examination closes. The elimination of the 120-day window combined with the rule that IDRs remain issues under consideration until the examination closes are serious impediments to a foreign corporation's ability to correct an impermissible method. The AICPA believes that the 120-day window remains a critical opportunity for a foreign corporation to make an accounting method change to correct an impermissible accounting method with a positive section 481(a) adjustment and obtain audit protection. The AICPA does not believe there are any strong policy concerns to deny use of the 120-day window for foreign corporations.

The changes made to the other window periods in Rev. Proc. 2015-13 regarding issues under consideration for foreign corporations raise similar concerns. Under the new three-month window for foreign corporations, a foreign corporation, or the designated shareholder of a foreign corporation, may file an application for a change in method of accounting during the three-month window if all of its controlling domestic shareholders that are under examination, have been under examination for at least 24 consecutive months as of the first day of the three-month window (as opposed to 12 consecutive months for domestic entities). The three-month window is available only if the method of accounting that the foreign corporation is seeking to change is either not an issue under consideration (in the "broad" sense) in an examination before an appeals office, or before a federal court as of the date the designated shareholder files the Form 3115, or has been an issue under consideration (in the "broad" sense) for at least 24 consecutive months, and is not yet an issue under consideration in the "narrow" sense.[10]

Under the "broad" definition of issue under consideration, a foreign corporation's method of accounting is an issue under consideration if any of the corporation's controlling domestic shareholders receive notification (i.e., by draft or final examination plan, IDR, notice of proposed adjustment or income tax examination changes) from the examining agent that "*the treatment of a distribution, deemed distribution, or inclusion from the foreign corporation, or the amount of its earnings and profits or foreign taxes deemed paid, is an issue under consideration*" [Emphasis added]. Thus, under this broad definition, *all* of the methods of accounting used to compute earnings and profits are under consideration if the controlling domestic shareholder(s) has received notice that the earnings and profits of the foreign corporation is an issue under consideration. This definition is the equivalent to treating all of the methods of a domestic corporation as being under consideration if the taxpayer receives notification that the IRS is auditing taxable income.

In contrast, the term issue under consideration in the narrow sense, as defined for a domestic entity in section 3.08(1) of Rev. Proc. 2015-13, means a taxpayer's method of accounting for an item is an issue under consideration for the taxable years under examination as of the date of any written notification to the taxpayer (for example, by draft or final examination plan, IDR, or notification of proposed adjustments or income tax examination changes) from the examining agent(s) "*specifically citing the treatment of the item as an issue under consideration*" [Emphasis added]. Under the changes to Rev. Proc. 2015-13, the IRS

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[9] *Id.*

[10] Rev. Proc. 2015-13, section 8.02(1)(a)(iii).

incorporated the concept of the "narrow" definition of issue under consideration applicable to domestic corporations as the AICPA suggested in previous comments;[11] but *only* after the foreign corporation has been under examination and had an issue under consideration in the broad sense for 24 months.

In many examinations of U.S. multinational corporations, a taxpayer is notified in an examination plan or in an initial-round IDR that the amount of the earnings and profits or deemed paid taxes of its foreign corporations is an issue under consideration. The experience of our membership is consistent with the Internal Revenue Manual (I.R.M) provisions related to examinations of CFCs. Section 4.61.7.39 of the I.R.M provides that "[t]he proper determination of earnings and profits is *vital* in the examination of a CFC [Emphasis added]." Further, section 4.61.7.40 of the I.R.M provides earnings and profit guidelines, the first of which is: "[d]etermine that the proper books and records were used to compute the profit and loss statement from which the determination of earnings and profits was calculated."

Given this guidance in the I.R.M for the examination process of a CFC, it is difficult to imagine an examination where the controlling domestic shareholder is not notified early in the process that the earnings and profits of its foreign corporations is an issue under consideration. Thus, in the examination of many U.S. multinational corporations, it is not uncommon for all of a foreign corporation's methods to be considered under consideration in the broad sense of the term. Additionally, the revisions to Rev. Proc. 2015-13 to allow changes when the issue is under consideration in the broad sense for 24 months and not when the issue is under consideration in the narrow sense does little to mitigate the AICPA's concerns. In light of the audit currency initiative of the IRS, many foreign corporations do not have issues under consideration in the broad sense for 24 months, particularly considering the new rule that issues under consideration close when the examination closes. This fact, combined with the elimination of the 120-day window, effectively makes it impossible for many foreign corporations to voluntarily change from improper methods with a positive section 481(a) adjustment.

