

206(g)(4)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1056(g)(4)(A)) and 436(e)(1) of the Internal Revenue Code of 1986 shall be applied by substituting the plan's adjusted funding target attainment percentage for the preceding plan year for such percentage for such plan year but only if the adjusted funding target attainment percentage for the preceding plan year is greater."

APPLICABILITY OF AMENDMENTS BY SUBTITLES A AND B OF TITLE I OF PUB. L. 109-280

For special rules on applicability of amendments by subtitles A (§§ 101-107) and B (§§ 111-116) of title I of Pub. L. 109-280 to certain eligible cooperative plans, PBGC settlement plans, and eligible government contractor plans, see sections 104, 105, and 106 of Pub. L. 109-280, set out as notes under section 401 of this title.

**Subchapter E—Accounting Periods and Methods of Accounting**

- Part I. Accounting periods.
- II. Methods of accounting.
- III. Adjustments.

**PART I—ACCOUNTING PERIODS**

- Sec. 441. Period for computation of taxable income.
- 442. Change of annual accounting period.
- 443. Returns for a period of less than 12 months.
- 444. Election of taxable year other than required taxable year.

AMENDMENTS

1987—Pub. L. 100-203, title X, §10206(a)(2), Dec. 22, 1987, 101 Stat. 1330-398, added item 444.

**§ 441. Period for computation of taxable income**

**(a) Computation of taxable income**

Taxable income shall be computed on the basis of the taxpayer's taxable year.

**(b) Taxable year**

For purposes of this subtitle, the term "taxable year" means—

- (1) the taxpayer's annual accounting period, if it is a calendar year or a fiscal year;
- (2) the calendar year, if subsection (g) applies;
- (3) the period for which the return is made, if a return is made for a period of less than 12 months; or
- (4) in the case of a DISC filing a return for a period of at least 12 months, the period determined under subsection (h).

**(c) Annual accounting period**

For purposes of this subtitle, the term "annual accounting period" means the annual period on the basis of which the taxpayer regularly computes his income in keeping his books.

**(d) Calendar year**

For purposes of this subtitle, the term "calendar year" means a period of 12 months ending on December 31.

**(e) Fiscal year**

For purposes of this subtitle, the term "fiscal year" means a period of 12 months ending on the last day of any month other than December. In the case of any taxpayer who has made the election provided by subsection (f) the term means the annual period (varying from 52 to 53 weeks) so elected.

**(f) Election of year consisting of 52-53 weeks**

**(1) General rule**

A taxpayer who, in keeping his books, regularly computes his income on the basis of an annual period which varies from 52 to 53 weeks and ends always on the same day of the week and ends always—

- (A) on whatever date such same day of the week last occurs in a calendar month, or
- (B) on whatever date such same day of the week falls which is nearest to the last day of a calendar month,

may (in accordance with the regulations prescribed under paragraph (3)) elect to compute his taxable income for purposes of this subtitle on the basis of such annual period. This paragraph shall apply to taxable years ending after the date of the enactment of this title.

**(2) Special rules for 52-53-week year**

**(A) Effective dates**

In any case in which the effective date or the applicability of any provision of this title is expressed in terms of taxable years beginning, including, or ending with reference to a specified date which is the first or last day of a month, a taxable year described in paragraph (1) shall (except for purposes of the computation under section 15) be treated—

- (i) as beginning with the first day of the calendar month beginning nearest to the first day of such taxable year, or
- (ii) as ending with the last day of the calendar month ending nearest to the last day of such taxable year,

as the case may be.

**(B) Change in accounting period**

In the case of a change from or to a taxable year described in paragraph (1)—

- (i) if such change results in a short period (within the meaning of section 443) of 359 days or more, or of less than 7 days, section 443(b) (relating to alternative tax computation) shall not apply;
- (ii) if such change results in a short period of less than 7 days, such short period shall, for purposes of this subtitle, be added to and deemed a part of the following taxable year; and
- (iii) if such change results in a short period to which subsection (b) of section 443 applies, the taxable income for such short period shall be placed on an annual basis for purposes of such subsection by multiplying the gross income for such short period (minus the deductions allowed by this chapter for the short period, but only the adjusted amount of the deductions for personal exemptions as described in section 443(c)) by 365, by dividing the result by the number of days in the short period, and the tax shall be the same part of the tax computed on the annual basis as the number of days in the short period is of 365 days.

