

Rev. Proc. 2015-20

Relief from Form 3115 filing requirements for small businesses; permission to make certain tangible property changes without filing a Form 3115 for tax years beginning on or after January 1, 2014.

SECTION 1. PURPOSE

This revenue procedure modifies Rev. Proc. 2015-14, 2015-5 I.R.B. 450, to permit a small business taxpayer, defined as a business with total assets of less than \$10 million or average annual gross receipts of \$10 million or less for the prior three taxable years, to make certain tangible property changes in methods of accounting with an adjustment under Sec. 481(a) of the Internal Revenue Code (the Code) that takes into account only amounts paid or incurred, and dispositions, in taxable years beginning on or after January 1, 2014. In addition, for their first taxable year that begins on or after January 1, 2014, small business taxpayers are permitted to make certain tangible property changes without filing a Form 3115. This revenue procedure also requests comments on whether it is appropriate to increase the de minimis safe harbor limit provided in Sec. 1.263(a)-1(f)(1)(ii)(D) of the Income Tax Regulations for a taxpayer without an applicable financial statement (AFS) to an amount greater than \$500, and, if so, what amount should be used and the justification for considering that amount appropriate.

SECTION 2. BACKGROUND

.01 The Treasury Department and the Internal Revenue Service (IRS) recently issued final regulations under Secs. 1.162-3, 1.162-4, 1.168(i)-1, 1.168(i)-7, 1.168(i)-8, 1.263(a)-1, 1.263(a)-2, and 1.263(a)-3 (T.D. 9636, 2013-43 I.R.B. 331, 78 Fed. Reg. 57686; T.D. 9689, 2014-36 I.R.B. 456, 79 Fed. Reg. 48661) (the final tangible property regulations), along with corresponding revenue procedures on related changes in method of accounting. *See* Rev. Proc. 2014-16, 2014-9 I.R.B. 606; Rev. Proc. 2014-54, 2014-41 I.R.B. 675, (amplified, clarified, or modified by sections 6.37, 6.38, 6.39, and 10.11 of Rev. Proc. 2015-14). The final tangible property regulations generally apply to taxable years beginning on or after January 1, 2014, but also permit a taxpayer to choose to apply them to taxable years beginning on or after January 1, 2012.

.02 Since the final tangible property regulations and the accompanying method change procedures were published, the Treasury Department and the IRS have received numerous requests to further simplify the process for small businesses to start applying the final tangible property regulations. In particular, the Treasury Department and the IRS have been asked to permit small businesses to make changes in methods of accounting using a cut-off basis and without filing a Form 3115.

.03 Except as otherwise expressly provided in the Code and the regulations thereunder, Sec. 446(e) and Sec. 1.446-1(e)(2) require a taxpayer to secure the consent of the Commissioner before changing a method of accounting for Federal tax purposes. Section 1.446-1(e)(3)(ii) authorizes the Commissioner to prescribe administrative procedures setting forth the limitations, terms, and conditions necessary for a taxpayer to obtain consent to change a method of accounting. A taxpayer that changes a

method of accounting must apply the provisions of Sec. 481, which accounts for how the taxpayer treated the items being changed in prior years to avoid duplication of deductions or omission of income. To avoid duplication or omission, taxpayers must follow the rules of Sec. 446(e) and Sec. 481 when applying the final tangible property regulations.

.04 The final tangible property regulations and the method change procedures were issued following a lengthy development process that considered and addressed the prior concerns communicated by small businesses and their representatives. In particular, to simplify the transition to the final tangible property regulations, the Treasury Department and the IRS provided taxpayers with automatic consent to change their methods of accounting to utilize the final tangible property regulations and reduced filing requirements for small taxpayers. The final tangible property regulations also contain several simplifying provisions that are elective and prospective in application (for example, the election to apply the de minimis safe harbor in Sec. 1.263(a)-1(f); the election to utilize the safe harbor for small taxpayers in Sec. 1.263(a)-3(h); and the election to capitalize repair and maintenance costs in Sec. 1.263(a)-3(n)). These annual elections do not require a taxpayer to change its method of accounting.

