ent participation rates, guarantees, market value adjustments, or other pertinent factors under the contracts. Written comments should be sent to Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Alternatively, submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (Notice 97–32), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC. Finally, taxpayers may submit comments electronically via the Internal Revenue Service INTERNET site at http://www.irs.ustreas.gov/prod/tax_regs/comments.html. All submitted comments will be available for public inspection and copying.

FURTHER INFORMATION: For further information regarding this notice, contact Ms. Katherine A. Hossofsky at (202) 622–3970 (not a toll-free call).

PROCEDURAL INFORMATION: This document serves as an ''administrative pronouncement'' as that term is defined in § 1.6661–3(b)(2) of the Income Tax Regulations and may be relied upon to the same extent as a revenue ruling or revenue procedure.

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*26 CFR 601.204: Changes in accounting periods and in methods of accounting.*
*(Also Part I, §§ 446, 481; 1.446–1, 1.481–1, 1.481–4.)*

## Rev. Proc. 97–27

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## SECTION 1. PURPOSE

.01 *In general*. This revenue procedure provides the general procedures under § 446(e) of the Internal Revenue Code and § 1.446–1(e) of the Income Tax Regulations for obtaining the consent of the Commissioner of Internal Revenue to change a method of accounting for federal income tax purposes. This revenue procedure modifies and supersedes Rev. Proc. 92–20, 1992–1 C.B. 685.

.02 *Voluntary compliance*.

(1) This revenue procedure provides incentives to encourage prompt voluntary compliance with proper tax accounting principles. Under this approach, a taxpayer generally receives more favorable terms and conditions (for example, a later year of change and a longer § 481(a) adjustment period for a positive adjustment) if the taxpayer files its request for a change in accounting method before the Internal Revenue Service contacts the taxpayer for examination. A taxpayer that is contacted for examination and required to change its method of accounting by the Service generally receives less favorable terms and conditions and may also be subject to penalties.

(2) Although prompt voluntary compliance can generally be encouraged through incentives, the Service recognizes that this approach may not be appropriate or effective in all cases. For example, a number of taxpayers have deferred making changes required by amendments to the Internal Revenue Code or the Income Tax Regulations. Because it is generally not appropriate to permit changes on a basis more favorable than applicable under the governing statute or regulation, the Service may, in other published guidance, provide special terms and conditions that are designed to place the taxpayer in a position no more favorable than if the taxpayer had timely complied with the required change. See, for example, Rev. Proc. 93–48, 1993–2 C.B. 580 (regarding changes in method of accounting for notional principal contracts to comply with the requirements of § 1.446–3).

.03 *Significant changes*. Many of the complex rules and requirements of Rev. Proc. 92–20 have been simplified or eliminated. For example, the Category A, Category B, Designated A, and Designated B classifications have been eliminated, the 90–day window at the beginning of an examination has been eliminated, the 30-day window for taxpayers under continuous examination has been expanded to 90 days and the number of consecutive months the taxpayer is required to be under examination has been reduced from 18 to 12, the definition of ''under examination'' has been clarified, the consent requirement for taxpayers before an appeals office or a federal court has been replaced with a notification procedure, the various § 481(a) adjustment periods have been replaced with a single 4-year § 481(a) adjustment period for both positive and negative adjustments, and several of the terms and conditions relating to the § 481(a) adjustment have been eliminated.

## SECTION 2. BACKGROUND

.01 *Change in method of accounting defined*.

(1) Section 1.446–1(e)(2)(ii)(*a*) provides that a change in method of accounting includes a change in the overall plan of accounting for gross income or deductions, or a change in the treatment of any material item. A material item is any item that involves the proper time for the inclusion of the item in income or the taking of the item as a deduction. In determining whether a taxpayer's accounting practice for an item involves timing, generally the relevant question is whether the practice permanently changes the amount of the taxpayer's lifetime income. If the practice does not permanently affect the taxpayer's lifetime income, but does or could change the taxable year in which income is reported, it involves timing and is therefore a method of accounting. *See* Rev. Proc. 91–31, 1991–1 C.B. 566.

(2) Although a method of accounting may exist under this definition without a pattern of consistent treatment of an item, a method of accounting is not adopted in most instances without consistent treatment. The treatment of a material item in the same way in determining the gross income or deductions in two or more consecutively filed tax returns (without regard to any change in status of the method as permissible or impermissible) represents consistent treatment of that item for purposes of § 1.446–1(e)(2)(ii)(*a*). If a taxpayer treats an item properly in the first return that reflects the item, however, it is not necessary for the taxpayer to treat the item consistently in two or more consecutive tax returns to have adopted a method of accounting. If a taxpayer has adopted a method of accounting under these rules, the taxpayer may not change the method by amending its prior income tax return(s). *See* Rev. Rul. 90–38, 1990–1 C.B. 57.

(3) A change in the characterization of an item may also constitute a change in method of accounting if the change has the effect of shifting income from one period to another. For example, a change from treating an item as income to treating the item as a

deposit is a change in method of accounting. *See* Rev. Proc. 91–31.

(4) A change in method of accounting does not include correction of mathematical or posting errors, or errors in the computation of tax liability (such as errors in computation of the foreign tax credit, net operating loss, percentage depletion, or investment credit). *See* § 1.446–1(e)(2)(ii)(*b*).

.02 *Securing permission to make a method change*. Section 446(e) and § 1.446–1(e) state that, except as otherwise provided, a taxpayer must secure the consent of the Commissioner before changing a method of accounting for federal income tax purposes. Section 1.446–1T(e)(3)(i) requires that, in order to obtain the Commissioner's consent to a method change, a taxpayer must file a Form 3115, Application for Change in Accounting Method, during the taxable year in which the taxpayer desires to make the proposed change.

.03 *Terms and conditions of a method change*. Section 1.446–1(e)(3)(ii) authorizes the Commissioner to prescribe administrative procedures setting forth the limitations, terms, and conditions deemed necessary to permit a taxpayer to obtain consent to change a method of accounting in accordance with § 446(e). The terms and conditions the Commissioner may prescribe include the year of change, whether the change is to be made with a § 481(a) adjustment or on a cut-off basis, and the § 481(a) adjustment period.

.04 *No retroactive method change*. Unless specifically authorized by the Commissioner, a taxpayer may not request, or otherwise make, a retroactive change in method of accounting, regardless of whether the change is from a permissible or an impermissible method. *See generally* Rev. Rul. 90–38.

.05 *Method change with a § 481(a) adjustment*.

(1) *Need for adjustment*. Section 481(a) requires those adjustments necessary to prevent amounts from being duplicated or omitted to be taken into account when the taxpayer's taxable income is computed under a method of accounting different from the method used to compute taxable income for the preceding taxable year. When there is a change in method of accounting to which § 481(a) is applied, income for the taxable year preceding the year of change must be determined under the method of accounting that was then employed, and income for the year of change and the following taxable years must be determined under the new method of accounting as if the new method had always been used.