**(3) Special rule for partnerships, S corporations, and personal service corporations**

The Secretary may by regulation provide terms and conditions for the application of

this subsection to a partnership, S corporation, or personal service corporation (within the meaning of section 441(i)(2)).

**(4) Regulations**

The Secretary shall prescribe such regulations as he deems necessary for the application of this subsection.

**(g) No books kept; no accounting period**

Except as provided in section 443 (relating to returns for periods of less than 12 months), the taxpayer's taxable year shall be the calendar year if—

(1) the taxpayer keeps no books;

(2) the taxpayer does not have an annual accounting period; or

(3) the taxpayer has an annual accounting period, but such period does not qualify as a fiscal year.

**(h) Taxable year of DISC's**

**(1) In general**

For purposes of this subtitle, the taxable year of any DISC shall be the taxable year of that shareholder (or group of shareholders with the same 12-month taxable year) who has the highest percentage of voting power.

**(2) Special rule where more than one shareholder (or group) has highest percentage**

If 2 or more shareholders (or groups) have the highest percentage of voting power under paragraph (1), the taxable year of the DISC shall be the same 12-month period as that of any such shareholder (or group).

**(3) Subsequent changes of ownership**

The Secretary shall prescribe regulations under which paragraphs (1) and (2) shall apply to a change of ownership of a corporation after the taxable year of the corporation has been determined under paragraph (1) or (2) only if such change is a substantial change of ownership.

**(4) Voting power determined**

For purposes of this subsection, voting power shall be determined on the basis of total combined voting power of all classes of stock of the corporation entitled to vote.

**(i) Taxable year of personal service corporations**

**(1) In general**

For purposes of this subtitle, the taxable year of any personal service corporation shall be the calendar year unless the corporation establishes, to the satisfaction of the Secretary, a business purpose for having a different period for its taxable year. For purposes of this paragraph, any deferral of income to shareholders shall not be treated as a business purpose.

**(2) Personal service corporation**

For purposes of this subsection, the term "personal service corporation" has the meaning given such term by section 269A(b)(1), except that section 269A(b)(2) shall be applied—

(A) by substituting "any" for "more than 10 percent", and

(B) by substituting "any" for "50 percent or more in value" in section 318(a)(2)(C).

A corporation shall not be treated as a personal service corporation unless more than 10 percent of the stock (by value) in such corporation is held by employee-owners (within the meaning of section 269A(b)(2), as modified by the preceding sentence). If a corporation is a member of an affiliated group filing a consolidated return, all members of such group shall be taken into account in determining whether such corporation is a personal service corporation.

(Aug. 16, 1954, ch. 736, 68A Stat. 148; Pub. L. 88-272, title II, §235(c)(3), Feb. 26, 1964, 78 Stat. 127; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95-30, title I, §102(b)(5), May 23, 1977, 91 Stat. 137; Pub. L. 98-369, div. A, title IV, §474(b)(2), title VIII, §803, July 18, 1984, 98 Stat. 830, 1000; Pub. L. 99-514, title I, §104(b)(6), title VIII, §806(c)(1), (d), Oct. 22, 1986, 100 Stat. 2105, 2364; Pub. L. 100-647, title I, §1008(e)(4), Nov. 10, 1988, 102 Stat. 3440; Pub. L. 110-172, §11(g)(7), Dec. 29, 2007, 121 Stat. 2490.)

AMENDMENTS

2007—Subsec. (b)(4). Pub. L. 110-172, §11(g)(7)(A), struck out "FSC or" before "DISC filing".

Subsec. (h). Pub. L. 110-172, §11(g)(7)(B), struck out "FSC's and" before "DISC's" in heading and "FSC or" before "DISC" in pars. (1) and (2).

1988—Subsec. (i)(2). Pub. L. 100-647 inserted at end "A corporation shall not be treated as a personal service corporation unless more than 10 percent of the stock (by value) in such corporation is held by employee-owners (within the meaning of section 269A(b)(2), as modified by the preceding sentence). If a corporation is a member of an affiliated group filing a consolidated return, all members of such group shall be taken into account in determining whether such corporation is a personal service corporation."