.05 To further ease the administrative burden faced by small business taxpayers in prospectively applying the final tangible property regulations beginning in 2014, this revenue procedure modifies certain procedures provided in Rev. Proc. 2015-14 to permit small business taxpayers to make changes in methods of accounting with a Sec. 481(a) adjustment that takes into account only amounts paid or incurred, and dispositions, in taxable years beginning on or after January 1, 2014. This modification means that, effectively, small business taxpayers making these changes in method of accounting for the first taxable year that begins on or after January 1, 2014, may elect to make the change on a cut-off basis.

.06 While some small business taxpayers may choose to file a Form 3115 in order to retain a clear record of a change in method of accounting or to make permissible concurrent automatic changes on the same form, other small business taxpayers may prefer the administrative convenience of being able to comply with the final tangible property regulations in their first taxable year that begins on or after January 1, 2014, solely through the filing of a federal tax return. Accordingly, for the first taxable year that begins on or after January 1, 2014, small business taxpayers that choose to prospectively apply the tangible property regulations to amounts paid or incurred, and dispositions, in taxable years beginning on or after January 1, 2014, have the option of making certain tangible property changes in method of accounting on the federal tax return without including a separate Form 3115 or separate statement.

.07 Under section 6.02 of Rev. Proc. 2015-13, 2015-5 I.R.B. 419, ordinarily a taxpayer must submit a separate Form 3115 for each automatic change. In some cases, however, Rev. Proc. 2015-14 describes particular changes in method of accounting that a taxpayer is required or permitted to request on a single Form 3115 (concurrent changes). If, as provided by this revenue procedure, a taxpayer chooses to make certain tangible property changes in method of accounting on a federal tax return without filing a Form 3115, concurrent automatic changes, other than those specifically addressed in section 5 of this revenue procedure, are not permitted to be made without completing a Form 3115.

.08 A small business taxpayer choosing the option of calculating a Sec. 481(a) adjustment that takes into account only amounts paid or incurred, and dispositions, in taxable years beginning on or after January 1, 2014, does not receive audit protection under section 8.01 of Rev. Proc. 2015-13 (or any successor) for taxable years beginning prior to January 1, 2014.

.09 Section 5.02 of this revenue procedure provides small business taxpayers with the option of choosing to make a change to a tangible property method of accounting specified in Rev. Proc. 2015-14, section 10.11(3)(a), with a Sec. 481(a) adjustment that does not take into account amounts paid or incurred in taxable years beginning before January 1, 2014. If a small business taxpayer chooses to make a Sec. 481(a) adjustment that does not take into account amounts paid or incurred in taxable years beginning before January 1, 2014, then the taxpayer also must choose to make a Sec. 481(a) adjustment that does not take into account dispositions in taxable years beginning before January 1, 2014, for certain

changes made under sections 6.37, 6.38, and 6.39 of Rev. Proc. 2015-14. Because taxable years beginning before January 1, 2014, are not taken into account by a small business taxpayer choosing this option, audit protection as provided in section 8 of Rev. Proc. 2015-13 (or any successor) applies only to amounts subject to a change made under section 10.11(3)(a) of Rev. Proc. 2015-14 that are paid or incurred (and dispositions subject to a change made under sections 6.37, 6.38, and 6.39 of Rev. Proc. 2015-14) in taxable years beginning on or after January 1, 2014.