As a result of the significant restrictions on the ability to use the three-month window period, the definition of the term issue under consideration for foreign corporations contained in the Revenue Procedure prevents voluntary compliance with proper accounting methods. For a foreign corporation that is under examination and seeking to change an impermissible method with a positive section 481(a) adjustment, the limited availability of the three-month window essentially precludes it from changing to a permissible method and obtaining audit protection. As a consequence, foreign corporations are forced to either remain on their impermissible methods of accounting or to change without audit protection. The AICPA believes that neither option is in the best interest of sound tax administration.

We understand that the rationale for the broad definition of issue under consideration may have resulted from the examination practice of issuing general IDRs to audit the earnings and profits of a foreign corporation, as opposed to specific IDRs citing specific methods for examination. Rather than frustrating voluntary compliance for foreign corporations, the AICPA believes that

[11] See AICPA Comments on the Definition of Issue under Consideration – Certain Foreign Corporations Contained in Rev. Proc. 2011-14, Section 3.09(4) and Rev. Proc. 97-27 Section 3.08(4). https://www.aicpa.org/Advocacy/Tax/TaxMethodsPeriods/DownloadableDocuments/AICPA-07.30.2012-Foreign-Corp-3115-Issue-Consideration-Comments.pdf.

more efficient administration of the tax law results from allowing and encouraging voluntary compliance, with proper tax accounting principles, by aligning the definition for foreign corporations as an issue under consideration with the definition for domestic corporations.

To address the concern that the alignment of definitions would lead to no issues under consideration for a foreign corporation, the AICPA suggests changing the examination practice of sending general examination plans and IDRs indicating that earnings and profits are reviewed during the examination. Instead, the IRS should instruct examining agents to conduct examinations of foreign corporations' earnings and profits in a manner comparable to the examinations of domestic corporations' taxable income, that is, with narrowly targeted examination plans and IDRs. This examination practice would eliminate all-encompassing examination plans and IDRs that would render every accounting method issue that is raised in respect of earnings and profits of a foreign corporation as an issue under consideration. Only those foreign corporations that had specifically identified items being examined in respect of their earnings and profits are appropriately precluded from utilizing the three-month window for method changes related to such items, consistent with the treatment of domestic corporations.

The tax policy behind Rev. Proc. 2015-13 is to encourage voluntary compliance by providing favorable terms and conditions for a taxpayer-initiated method change. Section 1.02 of Rev. Proc. 97-27,[12] a predecessor to Rev. Proc. 2015-13, explained that the goal of the voluntary method change procedures is to provide "incentives to encourage prompt voluntary compliance with proper tax accounting principles," presumably because voluntary compliance generally is accepted as the most efficient manner of administering the tax law. Thus, Rev. Proc. 97-27 provided incentives for voluntary compliance similar to those provided in Rev. Proc. 2015-13, including a choice of permissible methods, a current year of change, a four-year spread of an unfavorable section 481(a) adjustment, and, in most cases, audit protection preventing the IRS from raising the same issue in an earlier taxable year. These incentives contrast sharply with the consequences of a change made as part of an examination. With an IRS-initiated method change, it appears the IRS generally changes to a method that in its opinion clearly reflects income, makes the change effective for the earliest taxable year under examination, and allows no spread for the unfavorable section 481(a) adjustment. The AICPA believes the broad definition of issue under consideration for foreign corporations is inconsistent with tax policy underlying Rev. Proc. 2015-13 of providing incentives for voluntary compliance because foreign corporations under examination are often precluded from using the exceptions to voluntarily change from an impermissible method with a positive section 481(a) adjustment.

Finally, the AICPA believes that the definition of issue under consideration for foreign corporations is inconsistent with congressional intent, as expressed in section 964 as well as the regulations promulgated thereunder. These provisions reflect an intent to treat foreign corporations in a manner substantially similar to domestic corporations in respect of accounting methods for earnings and profits. Under section 964, earnings and profits and any deficit in earnings and profits of a foreign corporation is determined under rules "substantially similar" to those applicable to domestic corporations. The regulations promulgated under section 964 require that the methods of accounting for earnings and profits of a foreign corporation reflect the provisions of section 446. Thus, generally foreign corporations are

[12] 1997-2 C.B. 680.

subject to the accounting methods procedural rules applicable to domestic corporations. The AICPA believes that the special procedural rule for determining when an issue is under consideration applicable to foreign corporations, which contrasts with the rule applicable to domestic corporations, is inconsistent with the intent of section 964 to treat foreign corporations similar to domestic corporations.