1986—Subsec. (f)(2)(B)(iii). Pub. L. 99-514, §104(b)(6), struck out "and by adding the zero bracket amount," after "in the short period,".

Subsec. (f)(3), (4). Pub. L. 99-514, §806(d), added par. (3) and redesignated former par. (3) as (4).

Subsec. (i). Pub. L. 99-514, §806(c)(1), added subsec. (i). 1984—Subsec. (b)(4). Pub. L. 98-369, §803(a), added par. (4).

Subsec. (f)(2)(A). Pub. L. 98-369, §474(b)(2), substituted "section 15" for "section 21" in provisions preceding cl. (i).

Subsec. (h). Pub. L. 98-369, §803(b), added subsec. (h).

1977—Subsec. (f)(2)(B)(iii). Pub. L. 95-30 substituted "multiplying the gross income for such short period (minus the deductions allowed by this chapter for the short period, but only the adjusted amount of the deductions for personal exemptions as described in section 443(c)) by 365, by dividing the result by the number of days in the short period, and by adding the zero bracket amount" for "multiplying such income by 365 and dividing the result by the number of days in the short period".

1976—Subsec. (f)(3). Pub. L. 94-455 struck out "or his delegate" after "Secretary".

1964—Subsec. (f)(2)(A). Pub. L. 88-272 inserted ", including," before "or ending with reference to".

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 104(b)(6) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986,

see section 151(a) of Pub. L. 99-514, set out as a note under section 1 of this title.

Amendment by section 806(c)(1), (d) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, with special provisions applicable to taxpayers who are required to change their accounting periods, see section 806(e) of Pub. L. 99-514, set out as a note under section 1378 of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 474(b)(2) of Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98-369, set out as a note under section 21 of this title.

Amendment by section 803 of Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1984, see section 805(a)(4) of Pub. L. 98-369, as amended, set out as a note under section 245 of this title.

#### EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as a note under section 1 of this title.

#### EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-272 applicable to taxable years ending after Dec. 31, 1963, see section 235(d) of Pub. L. 88-272, set out as a note under section 1551 of this title.

#### CONSTRUCTION OF SECTION 806 OF PUB. L. 99-514

Nothing in section 806 of Pub. L. 99-514 or in any legislative history relating thereto to be construed as requiring the Secretary of the Treasury or his delegate to permit an automatic change of a taxable year, see section 1008(e)(9) of Pub. L. 100-647, set out as a note under section 1378 of this title.

### § 442. Change of annual accounting period

If a taxpayer changes his annual accounting period, the new accounting period shall become the taxpayer's taxable year only if the change is approved by the Secretary. For purposes of this subtitle, if a taxpayer to whom section 441(g) applies adopts an annual accounting period (as defined in section 441(c)) other than a calendar year, the taxpayer shall be treated as having changed his annual accounting period.

(Aug. 16, 1954, ch. 736, 68A Stat. 149; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

#### AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

### § 443. Returns for a period of less than 12 months

#### (a) Returns for short period

A return for a period of less than 12 months (referred to in this section as “short period”) shall be made under any of the following circumstances:

##### (1) Change of annual accounting period

When the taxpayer, with the approval of the Secretary, changes his annual accounting period. In such a case, the return shall be made for the short period beginning on the day after the close of the former taxable year and ending at the close of the day before the day designated as the first day of the new taxable year.

#### (2) Taxpayer not in existence for entire taxable year

When the taxpayer is in existence during only part of what would otherwise be his taxable year.

#### (b) Computation of tax on change of annual accounting period

##### (1) General rule

If a return is made under paragraph (1) of subsection (a), the taxable income for the short period shall be placed on an annual basis by multiplying the modified taxable income for such short period by 12, dividing the result by the number of months in the short period. The tax shall be the same part of the tax computed on the annual basis as the number of months in the short period is of 12 months.