.10 Sections 5.03 through 5.05 of this revenue procedure provide a similar option for dispositions, permitting small business taxpayers to choose to make certain tangible property disposition changes with a Sec. 481(a) adjustment that does not take into account dispositions in taxable years beginning before January 1, 2014. Specifically, sections 5.03 through 5.05 of this revenue procedure modify sections 6.37, 6.38, and 6.39 of Rev. Proc. 2015-14 and provide that if a small business taxpayer chooses to make a Sec. 481(a) adjustment that does not take into account dispositions in taxable years beginning before January 1, 2014, then the taxpayer must consistently apply this treatment to all dispositions (other than dispositions of assets in general asset accounts) covered by sections 6.37-6.39 of Rev. Proc. 2015-14. In addition, the taxpayer also must choose to make a Sec. 481(a) adjustment that does not take into account amounts paid or incurred in taxable years beginning before January 1, 2014, for any change made under section 10.11(3)(a) of Rev. Proc. 2015-14. Further, because taxable years beginning before January 1, 2014, are not taken into account by a taxpayer choosing this option, audit protection as provided in section 8 of Rev. Proc. 2015-13 (or any successor) applies only to dispositions subject to a change made under sections 6.37, 6.38, and 6.39 of Rev. Proc. 2015-14 (and amounts subject to a change made under section 10.11(3)(a) of Rev. Proc. 2015-14 that are paid or incurred) in taxable years beginning on or after January 1, 2014.

.11 For a small business taxpayer that chooses to make a tangible property disposition change that only takes into account dispositions in 2014 and succeeding taxable years, it is unnecessary and inappropriate to permit a late partial disposition election, which would permit partial dispositions for taxable years beginning prior to January 1, 2014. Accordingly, section 5.06 of this revenue procedure provides that the late partial disposition election in section 6.33 of Rev. Proc. 2015-14 is inapplicable to a small business taxpayer that, under the provisions of this revenue procedure, changed to a method of accounting and calculated a Sec. 481(a) adjustment that took into account only dispositions in taxable years beginning on or after January 1, 2014.

.12 Section 8 of this revenue procedure provides a transition rule for a taxpayer within the scope of this revenue procedure that has previously filed its federal tax return for its first taxable year beginning on or after January 1, 2014, permitting withdrawal of the filed Form 3115 through the filing of an amended return on or before the due date of the taxpayer's timely filed (including any extension) original federal income tax return for the requested year of change.

SECTION 3. REQUEST FOR COMMENT ON DE MINIMIS SAFE HARBOR LIMIT

.01 Under Sec. 1.263(a)-1(f)(3)(iv), an amount paid for property to which a taxpayer properly applies the de minimis safe harbor is not treated as a capital expenditure or material or supply and may be deducted under Sec. 162, provided the amount otherwise constitutes an ordinary and necessary business expense. Under Sec. 1.263(a)-1(f)(1)(ii)(D), a taxpayer without an AFS may elect to apply the de minimis safe harbor if, among other things, the amount paid for the property subject to the de minimis safe harbor does not exceed \$500 per invoice (or per item as substantiated by the invoice) or other amount as identified in published guidance issued by the Treasury Department and the IRS.

.02 The de minimis safe harbor provided in the final tangible property regulations is intended as a new administrative convenience whereby taxpayers are permitted to deduct small dollar expenditures for the acquisition or production of new property or for the improvement of existing property, which otherwise must be capitalized under the Code. The de minimis safe harbor does not limit a taxpayer's ability to deduct otherwise deductible repair or maintenance costs that exceed the amount subject to the

safe harbor. The safe harbor merely establishes a minimum threshold below which all qualifying amounts are considered deductible. Consistent with longstanding law, a taxpayer may continue to deduct all otherwise deductible repair or maintenance costs, regardless of amount. In addition, the existence of the de minimis safe harbor does not mean that a taxpayer cannot establish a de minimis deduction threshold in excess of the safe harbor amount, provided the taxpayer can demonstrate that a higher threshold clearly reflects the taxpayer's income. In conjunction with section 179, which also allows small business taxpayers to immediately expense certain otherwise capital expenditures, the de minimis safe harbor provides significant tax simplification to small businesses.

.03 The Treasury Department and the IRS request written comments by April 21, 2015 on whether it is appropriate to increase the de minimis safe harbor limit provided in Sec. 1.263(a)-1(f)(1)(ii) (D) for a taxpayer without an AFS to an amount greater than \$500, and, if so, what amount should be used and what is the justification for that amount. Comments should refer to Rev. Proc. 2015-20, and should be submitted to:

Internal Revenue Service

Attn: CC:PA:LPD:PR

(Rev. Proc. 2015-20), Room 5203

P. O. Box 7604

Ben Franklin Station

Washington, DC 20044

Comments also may be hand delivered Monday through Friday between the hours of 8 am and 4 pm to CC:PA:LPD:PR (Rev. Proc. 2015-20) Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, N.W. Washington, D.C. Alternatively, comments may be submitted electronically directly to the IRS via the following e-mail address:

Notice.Comments@irs.counsel.treas.gov .