For the reasons explained above, the AICPA believes that the Revenue Procedure's broad definition of an issue under consideration for foreign corporations is inappropriate and effectively precludes many U.S. multinational corporations from voluntarily complying with proper tax accounting principles. As a result, the AICPA recommends that the IRS delete section 3.08(4) of Rev. Proc. 2015-13 from the Revenue Procedure. Instead, we recommend that the definitions applicable to domestic corporations in section 3.08(1) of Rev. Proc. 2015-13 apply to all taxpayers, including foreign corporations.

The AICPA also recommends that the IRS provide a third example in section 3.08(1) contrasting when an item is an issue under consideration for a foreign corporation and when it is not an issue under consideration, in a manner similar to the two examples already in this section. For example, the AICPA suggests an example providing that a foreign corporation's depreciation method is an issue under consideration as a result of an IDR that requests documentation supporting a calculation of depreciation for purposes of computing the corporation's earnings and profits, but is not an issue under consideration as a result of an IDR that requests the computation of the corporation's earnings and profits.

B. Complexity Around "Springing" Audit Protection for Foreign Corporations

Recommendations

The AICPA recommends eliminating the more complex additional rules for obtaining "springing" audit protection for foreign corporations and to instead, treat foreign corporations the same as domestic corporations for purposes of this rule, consistent with the policy underlying section 964.

Background and Analysis

Revenue Procedure 2015-13 permits taxpayers to file a Form 3115 at any time while they are under examination. However, unless the taxpayer qualifies to file under an exception set forth in section 8.02(1)(a) through (e) of Rev. Proc. 2015-13, it will not receive audit protection at the time Form 3115 is filed. When a taxpayer files a Form 3115 while under examination but not within an exception, the taxpayer obtains "springing" audit protection later. This protection is obtained if, as of the date immediately following the earliest date that any examination ends, the examining agent(s) does not propose an adjustment for the same item that is the subject of the Form 3115 for the taxable year(s) under examination, and the method of accounting for that same item is not an issue under consideration in another examination. The taxpayer would, at that point, receive audit protection for the taxable year(s) subsequent to the taxable year of the examination that closed and prior to the year of the change to which the Form 3115 applies.[13]

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[13] Rev. Proc. 2015-13, section 8.02(f)(i).

However, the "springing" audit protection rule is modified for foreign corporations to require satisfaction of additional conditions before the foreign corporation will receive audit protection. The additional conditions require that after the date that the first ending examination concludes, all controlling domestic shareholders that are under examination on the date the first ending examination concludes, must submit to their examining agent(s), a signed copy of the Form 3115. Then, as of the 90th calendar day after this submission, if the examining agent(s) does not propose an adjustment for the same item that is the subject of the Form 3115 for the taxable year(s) currently under examination or the method of accounting for that same item is not an issue under consideration in any open exam, the foreign corporation will obtain audit protection.[14]

The AICPA does not agree with subjecting foreign corporations to additional requirements and complexity, which in effect, allows examining agents a second opportunity to place the item for which the method change is requested under consideration. The additional complexity also adds additional barriers to a foreign corporation that is voluntarily trying to correct an impermissible method of accounting.

C. Special Rule Eliminating Audit Protection for FCSs

Recommendations

The AICPA requests that the IRS explain the rationale for including section 8.02(5) of Rev. Proc. 2015-13 and provide examples of how the provision applies. The AICPA also recommends that the IRS highlight or perhaps move this provision to section 7.07 of Rev. Proc. 2015-13 to ensure it is properly taken into account by taxpayers.