*Example.* A taxpayer that is not required to use inventories uses the overall cash receipts and disbursements method and changes to an overall accrual method. The taxpayer has $120,000 of income earned but not yet received (accounts receivable) and $100,000 of expenses incurred but not yet paid (accounts payable) as of the end of the taxable year preceding the year of change. A positive § 481(a) adjustment of $20,000 ($120,000 accounts receivable less $100,000 accounts payable) is required as a result of the change.

(2) *Adjustment period*. Section 481(c) and §§ 1.446–1T(e)(3)(i) and 1.481–4 provide that the adjustment required by § 481(a) may be taken into account in determining taxable income in the manner and subject to the conditions agreed to by the Commissioner and the taxpayer. Generally, in the absence of such an agreement, the § 481(a) adjustment is taken into account completely in the year of change, subject to § 481(b) which limits the amount of tax where the § 481(a) adjustment is substantial. However, under the Commissioner's authority in § 1.446–1(e)(3)(ii) to prescribe terms and conditions for changes in method of accounting, this revenue procedure provides specific adjustment periods that are intended to achieve an appropriate balance between the goals of mitigating distortions of income that result from accounting method changes and providing appropriate incentives for voluntary compliance.

.06 *Method change using a cut-off method*. The Commissioner may determine that certain changes in method of accounting will be made without a § 481(a) adjustment, using a ''cut-off method.'' Under a cut-off method, only the items arising on or after the beginning of the year of change (or other operative date) are accounted for under the new method of accounting. Any items arising before the year of change (or other operative date) continue to be accounted for under the taxpayer's former method of accounting. See, for example, § 263A (which generally applies to costs incurred after December 31, 1986, for noninventory property), § 461(h) (which generally applies to amounts incurred on or after July 18, 1984), and § 1.446–3 (which applies to notional principal contracts entered into on or after December 13, 1993). Because no items are duplicated or omitted from income when a cut-off method is used to effect a change in accounting method, no § 481(a) adjustment is necessary.

.07 *Consistency and clear reflection of income*. Methods of accounting should clearly reflect income on a continuing basis, and the Service exercises its discretion under §§ 446(e) and 481(c) in a manner that generally minimizes distortions of income across taxable years and on an annual basis. Accordingly, if a taxpayer requests to change from a method of accounting that clearly reflects income, the Service, in determining whether to consent to the taxpayer's request, will weigh the need for consistency against the taxpayer's reason for desiring to change its method of accounting.

.08 *Separate trades or businesses*.

(1) Sections 1.446–1(d)(1) and (2) provide that when a taxpayer has two or more separate and distinct trades or businesses, a different method of accounting may be used for each trade or business, provided the method of accounting used for each trade or business clearly reflects the overall income of the taxpayer as well as that of each particular trade or business. No trade or business is separate and distinct unless a complete and separable set of books and records is kept for that trade or business.

(2) Section 1.446–1(d)(3) provides that if, by reason of maintaining different methods of accounting, there is a creation or shifting of profits or losses between the trades or businesses of the taxpayer (for example, through inventory adjustments, sales, purchases, or expenses) so that income of the taxpayer is not clearly reflected, the trades or businesses of the taxpayer are not separate and distinct.

.09 *Penalties*. Any otherwise applicable penalty for the failure of a taxpayer to change its method of accounting (for example, the accuracy-related penalty under § 6662 or the fraud penalty under § 6663) may be imposed if the taxpayer does not timely file a request to change a method of accounting. See § 446(f). Additionally, the taxpayer's return preparer may also be subject to the preparer penalty under § 6694. However, penalties will not be imposed when a taxpayer changes from an impermissible method of accounting to a permissible one by complying with all the appropriate provisions of this revenue procedure.

.10 *Change made as part of an examination*. Section 446(b) and § 1.446–1(b)(1) provide that if a taxpayer does not regularly employ a method of accounting that clearly reflects its income, the computation of taxable income must

be made in a manner that, in the opinion of the Commissioner, does clearly reflect income. If a taxpayer under examination is not eligible to change an accounting method under this revenue procedure, the change may be made by the district director. A change resulting in a positive § 481(a) adjustment will ordinarily be made in the earliest taxable year under examination with a one-year § 481(a) adjustment period.

SECTION 3. DEFINITIONS

.01 *Taxpayer*.

(1) *In general*. The term ''taxpayer'' has the same meaning as the term ''person'' defined in § 7701(a)(1) (rather than the meaning of the term ''taxpayer'' defined in § 7701(a)(14)).

(2) *Consolidated group*. For purposes of (a) sections 3.07(1), 3.08(1), 4.02(2) and 6.01 (taxpayer under examination), (b) sections 3.08(2), 4.02(3) and 6.02 (taxpayer before an appeals office), or (c) sections 3.08(3), 4.02(4) and 6.03 (taxpayer before a federal court), the term ''taxpayer'' includes a consolidated group.

.02 *Filed*. Any form (including a Form 3115), statement, or other document required to be filed under this revenue procedure is filed on the date it is mailed to the proper address (or an address similar enough to complete delivery). If the form, statement, or other document is not mailed (or the date it is mailed cannot be reasonably determined), it is filed on the date it is delivered to the Service.

.03 *Mailed*. The date of mailing will be determined under the rules of § 7502. For example, the date of mailing is the date of the U.S. postmark or the applicable date recorded or marked by a designated delivery service. *See* Notice 97–26, 1997–17 I.R.B. 6.

.04 *Timely performance of acts*. The rules of § 7503 apply when the last day for the taxpayer's timely performance of any act (for example, filing a Form 3115, submitting additional information, returning a Consent Agreement (see section 8.11 of this revenue procedure), or holding a conference) falls on a Saturday, Sunday, or legal holiday. The performance of any act is timely if the act is performed on the next succeeding day that is not a Saturday, Sunday, or a legal holiday.

.05 *Year of change*. The year of change is the taxable year for which a change in method of accounting is effective, that is, the first taxable year the new method is to be used, even if no affected items are taken into account for that year. The year of change is also the first taxable year for complying with all the terms and conditions set forth in the Consent Agreement.

.06 *Section 481(a) adjustment period*. The § 481(a) adjustment period is the applicable number of taxable years for taking into account the § 481(a) adjustment required as a result of the change in method of accounting. The year of change is the first taxable year in the adjustment period and the § 481(a) adjustment is taken into account ratably over the number of taxable years in the adjustment period. The applicable adjustment periods are set forth in sections 5.02(3) and 6.04 of this revenue procedure.

.07 *Under examination*.

(1) *In general.*

(a) Except as provided in section 3.07(2) of this revenue procedure, an examination of a taxpayer with respect to a federal income tax return begins on the date the taxpayer is contacted in any manner by a representative of the Service for the purpose of scheduling any type of examination of the return. An examination ends:

(i) in a case in which the Service accepts the return as filed, on the date of the ''no change'' letter sent to the taxpayer;

(ii) in a fully agreed case, on the earliest of the date the taxpayer executes a waiver of restrictions on assessment or acceptance of overassessment (for example, Form 870, 4549, or 4605), the date the taxpayer makes a payment of tax that equals or exceeds the proposed deficiency, or the date of the ''closing'' letter (for example, Letter 891 or 987) sent to the taxpayer; or

(iii) in an unagreed or a partially agreed case, on the earliest of the date the taxpayer (or its representative) is notified by Appeals that the case has been referred to Appeals from Examination, the date the taxpayer files a petition in the Tax Court, the date on which the period for filing a petition with the Tax Court expires, or the date of the notice of claim disallowance.