##### (2) Exception

###### (A) Computation based on 12-month period

If the taxpayer applies for the benefits of this paragraph and establishes the amount of this taxable income for the 12-month period described in subparagraph (B), computed as if that period were a taxable year and under the law applicable to that year, then the tax for the short period, computed under paragraph (1), shall be reduced to the greater of the following:

- (i) an amount which bears the same ratio to the tax computed on the taxable income for the 12-month period as the modified taxable income computed on the basis of the short period bears to the modified taxable income for the 12-month period; or
- (ii) the tax computed on the modified taxable income for the short period.

The taxpayer (other than a taxpayer to whom subparagraph (B)(ii) applies) shall compute the tax and file his return without the application of this paragraph.

###### (B) 12-month period

The 12-month period referred to in subparagraph (A) shall be—

- (i) the period of 12 months beginning on the first day of the short period, or
- (ii) the period of 12 months ending at the close of the last day of the short period, if at the end of the 12 months referred to in clause (i) the taxpayer is not in existence or (if a corporation) has theretofore disposed of substantially all of its assets.

###### (C) Application for benefits

Application for the benefits of this paragraph shall be made in such manner and at such time as the regulations prescribed under subparagraph (D) may require; except that the time so prescribed shall not be later than the time (including extensions) for filing the return for the first taxable year which ends on or after the day which is 12 months after the first day of the short period. Such application, in case the return was filed without regard to this paragraph, shall be considered a claim for credit or refund with respect to the amount by which the tax is reduced under this paragraph.

**(D) Regulations**

The Secretary shall prescribe such regulations as he deems necessary for the application of this paragraph.

**(3) Modified taxable income defined**

For purposes of this subsection the term “modified taxable income” means, with respect to any period, the gross income for such period minus the deductions allowed by this chapter for such period (but, in the case of a short period, only the adjusted amount of the deductions for personal exemptions).

**(c) Adjustment in deduction for personal exemption**

In the case of a taxpayer other than a corporation, if a return is made for a short period by reason of subsection (a)(1) and if the tax is not computed under subsection (b)(2), then the exemptions allowed as a deduction under section 151 (and any deduction in lieu thereof) shall be reduced to amounts which bear the same ratio to the full exemptions as the number of months in the short period bears to 12.

**(d) Adjustment in computing minimum tax and tax preferences**

If a return is made for a short period by reason of subsection (a)—

(1) the alternative minimum taxable income for the short period shall be placed on an annual basis by multiplying such amount by 12 and dividing the result by the number of months in the short period, and

(2) the amount computed under paragraph (1) of section 55(a) shall bear the same relation to the tax computed on the annual basis as the number of months in the short period bears to 12.

**(e) Cross references**

**For inapplicability of subsection (b) in computing—**

(1) **Accumulated earnings tax, see section 536.**

(2) **Personal holding company tax, see section 546.**

(3) **The taxable income of a regulated investment company, see section 852(b)(2)(E).**

(4) **The taxable income of a real estate investment trust, see section 857(b)(2)(C).**

**For returns for a period of less than 12 months in the case of a debtor's election to terminate a taxable year, see section 1398(d)(2)(E).**

(Aug. 16, 1954, ch. 736, 68A Stat. 149; Pub. L. 86-779, §10(i), Sept. 14, 1960, 74 Stat. 1009; Pub. L. 91-172, title III, §301(b)(6), Dec. 30, 1969, 83 Stat. 585; Pub. L. 94-455, title III, §301(e), title XII, §1204(c)(2), title XVI, §1607(b)(1)(C), title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1553, 1697, 1757, 1834; Pub. L. 95-30, title I, §102(b)(6), May 23, 1977, 91 Stat. 137; Pub. L. 95-600, title IV, §421(e)(2), title VII, §703(o)(1)-(3), Nov. 6, 1978, 92 Stat. 2876, 2943; Pub. L. 96-222, title I, §104(a)(4)(H)(iii), Apr. 1, 1980, 94 Stat. 217; Pub. L. 96-589, §3(d), Dec. 24, 1980, 94 Stat. 3401; Pub. L. 97-448, title III, §304(a), Jan. 12, 1983, 96 Stat. 2398; Pub. L. 99-514, title I, §104(b)(7), title VII, §701(e)(3), Oct. 22, 1986, 100 Stat. 2105, 2342; Pub. L. 108-357, title IV, §413(c)(6), Oct. 22, 2004, 118 Stat. 1507.)