Background and Analysis

Section 8.02(5) of Rev. Proc. 2015-13 provides that:

> In the case of a change in method of accounting made on behalf of a CFC or 10/50 corporation, the IRS may change the method of accounting for the same item that is the subject of a Form 3115 filed under this revenue procedure for taxable years prior to the requested year of change in which any of the CFC or 10/50 corporation's domestic corporate shareholders computed an amount of foreign taxes deemed paid under sections 902 and 960 with respect to the CFC or 10/50 corporation that exceeds 150 percent of the average amount of foreign taxes deemed paid under sections 902 and 960 by the domestic corporate shareholder with respect to the CFC or 10/50 corporation in the shareholder's three prior taxable years.

There was no explanation provided for the addition of this limitation on back-year audit protection and it is unclear how a taxpayer should apply this provision. Because the provision effectively overrides other exceptions to the no-back-year audit protection under section 8.02 of Rev. Proc. 2015-13, it is a trap for taxpayers.

[14] Rev. Proc. 2015-13, section 8.02(f)(ii).

V. Modifications to Other Procedural Rules

A. Section 381 Transactions

Recommendations

The AICPA recommends removing the eligibility requirement of section 5.01(1)(c) in Rev. Proc. 2015-13.

Background and Analysis

Prior to the issuance of the final regulations under Treas. Reg. §§ 1.381(c)-4 and 1.381(c)-5 in 2011, taxpayers generally were precluded from filing a method change, other than a required change to the principal method in the year of a section 381(a) transaction. However, Treas. Reg. §§ 1.381(a)(4)-1(a)(4) and (5) and Treas. Reg. §§ 1.381(c)(5)-1(a)(4) and (5) specifically allow any party to a section 381 transaction to make a voluntary change, for a taxable year in which a transaction occurs or is expected to occur, as long as, when applicable, the proposed method is the method that is required after the transaction. Therefore, continuing to include an eligibility requirement related to section 381(a) transactions creates an inference that the former ban on voluntary changes in part still remains despite the issuance of the regulations to the contrary.

Section 5.01(1)(c) of Rev. Proc. 2015-13,[15] provides that a taxpayer is eligible to make an automatic change in method of accounting if the method change is not required to be made under Treas. Reg. §§ 1.381(c)(4)-1(d)(1) or 1.381(c)(5)-1(d)(1). Our understanding is that the eligibility requirement is solely intended to reinforce that filing a Form 3115 to obtain the Commissioner's consent to a statutorily required change to the principal method under Treas. Reg. §§ 1.381(c)(4)-1(d)(1) and 1.381(c)(5)-1(d)(1) is not required.

Treasury Reg. §§ 1.381(c)(4)-1(d)(1) and 1.381(c)(5)-1(d)(1) provide procedures for taxpayers that are required to change to the principal method under paragraph (a)(3) of the relevant section, and do not choose to file a voluntary method change to a different method under Treas. Reg. §§ 1.381(c)(4)-1(a)(4) and (a)(5), and Treas. Reg. §§ 1.381(c)(5)-1(a)(4) and (a)(5). These procedures provide that "an acquiring corporation that changes its method of accounting or the distributor or transferor corporation's method of accounting under paragraph (a)(3) does not need to secure the Commissioner's consent to use the principal method." In section 2.03 of Rev. Proc. 2015-33, which modified Rev. Proc. 2015-13, the IRS stated "these rules are intended to provide that a taxpayer that engages in a section 381(a) transaction within the year of change may not use the automatic change procedures to request a change to a principal method (because, as prescribed by Treas. Reg. §§ 1.381(c)(4)-1(d)(1) and 1.381(c)(5)-1(d)(1), in general, an acquiring corporation does not need to secure the Commissioner's consent to use a principal method)."

Because a Form 3115 is not required to make a change required under Treas. Reg. §§ 1.381(c)(4)-1(a)(3) and 1.381(c)(5)-1(a)(3), it is clear from the regulations that such changes are not required to follow the procedures of Rev. Proc. 2015-13. However, the regulations also

[15] As modified by Rev. Proc. 2015-33, 2015-24 I.R.B. 1067.

make clear that voluntary changes under Treas. Reg. §§ 1.381(c)(4)-1(a)(4) and (5), and Treas. Reg. §§ 1.381(c)(5)-1(a)(4) and (5) require the consent of the Commissioner and, thus would fall under the procedures of Rev. Proc. 2015-13.