(b) An examination does not end as a result of the early referral of an issue to Appeals under the provisions of Rev. Proc. 96–9, 1996–1 C.B. 575.

(c) An examination resumes on the date the taxpayer (or its representative) is notified by Appeals (or otherwise) that the case has been referred to Examination for reconsideration.

(2) *Partnerships and S corporations subject to TEFRA*. For an entity (including a limited liability company), treated as a partnership or an S corporation for federal income tax purposes, that is subject to the TEFRA unified audit and litigation provisions for partnerships and S corporations, an examination begins on the date of the notice of the beginning of an administrative proceeding sent to the Tax Matters Partner/Tax Matters Person (TMP). An examination ends:

(a) in a case in which the Service accepts the partnership or S corporation return as filed, on the date of the ''no adjustments'' letter or the ''no change'' notice of final administrative adjustment sent to the TMP;

(b) in a fully agreed case, when all the partners, members, or shareholders execute a Form 870–P, 870–L, or 870–S; or

(c) in an unagreed or a partially agreed case, on the earliest of the date the TMP (or its representative) is notified by Appeals that the case has been referred to Appeals from Examination, the date the TMP (or a partner, member, or shareholder) requests judicial review, or the date on which the period for requesting judicial review expires.

But see section 4.02(6) of this revenue procedure for certain rules that preclude an entity from requesting a change in accounting method. Also note that S corporations are not subject to the TEFRA unified audit and litigation provisions for taxable years beginning after December 31, 1996. See Small Business Job Protection Act of 1996, Pub. L. No. 104–188, § 1317(a), 110 Stat. 1755, 1787 (1996).

.08 *Issue under consideration*.

(1) *Under examination*. A taxpayer's method of accounting for an item is an issue under consideration for the taxable years under examination if the taxpayer receives written notification (for example, by examination plan, information document request (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. For example, a taxpayer's method of pooling under the dollar-value, last-in first-out LIFO inventory method is an issue under consideration as a result of an examination plan that identifies LIFO pooling as a matter to be examined, but it is not an issue under consideration as a result of an examination plan that merely identi-

fies LIFO inventories as a matter to be examined. Similarly, a taxpayer's method of determining inventoriable costs under § 263A is an issue under consideration as a result of an IDR that requests documentation supporting the costs included in inventoriable costs, but it is not an issue under consideration as a result of an IDR that requests documentation supporting the amount of cost of goods sold reported on the return. The question of whether a method of accounting is an issue under consideration may be referred to the national office as a request for technical advice under the provisions of Rev. Proc. 97–2, 1997–1 I.R.B. 64 (or any successor).

(2) *Before an appeals office*. A taxpayer's method of accounting for an item is an issue under consideration for the taxable years before an appeals office if the treatment of the item is included as an item of adjustment in the examination report referred to Appeals or is specifically identified in writing to the taxpayer by Appeals.

(3) *Before a federal court*. A taxpayer's method of accounting for an item is an issue under consideration for the taxable years before a federal court if the treatment of the item is included in the statutory notice of deficiency, the notice of claim disallowance, the notice of final administrative adjustment, the pleadings (for example, the petition, complaint, or answer) or amendments thereto, or is specifically identified in writing to the taxpayer by the counsel for the government.

.09 *Change within the LIFO inventory method*. A change within the LIFO inventory method is a change from one LIFO inventory method or sub-method to another LIFO inventory method or sub-method. A change within the LIFO inventory method does not include a change in method of accounting that could be made by a taxpayer that does not use the LIFO inventory method (for example, a method governed by § 471 or § 263A).

SECTION 4. SCOPE

.01 *Applicability*. Except as specifically provided in other published guidance or in section 4.02 of this revenue procedure, this revenue procedure applies to all taxpayers requesting the Commissioner's consent to change a method of accounting for federal income tax purposes.

.02 *Inapplicability*. This revenue procedure does not apply in the following situations:

(1) *Automatic change*. If the change in method of accounting is required to be made pursuant to a published automatic change procedure. Taxpayers are encouraged to review the automatic change procedures listed in section 9.03 of Rev. Proc. 97–1, 1997–1 I.R.B. 11, 37 (or any successor), before submitting a Form 3115 pursuant to this revenue procedure;

(2) *Under examination*. If the taxpayer is under examination, except as provided in sections 6.01(2) (90-day window), 6.01(3) (120-day window), and 6.01(4) (district director consent) of this revenue procedure;

(3) *Before an appeals office*. If the taxpayer is before an appeals office with respect to any income tax issue and the accounting method to be changed is an issue under consideration by the appeals office;

(4) *Before a federal court*. If the taxpayer is before a federal court with respect to any income tax issue and the accounting method to be changed is an issue under consideration by the federal court; or

(5) *Consolidated group member*. A corporation that is (or was formerly) a member of a consolidated group is under examination, before an appeals office, or before a federal court (for purposes of sections 4.02(2), (3), and (4) of this revenue procedure) if the consolidated group is under examination, before an appeals office, or before a federal court for a taxable year(s) that the corporation was a member of the group.

(6) *Partnerships and S corporations*. For an entity (including a limited liability company) treated as a partnership or an S corporation for federal income tax purposes, if the entity's accounting method to be changed is an issue under consideration in an examination of a partner, member, or shareholder's federal income tax return or an issue under consideration by an appeals office or by a federal court with respect to a partner, member, or shareholder's federal income tax return.

SECTION 5. PROCEDURES FOR TAXPAYERS NOT UNDER EXAMINATION

.01 *Submission of application*.

(1) *In general.*

(a) A Form 3115 must be filed during the year of change, as provided in § 1.446–1T(e)(3)(i). If the taxable year is a short period, the Form 3115 must be filed no later than the last day of the short taxable year.

(b) The Service recommends that the Form 3115 be filed as early as possible during the year of change to provide the Service adequate time to respond to the Form 3115 prior to the original due date of the taxpayer's return for the year of change.

(2) *Limited relief for late application*. A taxpayer that fails to file a Form 3115 during the year of change as provided in section 5.01(1) of this revenue procedure will not be granted an extension of time to file under § 301.9100 of the Procedure and Administration Regulations, except in unusual and compelling circumstances. *See* § 301.9100–3T(c)(2)(i).

.02 *Terms and conditions of change*.

(1) *In general*. Except as specifically provided in other published guidance, an accounting method change filed under this revenue procedure, if granted, must be made pursuant to the terms and conditions provided in this revenue procedure (including sections 8.02 and 13.02 of this revenue procedure).

(2) *Year of change*. The year of change is the taxable year with respect to which the Form 3115 is timely filed under section 5.01 of this revenue procedure. However, Rev. Proc. 93–48 (regarding notional principal contracts) is an example of other published guidance that provides for a different year of change.