Please include "Rev. Proc. 2015-20" in the subject line of any electronic communication. All comments will be available for public inspection and copying.

SECTION 4. SCOPE

.01 *Applicability* . This revenue procedure applies to a taxpayer with one or more separate and distinct trade(s) or business(es), within the meaning of Sec. 1.446-1(d) that has--

(a) total assets of less than \$10 million as of the first day of the taxable year for which a change in method of accounting under the final tangible property regulations and corresponding procedures regarding related changes in method of accounting is effective; or

(b) average annual gross receipts of \$10 million or less for the prior three taxable years, as determined under Sec. 1.263(a)-3(h)(3) (substituting "separate and distinct trade or business" for "taxpayer").

.02 *Inapplicability* . This revenue procedure does not apply to a taxpayer's separate and distinct trade or business if that trade or business does not meet one (or both) of the criteria in section 4.01(a) and (b) of this revenue procedure.

SECTION 5. PROCEDURE

.01 A taxpayer with a separate and distinct trade or business that meets the applicability requirements of section 4.01 of this revenue procedure ("taxpayer") may change a method of accounting for that trade or business to an accounting method described in section 6.37(3)(a)(iv), (a)(v), (a)(vii), (a)(viii), 6.38, 6.39, or 10.11(3)(a) of Rev. Proc. 2015-14, as modified by this revenue procedure, with an adjustment under section Sec. 481(a) that takes into account only amounts paid or incurred, and dispositions, by that trade or business in taxable years beginning on or after January 1, 2014. If the taxpayer calculates the Sec. 481(a) adjustment in such manner for that applicable trade or business, the requirement in section 6.03(1) of Rev. Proc. 2015-13 (or any successor) to complete and file a Form 3115 for the applicable trade or business is waived for the taxpayer's first taxable year beginning on or after January 1, 2014, for a change in method of accounting made under section 6.37(3)(a)(iv), (a)(v), (a)(vii), (a)(viii), 6.38, 6.39, or 10.11(3)(a) of Rev. Proc. 2015-14, as modified by this revenue procedure. Accordingly, the taxpayer is permitted to make these changes on its federal tax return for such taxable year without including a separate Form 3115 or separate statement for its applicable trades or businesses.

.02 Section 10.11 of Rev. Proc. 2015-14 is modified by adding a new paragraph (6)(b)(iii) to read as follows:

(iii) *Small business exception* . A taxpayer meeting the scope requirements of Rev. Proc. 2015-20, 2015-09 I.R.B. XX, and changing its method of accounting under this section 10.11(3)(a) may calculate a Sec. 481(a) adjustment as of the first day of the taxpayer's year of change that takes into account only amounts paid or incurred in taxable years beginning on or after January 1, 2014. However, a taxpayer using this option must also calculate the Sec. 481(a) adjustment as of the first day of the taxpayer's year of change that takes into account only dispositions in taxable years beginning on or after January 1, 2014, for any change made under section 6.37(3)(a)(iv), (a)(v), (a)(vii), or (a)(viii), section 6.38, or section 6.39 of this revenue procedure. In addition, a taxpayer calculating a Sec. 481(a) adjustment under this paragraph (6)(b)(iii) that takes into account only amounts paid or incurred in taxable years beginning on or after January 1, 2014, does not receive audit protection under section 8.01 of Rev. Proc. 2015-13 for amounts subject to a change under this section 10.11(3)(a) that are paid or incurred in taxable years beginning before January 1, 2014. The requirement in section 6.03(1) of Rev. Proc. 2015-13 to complete and file a Form 3115 is waived for a taxpayer's first taxable year that begins on or after January 1, 2014, for a change in method of accounting made under this section 10.11(3)(a) if the taxpayer calculates a Sec. 481(a) adjustment under this paragraph (6)(b)(iii) that takes into account only amounts paid or incurred in taxable years beginning on or after January 1, 2014.