If our understanding is correct in that the eligibility requirement of section 5.01(1)(c) in Rev. Proc. 2015-13 is solely intended to reinforce that filing a Form 3115 to obtain the Commissioner's consent to a statutorily required change to the principal method under Treas. Reg. §§ 1.381(c)-4(d)(1) and 1.381(c)-5(d)(1) is not required, we point out that there are several other provisions that similarly do not require obtaining the Commissioner's consent under Rev. Proc. 2015-13 that are not included in the eligibility section. For example, a change to the overall accrual method of accounting in the first section 448 year, made under the procedures in Treas. Reg. § 1.448-1(h)(2), or a change to adopt the last-in, last-out (LIFO) method for identifying inventories under section 472, are not required to be made under Rev. Proc. 2015-13, and are not included in the eligibility requirements. Thus, the continued inclusion of a reference to section 381(a) transactions in the eligibility requirements of Rev. Proc. 2015-13 creates an inference that a broader exclusion is intended.

The AICPA believes that the eligibility requirement is confusing to many taxpayers and tax preparers, and is interpreted as an indication that taxpayers are not eligible to make a voluntary automatic method change in a year in which a section 381(a) transaction occurs. Also, the eligibility requirement implies a continuing restriction that is inconsistent with the stated intent of the provision of the final regulations under section 381.

B. Final Year of Trade or Business

Recommendations

In the interest of sound tax administration, the AICPA suggests granting consent to a change in method of accounting in the final year of a trade or business in circumstances such as the following:

a) correct impermissible methods of accounting, to avoid controversy following the taxable liquidation of a corporation or partnership; and
b) transactions where the transferor is deemed to cease to be in the trade or business transferred (e.g., a section 351 or section 721 transaction) and the basis of the assets and liabilities carries over to the transferee.

Background and Analysis

Section 5.03 of Rev. Proc. 2015-13 generally provides that a taxpayer may not request the Commissioner's consent to make a change in method of accounting under Rev. Proc. 2015-13 for the taxable year the taxpayer ceases to engage in the trade or business to which the change in method of accounting would relate (final year), as defined in section 3.04 of Rev. Proc. 2015-13. However, this prohibition does not apply to a taxpayer in the following circumstances:

(a) requesting consent to change its method of accounting in the final year of its trade or business as the result of a transaction to which section 381(a) applies; or
(b) requesting consent under the non-automatic change procedures if the taxpayer demonstrates to the satisfaction of the national office compelling circumstances, or that it is in the interest of sound tax administration, for the taxpayer to change the method of accounting pursuant to section 11.02(1) of Rev. Proc. 2015-13.

The revenue procedure does not provide examples of the facts and circumstances that are sufficiently compelling for the national office to grant consent, nor are there examples of when granting such consent is in the interest of sound tax administration. The AICPA recommends that the IRS include examples of the facts and circumstances described above in the Revenue Procedure.

C. Definition of Applicant

Recommendations

The AICPA recommends that the IRS and Treasury modify Rev. Proc. 2015-13 to provide specific guidance regarding which applicants are permitted to request a change in method of accounting on a single Form 3115.

First, the AICPA recommends that the IRS issue guidance in section 6 of Rev. Proc. 2015-13 providing that partnerships that are wholly-owned within a consolidated group are permitted to file on the same Form 3115 as the consolidated group partners when making an identical method change.

Second, the AICPA recommends that the IRS includes in section 6 of Rev. Proc. 2015-13, the additional detail as to when members of a consolidated group or foreign corporations can file a single Form 3115 contained in sections 9.02 and 15.07(4) of Rev. Proc. 2016-1.

Background and Analysis

Some taxpayers and practitioners are not familiar with the provisions of Rev. Proc. 2016-1 and are unaware of the rules that can consolidate the filing of an accounting method change under certain circumstances. By way of illustration, assume a partnership is wholly-owned by two or more members of a consolidated group. The partnership would have a requirement to file a separate partnership tax return because it has two or more partners. In the case where the common parent is filing an identical method change on behalf of various subsidiaries, the inclusion of the wholly-owned partnership in a single Form 3115 will eliminate the administrative burden of having to file a separate Form 3115 for the partnership. Thus, the AICPA recommends that the government provide additional guidance regarding these exceptions when filing for both automatic and non-automatic accounting method changes.