(3) *Section 481(a) adjustment period*.

(a) *In general*. Except as provided in sections 5.02(3)(b) and 7.03 of this revenue procedure, the § 481(a) adjustment period for positive and negative § 481(a) adjustments is four taxable years.

(b) *Changes within the LIFO method*. Any change within the LIFO inventory method must be made using a cut-off method. However, Announcement 91–173, 1991–47 I.R.B. 29 (regarding LIFO taxpayers changing their method of accounting for certain bulk bargain purchases of inventory to comply with *Hamilton Industries, Inc. v. Commissioner*, 97 T.C. 120 (1991)) is an example of other published guidance that requires a § 481(a) adjustment.

(4) *NOL carryback limitation for taxpayer subject to criminal investigation*. Generally, no portion of any net

operating loss that is attributable to a negative § 481(a) adjustment may be carried back to a taxable year prior to the year of change that is the subject of any pending or future criminal investigation or proceeding concerning (a) directly or indirectly, any issue relating to the taxpayer's federal tax liability, or (b) the possibility of false or fraudulent statements made by the taxpayer with respect to any issue relating to its federal tax liability.

(5) *Change treated as initiated by the taxpayer*. For purposes of § 481, an accounting method change filed under this revenue procedure, if granted, is a change in method of accounting initiated by the taxpayer.

SECTION 6. PROCEDURES FOR TAXPAYERS UNDER EXAMINATION, BEFORE AN APPEALS OFFICE, OR BEFORE A FEDERAL COURT

.01 *Taxpayer under examination.*

(1) *In general*. A taxpayer that is under examination may not file a Form 3115 to request a change in accounting method under this revenue procedure, except as provided in sections 6.01(2) (90-day window), 6.01(3) (120-day window), and 6.01(4) (district director consent) of this revenue procedure. A taxpayer that files a Form 3115 beyond the time periods provided in the 90-day and 120-day windows will not be granted an extension of time to file under § 301.9100, except in unusual and compelling circumstances.

(2) *90-day window period.*

(a) A taxpayer may file a Form 3115 to request a change in accounting method during the first 90 days of any taxable year (''90-day window'') if the taxpayer has been under examination for at least 12 consecutive months as of the first day of the taxable year. This 90-day window is not available if the method of accounting the taxpayer is requesting to change is an issue under consideration at the time the Form 3115 is filed or is an issue the examining agent(s) has placed in suspense at the time the Form 3115 is filed.

(b) A taxpayer requesting a change under this 90-day window must provide a copy of the Form 3115 to the examining agent(s) at the same time it files the original Form 3115 with the national office. The Form 3115 must contain the name(s) and telephone number(s) of the examining agent(s). The taxpayer must attach to the Form 3115 a separate statement signed by the taxpayer certifying that, to the best of the taxpayer's knowledge, the same method of accounting is not an issue under consideration or an issue placed in suspense by the examining agent(s).

(3) *120-day window period.*

(a) A taxpayer may file a Form 3115 to request a change in accounting method during the 120-day period following the date an examination ends (''120-day window'') regardless of whether a subsequent examination has commenced. This 120-day window is not available if the method of accounting the taxpayer is requesting to change is an issue under consideration at the time the Form 3115 is filed or is an issue the examining agent(s) has placed in suspense at the time the Form 3115 is filed.

(b) A taxpayer requesting a change under this 120-day window must provide a copy of the Form 3115 to the examining agent(s) for any examination that is in process at the same time it files the original Form 3115 with the national office. The Form 3115 must contain the name(s) and telephone number(s) of the examining agent(s). The taxpayer must attach to the Form 3115 a separate statement signed by the taxpayer certifying that, to the best of the taxpayer's knowledge, the same method of accounting is not an issue under consideration or an issue placed in suspense by the examining agent(s).

(4) *Consent of district director*.

(a) A taxpayer under examination may request to change an accounting method under this revenue procedure if the district director consents to the filing of the request. The district director will consent to the filing of the Form 3115 unless, in the opinion of the district director, the method of accounting to be changed would ordinarily be included as an item of adjustment in the year(s) for which the taxpayer is under examination. For example, the district director will consent to the filing of a Form 3115 to change from a clearly permissible method of accounting. The district director will also consent to the filing of a Form 3115 to change from an impermissible method of accounting where the impermissible method was adopted subsequent to the years under examination. The question of whether the method of accounting from which the taxpayer is changing is permissible or was adopted subsequent to the years under examination may be referred to the national office as a request for technical advice under the provisions of Rev. Proc. 97–2 (or any successor).

(b) A taxpayer requesting a change with the consent of the district director must attach to the Form 3115 a statement from the district director consenting to the taxpayer filing the Form 3115. The taxpayer must provide a copy of the Form 3115 to the district director at the same time it files the original of that form with the national office. The Form 3115 must contain the name(s) and telephone number(s) of the examining agent(s).

.02 *Taxpayer before an appeals office*. A taxpayer that is before an appeals office with respect to any income tax issue may request a change in accounting method if the accounting method to be changed is not an issue under consideration by the appeals office. The taxpayer must attach to the Form 3115 a separate statement signed by the taxpayer certifying that, to the best of the taxpayer's knowledge, the same method of accounting is not an issue under consideration by the appeals office. The taxpayer must provide a copy of the Form 3115 to the appeals officer at the same time it files the original Form 3115 with the national office. The Form 3115 must contain the name and telephone number of the appeals officer.

.03 *Taxpayer before a federal court.* A taxpayer that is before a federal court with respect to any income tax issue may request a change in accounting method if the accounting method to be changed is not an issue under consideration by the federal court. The taxpayer must attach to the Form 3115 a separate statement signed by the taxpayer certifying that, to the best of the taxpayer's knowledge, the same method of accounting is not an issue under consideration by the federal court. The taxpayer must provide a copy of the Form 3115 to the counsel for the government at the same time it files the original Form 3115 with the national office. The Form 3115 must contain the name and telephone number of the counsel for the government.

.04 *Terms and conditions of change*. For a taxpayer under examination filing a Form 3115 during the 90-day or 120-day window, or with the consent of the district director, or for a taxpayer before an appeals office or a federal court, the terms and conditions are the same as those provided in section 5.02 of this revenue procedure for taxpayers not under examination.

SECTION 7. SECTION 481(a) ADJUSTMENT PERIOD

.01 *In general*. The § 481(a) adjustment periods are provided in sections 5.02(3) and 6.04 of this revenue procedure.

.02 *Short period as a separate taxable year*. If the year of change, or any taxable year during the § 481(a) adjustment period, is a short taxable year, the § 481(a) adjustment must be included in income as if that short taxable year were a full 12-month taxable year. *See* Rev. Rul. 78–165, 1978–1 C.B. 276.

*Example 1.* A calendar year taxpayer received permission to change an accounting method beginning with the 1997 calendar year. The § 481(a) adjustment is $30,000 and the adjustment period is four taxable years. The taxpayer subsequently receives permission to change its annual accounting period to September 30, effective for the taxable year ending September 30, 1998. The taxpayer must include $7,500 of the § 481(a) adjustment in gross income for the short period from January 1, 1998, through September 30, 1998.