.03 Section 6.37 of Rev. Proc. 2015-14 is modified by adding a new paragraph (4)(f):

(f) A taxpayer meeting the scope requirements of Rev. Proc. 2015-20, I.R.B. 2015-09, and changing its method of accounting under this section 6.37(3)(a)(iv), (a)(v), (a)(vii), or (a)(viii) may calculate a Sec. 481(a) adjustment as of the first day of the taxpayer's year of change that takes into account only dispositions in taxable years beginning on or after January 1, 2014. However, a taxpayer using this option must also use sections 6.38(7)(b) and 6.39(6)(b) of this revenue procedure to calculate a Sec. 481(a) adjustment for any change made under section 6.38 or 6.39 of this revenue procedure and must use section 10.11(6)(b)(iii) of this revenue procedure to calculate a Sec. 481(a) adjustment for any change made under section 10.11(3)(a) of this revenue procedure. In addition, a taxpayer calculating a Sec. 481(a) adjustment under this paragraph (4)(f) that takes into account only dispositions in taxable years beginning on or after January 1, 2014, does not receive audit protection under section 8.01 of Rev. Proc. 2015-13 (or any successor) for dispositions subject to a change under this section 6.37(3)(a)(iv), (a)(v), (a)(vii), or (a)(viii) in taxable years beginning before January 1, 2014. The requirement in section 6.03(1) of Rev. Proc. 2015-13 (or any successor) to complete and file a Form 3115 is waived for a taxpayer's first taxable year that begins on or after January 1, 2014, for a change in method of accounting

made under this section 6.37(3)(a)(iv), (a)(v), (a)(vii), or (a)(viii) if the taxpayer calculates a Sec. 481(a) adjustment pursuant to this paragraph (4)(f) that takes into account only dispositions in taxable years beginning on or after January 1, 2014.

.04 Section 6.38 of Rev. Proc. 2015-14 is modified by replacing paragraph 7 (Section 481(a) adjustment) with the following:

(7) Section 481(a) adjustment .

(a) A taxpayer changing its method of accounting under this section 6.38 may use statistical sampling in determining the Sec. 481(a) adjustment by following the guidance provided in Rev. Proc. 2011-42, 2011-37 I.R.B. 318.

(b) A taxpayer meeting the scope requirements of Rev. Proc. 2015-20, 2015-09 I.R.B. XX, and changing its method of accounting under this section 6.38 may calculate a Sec. 481(a) adjustment as of the first day of the taxpayer's year of change that takes into account only dispositions in taxable years beginning on or after January 1, 2014. However, a taxpayer using this option must also use sections 6.37(4)(f) and 6.39(6)(b) of this revenue procedure to calculate a Sec. 481(a) adjustment for any change made under section 6.37(3)(a)(iv), (a)(v), (a)(vii), or (a)(viii) or section 6.39 of this revenue procedure and must use section 10.11(6)(b)(iii) of this revenue procedure to calculate a Sec. 481(a) adjustment for any change made under section 10.11(3)(a) of this revenue procedure. In addition, a taxpayer calculating a Sec. 481(a) adjustment under this paragraph (7)(b) that takes into account only dispositions in taxable years beginning on or after January 1, 2014, does not receive audit protection under section 8.01 of Rev. Proc. 2015-13 for dispositions subject to a change under this section 6.38 in taxable years beginning before January 1, 2014. The requirement in section 6.03(1) of Rev. Proc. 2015-13 to complete and file a Form 3115 is waived for a taxpayer's first taxable year that begins on or after January 1, 2014, for a change in method of accounting made under this section 6.38 if the taxpayer calculates a Sec. 481(a) adjustment pursuant to this paragraph (7)(b) that takes into account only dispositions in taxable years beginning on or after January 1, 2014.

.05 Section 6.39 of Rev. Proc. 2015-14 is modified by replacing paragraph 6 (Section 481(a) adjustment) with the following:

(6) Section 481(a) adjustment .