First, the AICPA recommends that the IRS issue guidance in section 6 of Rev. Proc. 2015-13 providing that partnerships that are wholly-owned within a consolidated group are permitted to file on the same Form 3115 as the consolidated group partners when making an identical method change. Specifically, the AICPA recommends modifying Rev. Proc. 2015-13 section 6.02 to add the following:

> (9) A common parent may include as an applicant on behalf of the members of the consolidated group filing an identical method change for a particular item on a Form 3115 a partnership that is wholly-owned within the consolidated group.

The IRS should illustrate this provision with an example on a common parent filing an identical method change on behalf of various subsidiaries and including a wholly-owned partnership in a single Form 3115. Adding this section will provide taxpayers and practitioners with guidance regarding the ability to include wholly-owned partnerships in a single Form 3115 filed by a consolidated group and ease the administrative burden associated with filing accounting method changes.

Second, the AICPA recommends that the IRS include in section 6 of Rev. Proc. 2015-13, the additional detail as to when members of a consolidated group or foreign corporations can file a single Form 3115 contained in sections 9.02 and 15.07(4) of Rev. Proc. 2016-1. Providing all the relevant rules in Rev. Proc. 2015-13 will make Rev. Proc. 2015-13 self-contained and thus easier for taxpayers and practitioners to comply with the rules.

Section 6 of Rev. Proc. 2015-13 provides the general rules taxpayers must follow in completing and filing Form 3115. The rules include the requirements for a taxpayer filing a method change for more than one trade or business, consolidated groups, certain foreign corporations, and certain foreign partnerships. The rules generally allow for multiple trades or businesses or multiple entities to file a single Form 3115, thereby reducing the administrative burden for taxpayers. These rules apply in a situation where a taxpayer is filing an identical method change on a single Form 3115 for more than one separate and distinct trade or business. Additionally, these rules apply to a consolidated group parent filing on behalf of its subsidiaries, its controlled foreign corporations not required to file a federal tax return, or its foreign partnerships not required to file a federal tax return. These rules are consistent with the general provisions of Rev. Proc. 2016-1 which are related to filing accounting method changes. In addition to providing guidance for filing ruling requests, Rev. Proc. 2016-1 specifically provides guidance regarding the user fees associated with filing non-automatic method changes including identical non-automatic method changes.

Revenue Proc. 2016-1 provides guidance in determining if a common parent of a consolidated group or other taxpayer is eligible for the reduced user fees provided for in paragraphs (A)(5)(b) and (d) of the Appendix A of Rev. Proc. 2016-1.

A taxpayer may request a change in accounting method on a single Form 3115 for the identical change in method of accounting for two or more of the following in any combination:

(a) members of a consolidated group;
(b) separate and distinct trades or businesses (for the purpose of section 1.446-1(d)) of that taxpayer or member(s) of that consolidated group. Separate and distinct trades or businesses, include Qualified S Corporation Subsidiaries ("QSubs") and single member Limited Liability Companies (LLC's);

(c) partnerships that are wholly-owned within that consolidated group; or
(d) CFCs and non-controlled section 902 corporations (10/50 corporations) that do not engage in a trade or business within the United States where (i) all controlling U.S. shareholders of the CFCs and all majority domestic corporate shareholders of the 10/50 corporations, as applicable, are members of that consolidated group; or (ii) the taxpayer is the sole controlling U.S. shareholder of the CFCs or sole domestic corporate shareholder of the 10/50 corporation.[16]

D. Extension of Time to File Covington, Kentucky Copy of Automatic Form 3115

Recommendations

To minimize the administrative costs and burdens of the failure to timely file the Covington, KY copy of the Form 3115, the AICPA proposes a new, extended simplified automatic extension of time. Under our proposal, a taxpayer is permitted to file the Covington, KY copy of the Form 3115 within nine months of the due date (excluding extensions) of the federal income tax return for the year of change when the taxpayer timely filed the return, implemented the requested change on the return, and attached the original Form 3115 to the return.

Additionally the AICPA recommends that the IRS initiate a process that would allow taxpayers to file the Covington, KY copy of the Form 3115 electronically.

Background and Analysis

A taxpayer requesting to change a method of accounting under the automatic change procedures must complete and file a Form 3115 in duplicate. As specified by section 6.03(1)(a)(i) of Rev. Proc. 2015-13, as updated by section 9.05(2) of Rev. Proc. 2016-1,[17] the taxpayer must attach the Form 3115 to its timely filed (including any extension) original federal income tax return implementing the requested automatic change for the requested year of change. The taxpayer must also file a signed copy of the original Form 3115 with the IRS in Covington, KY no earlier than the first day of the requested year of change and no later than the date the taxpayer files the original Form 3115 with the federal income tax return for the requested year of change.