*Example 2.* Corporation *X*, a calendar year taxpayer, received permission to change an accounting method beginning with the 1997 calendar year. The § 481(a) adjustment is $30,000 and the adjustment period is four taxable years. On July 1, 1999, Corporation *Z* acquires Corporation *X* in a transaction to which § 381(a) applies. Corporation *Z* is a calendar year taxpayer that uses the same method of accounting to which Corporation *X* changed in 1997. Corporation *X* must include $7,500 of the § 481(a) adjustment in gross income for its short period income tax return for January 1, 1999, through June 30, 1999. In addition, Corporation *Z* must include $7,500 of the § 481(a) adjustment in gross income in its income tax return for calendar year 1999.

.03 *Shortened or accelerated adjustment periods*. The four-year § 481(a) adjustment period provided in sections 5.02(3) and 6.04 of this revenue procedure will be shortened or accelerated in the following situations.

(1) *De minimis rule*. A taxpayer may elect to use a one-year adjustment period in lieu of the § 481(a) adjustment period otherwise provided by this revenue procedure if the entire § 481(a) adjustment is less than $25,000 (either positive or negative). The taxpayer must complete the appropriate line on the Form 3115 to elect this *de minimis* rule.

(2) *Cooperatives*. A cooperative within the meaning of § 1381(a) generally must take the entire amount of a § 481(a) adjustment into account in computing taxable income for the year of change. *See* Rev. Rul. 79–45, 1979–1 C.B. 284.

(3) *Ceasing to engage in the trade or business*.

(a) *In general*. A taxpayer that ceases to engage in a trade or business or terminates its existence must take the remaining balance of any § 481(a) adjustment relating to the trade or business into account in computing taxable income in the taxable year of the cessation or termination. Except as provided in sections 7.03(3)(d) and (e) of this revenue procedure, a taxpayer is treated as ceasing to engage in a trade or business if the operations of the trade or business cease or substantially all the assets of the trade or business are transferred to another taxpayer. For this purpose, ''substantially all'' has the same meaning as in section 3.01 of Rev. Proc. 77–37, 1977–2 C.B. 568.

(b) *Examples of transactions that are treated as the cessation of a trade or business*. The following is a nonexclusive list of transactions that are treated as the cessation of a trade or business for purposes of accelerating the § 481(a) adjustment under this section 7.03(3):

(i) the trade or business to which the § 481(a) adjustment relates is incorporated;

(ii) the trade or business to which the § 481(a) adjustment relates is purchased by another taxpayer in a transaction to which § 1060 applies;

(iii) the trade or business to which the § 481(a) adjustment relates is terminated or transferred pursuant to a taxable liquidation;

(iv) a division of a corporation ceases to operate the trade or business to which the § 481(a) adjustment relates; or

(v) the assets of a trade or business to which the § 481(a) adjustment relates are contributed to a partnership.

(c) *Conversion to or from S corporation status*.

(i) *In general*. Except as provided in sections 7.03(3)(c)(ii) and (iii) of this revenue procedure, no acceleration of a § 481(a) adjustment is required under this section 7.03(3)(c) when a C corporation elects to be treated as an S corporation or an S corporation terminates its S election and is then treated as a C corporation.

(ii) *S election effective for year of LIFO discontinuance*. If a C corporation elects to be treated as an S corporation for the taxable year in which it discontinues use of the LIFO inventory method, § 1363(d) requires an increase in the taxpayer's gross income for the LIFO recapture amount (as defined in § 1363(d)(3)) for the taxable year preceding the year of change (the taxpayer's last taxable year as a C corporation), and a corresponding adjustment to the basis of the taxpayer's inventory as of the end of the taxable year preceding the year of change. Any increase in income tax as a result of the inclusion of the LIFO recapture amount is payable in four equal installments, beginning with the taxpayer's last taxable year as a C corporation as provided in § 1363(d)(2). Any corresponding basis adjustment is taken into account in computing the § 481(a) adjustment (if any) that results upon the discontinuance of the LIFO method by the corporation.

(iii) *S election effective for a year after LIFO discontinuance*. If a C corporation elects to be treated as an S corporation for a taxable year after the taxable year in which it discontinued use of the LIFO inventory method, the remaining balance of any positive § 481(a) adjustment must be included in its gross income in its last taxable year as a C corporation. If this inclusion results in an increase in tax for its last taxable year as a C corporation, this increase in tax is payable in four equal installments, beginning with the taxpayer's last taxable year as a C corporation as provided in § 1363(d)(2), unless the taxpayer is required to take the remaining balance of the § 481(a) adjustment into account in the last taxable year as a C corporation under another acceleration provision in section 7.03(3) of this revenue procedure.

(d) *Certain transfers to which § 381(a) applies*. No acceleration of the § 481(a) adjustment is required under this section 7.03(3) when a taxpayer transfers substantially all the assets of the trade or business that gave rise to the § 481(a) adjustment to another taxpayer in a transfer to which § 381(a) applies and the accounting method (the change to which gave rise to the § 481(a) adjustment) is a tax attribute that is carried over and used by the acquiring corporation immediately after the transfer pursuant to § 381(c). The acquiring corporation is subject to any terms and conditions imposed on the transferor (or any predecessor of the transferor) as a result of its change in method of accounting.

(e) *Certain transfers pursuant to § 351 within a consolidated group*.

(i) *In general*. No acceleration of the § 481(a) adjustment is required under this section 7.03(3) when one member of an affiliated group filing a consolidated return transfers substantially all the assets of the trade or

business that gave rise to the § 481(a) adjustment to another member of the same consolidated group in an exchange qualifying under § 351 and the transferee member adopts and uses the same method of accounting (the change to which gave rise to the § 481(a) adjustment) used by the transferor member. The transferor member must continue to take the § 481(a) adjustment into account pursuant to the terms and conditions set forth in its Consent Agreement (as provided in section 8.11 of this revenue procedure). The transferor member must take into account activities of the transferee member (or any successor) in determining whether acceleration of the § 481(a) adjustment is required. For example, except as provided in the following sentence, the transferor member must take any remaining § 481(a) adjustment into account in computing taxable income in the taxable year in which the transferee member ceases to engage in the trade or business to which the § 481(a) adjustment relates. The § 481(a) adjustment is not accelerated when the transferee member engages in a transaction described in section 7.03(3)(d) or section 7.03(3)(e)(i) of this revenue procedure.