(a) A taxpayer changing its method of accounting under this section 6.39 may use statistical sampling in determining the Sec. 481(a) adjustment by following the guidance provided in Rev. Proc. 2011-42, 2011-37 I.R.B. 318.

(b) A taxpayer meeting the scope requirements of Rev. Proc. 2015-20, 2015-09 I.R.B. XX, and changing its method of accounting under this section 6.39 may calculate a Sec. 481(a) adjustment as of the first day of the taxpayer's year of change that takes into account only dispositions in taxable years beginning on or after January 1, 2014. However, a taxpayer using this option also must use sections 6.37(4)(f) and 6.38(7)(b) of this revenue procedure to calculate a Sec. 481(a) adjustment for any change made under section 6.37(3)(a)(iv), (a)(v), (a)(vii), or (a)(viii) or section 6.38 of this revenue procedure and must use section 10.11(6)(b)(iii) of this revenue procedure to calculate a Sec. 481(a) adjustment for any change made under section 10.11(3)(a) of this revenue procedure. In addition, a taxpayer calculating a Sec. 481(a) adjustment pursuant to this paragraph (6)(b) that takes into account only dispositions in taxable years beginning on or after January 1, 2014, does not receive audit protection under section 8.01 of Rev. Proc. 2015-13 for dispositions subject to a change under this section 6.39 in taxable years beginning prior to January 1, 2014. The requirement

in section 6.03(1) of Rev. Proc. 2015-13 to complete and file a Form 3115 is waived for a taxpayer's first taxable year that begins on or after January 1, 2014, for a change in method of accounting made under this section 6.39 if the taxpayer calculates a Sec. 481(a) adjustment pursuant to this paragraph (6)(b) that takes into account only dispositions in taxable years beginning on or after January 1, 2014.

.06 Section 6.33(1)(b) of Rev. Proc. 2015-14 is modified by deleting "or" at the end of paragraph (iii), replacing "." with "; or" at the end of paragraph (iv), and adding new paragraphs (v) and (vi):

(v) A taxpayer within the scope requirements of Rev. Proc. 2015-20, 2015-09 I.R.B. XX, and that calculated a Sec. 481(a) adjustment as of the first day of the taxpayer's year of change that took into account only dispositions in taxable years beginning on or after January 1, 2014, for any change in method of accounting provided in section 6.37(3)(a)(iv), (a)(v), (a)(vii), or (a)(viii), section 6.38, or section 6.39 of this revenue procedure; or

(vi) A taxpayer within the scope requirements of Rev. Proc. 2015-20, 2015-09 I.R.B. XX, and that calculated a Sec. 481(a) adjustment as of the first day of the taxpayer's year of change that took into account only amounts paid or incurred in taxable years beginning on or after January 1, 2014, for any change of method of accounting provided in section 10.11(3)(a) of this revenue procedure.

SECTION 6. EFFECT ON OTHER DOCUMENTS

Revenue Procedure 2015-14 is modified.

SECTION 7. EFFECTIVE DATE

This revenue procedure is effective for taxable years beginning on or after January 1, 2014.

SECTION 8. TRANSITION RULE

A taxpayer that (a) meets the scope requirements of this revenue procedure, (b) wants to use this revenue procedure for its first taxable year beginning on or after January 1, 2014, and (c) previously filed its federal tax return for that taxable year with a Form 3115 to change to a method of accounting specified in this revenue procedure may withdraw its Form 3115 by filing an amended federal tax return using this revenue procedure. The amended federal tax return must be filed on or before the due date of the taxpayer's federal tax return for its first taxable year beginning on or after January 1, 2014, including extensions. The withdrawn Form 3115 will not be taken into account for purposes of applying section 5.05 of Rev. Proc. 2015-13.

SECTION 9. DRAFTING INFORMATION

The principal author of this revenue procedure is Merrill Feldstein of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information regarding this revenue procedure, contact Merrill Feldstein of the Office of Associate Chief Counsel (Income Tax & Accounting) at (202) 317-5100 (not a toll free call).

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