An automatic extension for filing Form 3115 is provided under section 6.03(4)(a) of Rev. Proc. 2015-13. Under these procedures, a taxpayer is granted six months from the due date (excluding any extension) of the federal income tax return for the year of change requested on the Form 3115, to file a Form 3115 under the automatic change procedures. The extension of time is granted provided that the taxpayer, among other requirements, files an amended return within the six-month extension period implementing the requested change in method of accounting for the year of change, attaches the original Form 3115 to the amended return, and files a signed copy of the original Form 3115 with the IRS in Covington, KY, no later than the date the original is filed with the amended return.

[16] Rev. Proc. 2016-1, section 15.07(4).
[17] 2016-1 I.R.B. 1.

Due to the increasing number of taxpayers that are either required to, or voluntarily, file their federal income tax return electronically, it is easy for taxpayers to overlook the requirement to mail a signed copy of the Form 3115 to Covington, KY no later than the date they electronically file their federal income tax return for the requested year of change with the original Form 3115 attached. If a taxpayer overlooks the requirement to file a signed copy of the Form 3115 with Covington, KY, but has otherwise complied with the requirements for making an automatic accounting method change, it has two options in order to correct its oversight: (1) if it is within the requisite six month time period, it may use the automatic extension of time in section 6.03(4)(a) of Rev. Proc. 2015-13; or (2) if it is not within the requisite time period to use the automatic extension of time, it may file a ruling request under Treas. Reg. §§ 301.9100-1 and 301.9100-3 to request that IRS National Office grant it an extension of time to file the Covington, KY copy of the Form 3115.

The AICPA appreciates the ability to obtain an automatic six-month extension of time, when a taxpayer qualifies, as it is less expensive and time consuming for both the taxpayer and the IRS than filing a ruling request. However, we believe that the automatic extension is insufficient because it does not extend beyond the original extended due date, and because under the automatic extension of time, taxpayers are required to file an amended return. In the scenario outlined above, the amended return is not necessary as the originally filed federal income tax return properly implemented the requested change and the original Form 3115 was attached to the return. In addition, the six-month extension of time that coincides with the taxpayer's extended tax return due date does not provide ample time for a taxpayer that filed at the extended due date and that overlooked the requirement to file a copy of Form 3115 with Covington, KY to use the automatic extension since at that time, the six-month period has expired.

The automatic nine-month extension would allow a taxpayer that complied with all of the requirements for filing an automatic accounting method change, except for an inadvertent failure to mail the Covington, KY copy of the Form 3115, and that timely discovered its oversight, to quickly and easily correct its inadvertent failure and comply with section 6.03(1)(a)(i) of Rev. Proc. 2015-13. Also, the ability to process the Form 3115 electronically would result in fewer instances of taxpayer oversight in filing such electronic copy. The AICPA believes these two changes would significantly enhance compliance and reduce the administrative burdens and costs of the inadvertent failure to timely file the Covington, KY copy of the Form 3115 required for automatic method changes.

E. Taxpayer Signature on Form 3115

Recommendations

The AICPA requests that the IRS clarify the signature requirements in section 6.02(8) of Rev. Proc. 2015-13.

Background and Analysis

As currently written, Rev. Proc. 2015-13 requires both automatic and non-automatic method changes to have original signatures. The *Instructions for Form 3115, revised December 2015* indicate, under *When and Where to File,* that a taxpayer does not need to sign an original automatic change Form 3115 that is attached to the taxpayer's federal income tax return. The instructions, however, indicate that the taxpayer needs to sign the copy of an automatic change Form 3115 which is filed with Covington, KY and the taxpayer may submit a photocopy.

It has been the experience of our membership, that the IRS routinely accepts electronic or copies of signatures for non-automatic method changes as well as automatic method changes. In order to avoid any procedural errors when filing a Form 3115 that may affect the validity of the application, we request that IRS clarify that photocopy or electronic signatures are generally permitted and specify those situations where an original signature is required for both automatic changes and non-automatic changes. Providing this information in the Revenue Procedure (and matched in the Form 3115 instructions) will assist in compliance with the requirements.