(ii) *Exception*. The provisions of section 7.03(3)(e)(i) of this revenue procedure cease to apply and the transferor member must take any remaining balance of the § 481(a) adjustment into account in the taxable year immediately preceding any of the following: (A) the taxable year the transferor member ceases to be a member of the group; (B) the taxable year any transferee member owning substantially all the assets of the trade or business which gave rise to the § 481(a) adjustment ceases to be a member of the group; or (C) a separate return year of the common parent of the group. In applying the preceding sentence, the rules of paragraphs (j)(2), (j)(5), and (j)(6) of § 1.1502–13 apply, but only if the method of accounting to which the transferor member changed and to which the § 481(a) adjustment relates is adopted, carried over, or used by any transferee member acquiring the assets of the trade or business that gave rise to the § 481(a) adjustment immediately after acquisition of such assets. For example, the transferor member is not required to accelerate the § 481(a) adjustment if a transferee member ceases to be a member of a consolidated group by reason of an acquisition to which § 381(a) applies and the acquiring corporation (A) is a member of the same group as the transferor member, and (B) continues, under § 381(c)(4) and the regulations thereunder, to use the same method of accounting as that used by the transferor member with respect to the assets of the trade or business to which the § 481(a) adjustment relates.

## SECTION 8. GENERAL APPLICATION PROCEDURES

.01 *Application—Service discretion*. The Service reserves the right to decline to process any Form 3115 filed under this revenue procedure in situations in which it would not be in the best interest of sound tax administration to permit the requested change. In this regard, the Service will consider whether the change in method of accounting would clearly and directly frustrate compliance efforts of the Service in administering the income tax laws.

.02 *Terms and conditions—Service discretion*. Except as specifically provided in other published guidance, a change in method of accounting filed under this revenue procedure, if granted, must be made pursuant to the terms and conditions provided in this revenue procedure. Notwithstanding this general rule, the Service may determine that, based on the unique facts of a particular case and in the interest of sound tax administration, terms and conditions that differ from those provided in this revenue procedure are more appropriate for a change made under this revenue procedure.

.03 *Compliance with provisions*. If a taxpayer changes its method of accounting without authorization or without complying with all the provisions of this revenue procedure, the taxpayer has initiated a change in method of accounting without obtaining the consent of the Commissioner required by § 446(e). Upon examination, a taxpayer that has initiated an unauthorized change in method of accounting may be required to effect the change in an earlier or later taxable year and may be denied the benefit of spreading the § 481(a) adjustment over the number of taxable years otherwise prescribed by this revenue procedure.

.04 *Facts and circumstances considered in processing applications*. In processing an application for a change in method of accounting, the Service will consider all the facts and circumstances, including:

(1) if the method of accounting requested is consistent with the Code, regulations, revenue rulings, revenue procedures, and decisions of the United States Supreme Court;

(2) if the use of the method of accounting requested will clearly reflect income;

(3) if the present method of accounting clearly reflects income;

(4) the need for consistency in the accounting area (see section 2.07 of this revenue procedure);

(5) the taxpayer's reason(s) for the change;

(6) the tax effect of the § 481(a) adjustment;

(7) if the taxpayer's books and records and financial statements will conform to the proposed method of accounting; and

(8) if the taxpayer previously requested to change its method of accounting for the same item but did not make the change.

.05 *Specific rules in connection with prior applications*.

(1) *Method change made*.

(a) *In general*. If the taxpayer changed its method of accounting for the same item within the four taxable years preceding the year of change (under either an automatic change procedure or a procedure requiring advance consent), a copy of the application for the previous change, the signed Consent Agreement (see section 8.11 of this revenue procedure) if applicable, and any other correspondence from the Service, must be attached to the Form 3115 filed for the subsequent taxable year. An explanation must be furnished stating why the taxpayer is again requesting to change its method of accounting for the same item. The Service will consider the explanation in determining whether the subsequent request for change in method of accounting will be granted.

(b) *LIFO inventory method change*. If a taxpayer previously received permission from the Commissioner to change from the LIFO inventory method, the Commissioner will not consent to the taxpayer's readoption of the LIFO inventory method for five taxable years (beginning with the taxable year the taxpayer changed from the LIFO inventory method), in the absence of a showing of unusual and compelling circumstances.

(2) *Method change not made*. If a prior Form 3115 (filed under either an automatic change procedure or a procedure requiring advance consent) was

withdrawn, not perfected, or denied, or if a Consent Agreement (see section 8.11 of this revenue procedure) was sent to the taxpayer but was not signed and returned to the Service, or if the change was not made, and the taxpayer files another application to change the same item for a year of change within four taxable years of the prior application, a copy of the earlier application (that is, the first Form 3115), together with any correspondence from the Service, must be attached to the Form 3115 filed for the subsequent taxable year. An explanation must be furnished stating why the earlier application was withdrawn or not perfected, or why the change was not made. The Service will consider the explanation in determining whether the subsequent request for change in method of accounting will be granted.

.06 *Where to file*. A taxpayer, other than an exempt organization, applying for a change in accounting method pursuant to this revenue procedure must complete and file a current Form 3115, together with the appropriate user fee, with the Commissioner of Internal Revenue, Attention: CC:DOM:CORP:T, P.O. Box 7604, Benjamin Franklin Station, Washington, DC 20044. An exempt organization must complete and file a current Form 3115, together with the appropriate user fee, with the Assistant Commissioner (Employee Plans and Exempt Organizations), Attention: E:EO, P.O. Box 120, Benjamin Franklin Station, Washington, DC 20044.

.07 *User fee*. Taxpayers are required to pay user fees for requests for changes in accounting method made under this revenue procedure. Rev. Proc. 97–1 (or any successor) contains the schedule of user fees and provides guidance for administering the user fee requirements.

.08 *Signature requirements*. The Form 3115 must be signed by, or on behalf of, the taxpayer requesting the change by an individual with authority to bind the taxpayer in such matters. For example, an officer must sign on behalf of a corporation, a general partner on behalf of a state law partnership, a member-manager on behalf of a limited liability company, a trustee on behalf of a trust, or an individual taxpayer on behalf of a sole proprietorship. If the taxpayer is a member of a consolidated group, a Form 3115 submitted on behalf of the taxpayer must be signed by a duly authorized officer of the common parent. See the signature requirements set forth in the General Instructions attached to a current Form 3115 regarding those who are to sign. If an agent is authorized to represent the taxpayer before the Service, receive the original or a copy of the correspondence concerning the request, or perform any other act(s) regarding the Form 3115 filed on behalf of the taxpayer, a power of attorney reflecting such authorization(s) must be attached to the Form 3115. A taxpayer's representative without a power of attorney to represent the taxpayer as indicated in this section will not be given any information regarding the Form 3115.

.09 *Incomplete Form 3115—21 day rule*. If the Service receives a Form 3115 that is not properly completed in accordance with the instructions on the Form 3115 and the provisions of this revenue procedure, or if supplemental information is needed, the Service will notify the taxpayer. The notification will specify the information that needs to be provided, and the taxpayer will be permitted 21 days from the date of the notification to furnish the necessary information. The Service reserves the right to impose shorter reply periods if subsequent requests for additional information are made. If the required information is not submitted to the Service within the reply period, the Form 3115 will not be processed. An additional period, not to exceed 15 days, to furnish information may be granted to a taxpayer. The request for an extension of time must be made in writing and submitted within the 21-day period. If the extension request is denied, there is no right of appeal.