## AMENDMENTS

2004—Subsec. (e)(3) to (5). Pub. L. 108-357 redesignated pars. (4) and (5) as (3) and (4), respectively, and struck

out former par. (3) which read as follows: “Undistributed foreign personal holding company income, see section 557.”

1986—Subsec. (b)(1). Pub. L. 99-514, §104(b)(7)(A), struck out “, and adding the zero bracket amount” after “by the number of months in the short period”.

Subsec. (b)(2)(A)(ii). Pub. L. 99-514, §104(b)(7)(B), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: “the tax computed on the sum of the modified taxable income for the short period plus the zero bracket amount.”

Subsec. (d). Pub. L. 99-514, §701(e)(3), substituted “and tax preferences” for “for tax preferences” in heading and amended text generally. Prior to amendment, subsec. (d) read as follows: “If a return is made for a short period by reason of subsection (a), then—

“(1) in the case of a taxpayer other than a corporation, the alternative minimum taxable income for the short period shall be placed on an annual basis by multiplying that amount by 12 and dividing the result by the number of months in the short period, and the amount computed under paragraph (1) of section 55(a) shall be the same part of the tax computed on the annual basis as the number of months in the short period is of 12 months; and

“(2) the \$10,000 amount specified in section 56 (relating to minimum tax for tax preferences), modified as provided by section 58, shall be reduced to the amount which bears the same ratio to such specified amount as the number of days in the short period bears to 365.”

1983—Subsec. (e). Pub. L. 97-448 substituted “section 1398(d)(2)(E)” for “section 1398(d)(3)(E)”.

1980—Subsec. (d)(2). Pub. L. 96-222 struck out “in the case of a corporation,” before “the \$10,000 amount”.

Subsec. (e). Pub. L. 96-589 inserted cross reference to section 1398(d)(3)(E) for returns for a period of less than 12 months in the case of a debtor's election to terminate a taxable year.

1978—Subsec. (b)(1). Pub. L. 95-600, §703(o)(2), substituted “modified taxable income for such short period” for “gross income for such short period (minus the deductions allowed by this chapter for the short period, but only the adjusted amount of the deductions for personal exemptions)”.

Subsec. (b)(2). Pub. L. 95-600, §703(o)(1), substituted in cl. (i) “modified taxable income” for “taxable income” in two places and in cl. (ii) “the sum of the modified taxable income” for “the taxable income” and “plus the zero bracket amount” for “without placing the taxable income on an annual basis”.

Subsec. (b)(3). Pub. L. 95-600, §703(o)(3), added par. (3).

Subsec. (d). Pub. L. 95-600, §421(e)(2), substituted “Adjustment in computing minimum tax for tax preferences” for “Adjustment in exclusion for computing minimum tax for tax preferences” in heading, redesignated existing provisions as par. (2) and as so redesignated applied par. (2) to corporations, and added par. (1).

1977—Subsec. (b)(1). Pub. L. 95-30 substituted “multiplying the gross income for such short period (minus the deductions allowed by this chapter for the short period, but only the adjusted amount of the deductions for personal exemptions) by 12, dividing the result by the number of months in the short period, and adding the zero bracket amount” for “multiplying such income by 12, and dividing the result by the number of months in the short period”.

1976—Subsec. (a)(1). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (a)(3). Pub. L. 94-455, §1204(c)(2), struck out par. (3) which made termination of taxpayer's taxable year under section 6851 as one of the circumstances under which a tax return for a period of less than 12 months shall be made.

Subsec. (b)(2)(D). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (d). Pub. L. 94-455, §301(e), substituted “\$10,000” for “\$30,000”.

Subsec. (e)(5). Pub. L. 94-455, §1607(b)(1)(C), substituted “section 857(b)(2)(C)” for “section 857(b)(2)(D)”.

1969—Subsecs. (d), (e). Pub. L. 91-172 added subsec. (d) and redesignated former subsec. (d) as (e).

1960—Subsec. (d)(5). Pub. L. 86-779 added par. (5).

#### EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to taxable years of foreign corporations beginning after Dec. 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end, see section 413(d)(1) of Pub. L. 108-357, set out as an Effective and Termination Dates of 2004 Amendments note under section 1 of this title.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 104(b)(7) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 151(a) of Pub. L. 99-514, set out as a note under section 1 of this title.

Amendment by section 701(e)(3) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, with certain exceptions and qualifications, see section 701(f) of Pub. L. 99-514, set out as an Effective Date note under section 55 of this title.

#### EFFECTIVE DATE OF 1983 AMENDMENT

Section 311(b)(1) of Pub. L. 97-448 provided that: “The amendment made by subsection (a) of section 304 [amending this section] shall take effect as if included in the amendments made by section 3 of the Bankruptcy Tax Act of 1980 [section 3 of Pub. L. 96-589, which amended this section and sections 6012 and 6103 of this title].”

#### EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by Pub. L. 96-589 applicable to bankruptcy cases commencing more than 90 days after Dec. 24, 1980, see section 7(b) of Pub. L. 96-589, set out as a note under section 108 of this title.

Amendment by Pub. L. 96-222 effective, except as otherwise provided, as if it had been included in the provisions of the Revenue Act of 1978, Pub. L. 95-600, to which such amendment relates, see section 201 of Pub. L. 96-222, set out as a note under section 32 of this title.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Section 703(o)(4) of Pub. L. 95-600 provided that: “The amendments made by this subsection [amending this section] shall apply to taxable years beginning after December 31, 1976.”

Amendment by section 421(e)(2) of Pub. L. 95-600 applicable to taxable years beginning after Dec. 31, 1978, see section 421(g) of Pub. L. 95-600, set out as a note under section 5 of this title.

#### EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as a note under section 1 of this title.

#### EFFECTIVE DATE OF 1976 AMENDMENT

Section 301(g)(1) of Pub. L. 94-455 provided that the amendment made by section 301(e) of Pub. L. 94-455 is effective for items of tax preferences for taxable years beginning after Dec. 31, 1975, with certain exceptions.

Amendment by section 1204(c)(2) of Pub. L. 94-455 effective with respect to action taken under section 6851, 6861, or 6862 of this title where the notice and demand takes place after Feb. 28, 1977, see section 1204(d) of Pub. L. 94-455, as amended, set out as a note under section 6851 of this title.

For effective date of amendment by section 1607(b)(1)(C) of Pub. L. 94-455, see section 1608(c) of Pub. L. 94-455, set out as a note under section 857 of this title.

#### EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 applicable to taxable years ending after Dec. 31, 1969, see section 301(c) of

Pub. L. 91-172, set out as a note under section 5 of this title.

#### EFFECTIVE DATE OF 1960 AMENDMENT

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

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

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

### § 444. Election of taxable year other than required taxable year

#### (a) General rule

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

#### (b) Limitations on taxable years which may be elected

##### (1) In general

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

##### (2) Changes in taxable year

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

(A) 3 months, or

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

##### (3) Special rule for entities retaining 1986 taxable years

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

##### (4) Deferral period

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

(A) the beginning of such year, and

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

#### (c) Effect of election

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

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

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

#### (d) Elections

##### (1) Person making election

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

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

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

**(B) No further election**

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

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

Except as otherwise provided in this paragraph—

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

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

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

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

**(e) Required taxable year**

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

**(f) Personal service corporation**

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

**(g) Regulations**

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

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

## AMENDMENTS

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

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

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

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

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

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

## EFFECTIVE DATE OF 1988 AMENDMENT

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

## EFFECTIVE DATE

Section 10206(d) of Pub. L. 100-203, as amended by Pub. L. 100-647, title II, §2004(e)(11), Nov. 10, 1988, 102 Stat. 3602, provided that:

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

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

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

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

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

“(B) elected to have the calendar year as the taxable year of the S corporation,

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

## PART II—METHODS OF ACCOUNTING

## Subpart

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

## SUBPART A—METHODS OF ACCOUNTING IN GENERAL

## Sec.

- 446. General rule for methods of accounting.
- 447. Method of accounting for corporations engaged in farming.
- 448. Limitation on use of cash method of accounting.

## AMENDMENTS

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