.10 *Conference in the national office*. The taxpayer must complete the appropriate line on the Form 3115 to request a conference of right if an adverse response is contemplated by the Service. If the taxpayer does not complete the appropriate line on the Form 3115 or request a conference in a later written communication, the Service will presume that the taxpayer does not desire a conference. If requested, a conference will be arranged in the national office prior to the Service's formal reply to the taxpayer's Form 3115. For taxpayers other than exempt organizations, see section 11 of Rev. Proc. 97–1 (or any successor). For exempt organizations, see section 12 of Rev. Proc. 97–4, 1997–1 I.R.B. 96 (or any successor).

.11 *Consent Agreement*.

(1) *In general*. Unless otherwise specifically provided, the Commissioner's permission to change a taxpayer's method of accounting for a specific taxable year will be set forth in a ruling letter (original and one copy) from the national office that identifies the item or items being changed, the § 481(a) adjustment (if any), and the terms and conditions under which the change is to be effected for the taxable year specified in the ruling letter. See §§ 1.446–1(e)(3) and 1.481–4. If the taxpayer agrees to the terms and conditions contained in the ruling letter, the taxpayer must sign and date the agreement copy of the ruling letter in the appropriate space. The signed copy of the ruling letter will constitute an agreement (Consent Agreement) within the meaning of § 481(c) and as required by § 1.481–4(b). The Consent Agreement must be returned to the address provided in the Consent Agreement within 45 days of the date of its issuance. In addition, a copy of the Consent Agreement must be attached to the taxpayer's income tax return for the year of change. If a taxpayer signs and returns the Consent Agreement, the taxpayer must implement the change in accounting method in accordance with the terms and conditions provided in the Consent Agreement and this revenue procedure. *See* § 1.481–4(b).

(2) *Signature requirements*. The Consent Agreement must be signed by, or on behalf of, the taxpayer making the request. The individual signing the Consent Agreement must have the authority to bind the taxpayer in such matters (in general, it may not be signed by the taxpayer's representative).

(3) *45-day requirement*. If the taxpayer does not return the signed Consent Agreement within 45 days of the date of its issuance, the ruling letter granting permission for the change will be null and void.

(4) *Change in method of accounting not made by the taxpayer*.

(a) If the taxpayer decides not to effect the change in accordance with the terms and conditions of the ruling letter, the taxpayer must so indicate by returning the ruling letter and the unsigned Consent Agreement to the national office addressed as follows: Commissioner of Internal Revenue, Attention: [Individual whose name and symbols appear at the top of the Consent Agreement], P.O. Box 14095, Benjamin Franklin Station, Washington, DC 20044, with an explanation of why the accounting method change will not be effected.

(b) If the taxpayer disagrees with the terms and conditions of the ruling letter, the taxpayer must express the disagreement together with an expla-

nation of the reason(s) within the 45-day period set forth above. The Service will consider the reason(s) for disagreement and notify the taxpayer whether the original ruling letter will be modified. If the ruling letter is not modified, the taxpayer will be notified and given 15 days from the date of the notification either to accept the original ruling letter by signing and returning the Consent Agreement, or to reject the change by returning the ruling letter and the unsigned Consent Agreement to the address in section 8.11(4)(a) of this revenue procedure.

.12 *Two or more trades or businesses*.

(1) *In general*. Sections 1.446–1(d)(1) and (2) permit different methods of accounting to be used for each trade or business of a taxpayer. However, in considering whether to grant an accounting method change for one of the trades or businesses of a taxpayer, the Service will consider whether the change will result in the creation or shifting of profits or losses between the trades or businesses, and whether the proposed method will clearly reflect the taxpayer's income as required under § 446 and the regulations thereunder.

(2) *Information required*. A taxpayer requesting a change in method of accounting for one of its trades or businesses must identify all other trades or businesses by name and the method of accounting used by each trade or business for the particular item that is the subject of the requested change in method of accounting.

(3) *Separate Forms 3115 required*. If a taxpayer operates two or more separate and distinct trades or businesses and has kept separable books and records (and employed different methods of accounting for the businesses), a Form 3115 and separate user fee is required for each separate trade or business should the taxpayer desire to change the methods of accounting of the separate trades or businesses.

.13 *Consolidated groups*.

(1) *In general*. Section 1.1502–17(a) permits separate methods of accounting to be used by each member of a consolidated group, subject to the provisions of § 446 and the regulations thereunder. However, in considering whether to grant accounting method changes to group members, the Service will consider the effects of the changes on the income of the group. A common parent requesting a change in method of accounting on behalf of a member of the consolidated group must submit any information necessary to permit the Service to evaluate the effect of the requested change on the income of the consolidated group. Except as provided in section 8.13(2) of this revenue procedure, a Form 3115 and separate user fee must be submitted for each member of the group for which a change in accounting method is requested pursuant to this revenue procedure.

(2) *Separate Forms 3115 not required*. A common parent may request an identical accounting method change on a single Form 3115 on behalf of more than one member of a consolidated group at a reduced user fee. To qualify, the taxpayers in the consolidated group must be members of the same affiliated group under § 1504(a) that join in the filing of a consolidated tax return, and they must be requesting to change from the identical present method of accounting to the identical proposed method of accounting. All aspects of the requested accounting method change, including the present and proposed methods, the underlying facts, and the authority for the request, must be identical, except for the § 481(a) adjustment. See section 15.07(1) and (3) of Rev. Proc. 97–1 at 48–49 (or any successor) for the information required to be submitted with the Form 3115.

.14 *Applicability of Rev. Proc. 97–1 and Rev Proc. 97–4*. Rev. Proc. 97–1 and Rev. Proc. 97–4 (or any successors), respectively, are applicable to a Form 3115 filed under this revenue procedure, unless specifically excluded or overridden by other published guidance (including the special procedures in this document).

.15 *Effect on other offices of the Service*. The provisions of this revenue procedure are not intended to preclude an appropriate representative of the Service (for example, an appeals official with delegated settlement authority) from settling a particular taxpayer's case involving an accounting method issue by agreeing to terms and conditions that differ from those provided in this revenue procedure when it is in the best interest of the government to do so.

## SECTION 9. AUDIT PROTECTION FOR TAXABLE YEARS PRIOR TO YEAR OF CHANGE

.01 *In general*. Except as provided in section 9.02 of this revenue procedure, when a taxpayer timely files a Form 3115 pursuant to this revenue procedure, the Service will not require the taxpayer to change its method of accounting for the same item for a taxable year prior to the year of change.

.02 *Exceptions*.

(1) *Change not made or made improperly*. The Service may change a taxpayer's method of accounting for prior taxable years if (a) the taxpayer withdraws or does not perfect its request, (b) the national office denies the request, (c) the taxpayer declines to implement the change in method of accounting pursuant to the terms and conditions of the Consent Agreement and this revenue procedure, (d) the taxpayer implements the change but does not comply with the terms and conditions contained in the Consent Agreement and this revenue procedure, or (e) the national office modifies or revokes the ruling retroactively because there has been a misstatement or an omission of material facts. See section 10.02(2) of this revenue procedure.

(2) *Change in sub-method*. The Service may change a taxpayer's method of accounting for prior taxable years if the taxpayer is changing a sub-method of accounting within the method. For example, an examining agent may propose to terminate the taxpayer's use of the LIFO inventory method during a prior taxable year even though the taxpayer changes its method of valuing increments in the current year.

(3) *Prior year Service-initiated change*. The Service may make adjustments to the taxpayer's returns for the same item for taxable years prior to the requested year of change to reflect a prior year Service-initiated change.

(4) *Criminal investigation*. The Service may change a taxpayer's method of accounting for the same item for taxable years prior to the requested year of change if there is any pending or future criminal investigation or proceeding concerning (a) directly or indirectly, any issue relating to the taxpayer's federal tax liability for any taxable year prior to the year of change, or (b) the possibility of false or fraudulent statements made by the taxpayer with respect to any issue relating to its federal tax liability for any taxable year prior to the year of change.

## SECTION 10. EFFECT OF CONSENT

.01 *In general*. A taxpayer that changes to a method of accounting pursuant to this revenue procedure may

be required to change or modify that method of accounting for the following reasons:

(1) the enactment of legislation;

(2) a decision of the United States Supreme Court;

(3) the issuance of temporary or final regulations;

(4) the issuance of a revenue ruling, revenue procedure, notice, or other statement published in the Internal Revenue Bulletin;

(5) the issuance of written notice to the taxpayer that the change in method of accounting was granted in error or is not in accord with the current views of the Service; or

(6) a change in the material facts on which the consent was based.

.02 *Retroactive change or modification*. Except in rare or unusual circumstances, if a taxpayer that changes its method of accounting under this revenue procedure is subsequently required under this section 10 to change or modify that method of accounting, the required change or modification will not be applied retroactively provided that:

(1) the taxpayer complied with all the applicable provisions of the Consent Agreement and this revenue procedure;

(2) there has been no misstatement or omission of material facts;

(3) there has been no change in the material facts on which the consent was based;

(4) there has been no change in the applicable law; and

(5) the taxpayer to whom consent was granted acted in good faith in relying on the consent, and applying the change or modification retroactively would be to the taxpayer's detriment.

SECTION 11. REVIEW BY DISTRICT DIRECTOR

.01 *In general*. The district director must apply a ruling obtained under this revenue procedure in determining the taxpayer's liability unless the district director recommends that the ruling should be modified or revoked. The district director will ascertain if:

(1) the representations on which the ruling was based reflect an accurate statement of the material facts;

(2) the amount of the § 481(a) adjustment was properly determined;

(3) the change in method of accounting was implemented as proposed in accordance with the terms and conditions of the Consent Agreement and this revenue procedure;

(4) there has been any change in the material facts on which the ruling was based during the period the method of accounting was used; and

(5) there has been any change in the applicable law during the period the method of accounting was used.

.02 *National office consideration*. If the district director recommends that the ruling (other than the amount of the § 481(a) adjustment) should be modified or revoked, the district director will forward the matter to the national office for consideration before any further action is taken. Such a referral to the national office will be treated as a request for technical advice, and the provisions of Rev. Proc. 97–2 (or any successor) will be followed.

SECTION 12. INQUIRIES

Inquiries regarding this revenue procedure may be addressed to the Commissioner of Internal Revenue, Attention: CC:DOM:IT&A, 1111 Constitution Avenue, NW, Washington, DC 20224.

SECTION 13. EFFECTIVE DATE

.01 *In general*. Except as provided in section 13.02(1) of this revenue procedure, this revenue procedure is effective for Forms 3115 filed on or after May 15, 1997.

.02 *Transition rules*.

(1) *Currently pending Forms 3115*. If a taxpayer filed a Form 3115 under Rev. Proc. 92–20 for a taxable year ending on or after May 15, 1997, and the Form 3115 is pending with the national office on May 15, 1997, the taxpayer may apply the terms and conditions (exclusive of the year of change) in this revenue procedure. However, the national office will apply the terms and conditions in Rev. Proc. 92–20, unless, prior to the later of June 15, 1997, or the issuance of the letter ruling granting or denying consent to the change, the taxpayer notifies the national office that it requests to apply the terms and conditions (exclusive of the year of change) in this revenue procedure.

(2) *New Forms 3115*. Except as provided in section 13.02(3) of this revenue procedure, a taxpayer that files a Form 3115 under this revenue procedure on or before December 31, 1997, may apply the terms and conditions (exclusive of the year of change) in Rev. Proc. 92–20. The taxpayer must affirmatively state in an attachment to the Form 3115 (a) that it requests to apply the terms and conditions (exclusive of the year of change) in Rev. Proc. 92–20, and (b) the applicable § 481(a) adjustment period and the authority therefor.

(3) *Open window periods under Rev. Proc. 92–20*. If, on May 15, 1997, a taxpayer is within a window period provided in Rev. Proc. 92–20, the taxpayer may file a Form 3115 under this revenue procedure during the remainder of that window period and apply the terms and conditions in Rev. Proc. 92–20 for the applicable window period. The taxpayer must affirmatively state in an attachment to the Form 3115 (a) that it agrees to apply the terms and conditions of the applicable window period in Rev. Proc. 92–20, and (b) the applicable § 481(a) adjustment period and the authority therefor.

SECTION 14. EFFECT ON OTHER DOCUMENTS

.01 *Rev. Proc. 92–20*. Except as provided in section 14.02 of this revenue procedure, Rev. Proc. 92–20 is modified and, as modified, is superseded.

.02 *Rev. Proc. 93–48 (notional principal contracts)*. The Designated A method provisions of Rev. Proc. 92–20 continue to apply to changes in method of accounting for notional principal contracts made pursuant to the requirements of § 1.446–3 and Rev. Proc. 93–48.

.03 *Notice 89–15 (long-term contracts)*. Q&A 13 of Notice 89–15, 1989–1 C.B. 634, 637, regarding changes in method of accounting for long-term contracts under § 460, is modified and, as modified, is superseded.

SECTION 15. PAPERWORK REDUCTION ACT

The collections of information contained in this revenue procedure have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545–1541.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

The collections of information in this revenue procedure are in sections 6, 8, and 13. This information is required to determine whether the taxpayer's proposed method of accounting is permissible. This information will be used by the Service to determine whether to consent to a change in accounting method and the appropriate terms and

conditions for the change. The collections of information are required to obtain consent to the accounting method change. The likely respondents are the following: individuals, farms, business or other for-profit organizations, nonprofit institutions, and small businesses or organizations.

The estimated total annual reporting burden is 9,633 hours.

The estimated annual burden per respondent varies from 1/4 of an hour to 5 hours, depending on individual circumstances, with an estimated average of 31/4 hours. The estimated number of respondents is 3,000.

The estimated annual frequency of responses is occasional.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

DRAFTING INFORMATION

The author of this revenue procedure is Robert A. Testoff of the Office of Assistant Chief Counsel (Income Tax and Accounting). For further information regarding this revenue procedure, contact Mr. Testoff on (202) 622–4990 (not a toll-free call).