

incurred after December 31, 1993, by members of the Armed Forces, members of the commissioned corps of the National Oceanic and Atmospheric Administration, and members of the commissioned corps of the Public Health Service, to the extent that the allowances are not otherwise excluded from gross income under another provision of the Internal Revenue Code: a dislocation allowance, authorized by 37 U.S.C. 407; a temporary lodging allowance, authorized by 37 U.S.C. 405; a temporary lodging expense, authorized by 37 U.S.C. 404a; and a move-in housing allowance, authorized by 37 U.S.C. 405. No deduction is allowed under this chapter for any expenses reimbursed by such excluded allowances. For the exclusion from gross income of—

- (i) Disability pensions, see section 104(a)(4) and the regulations thereunder;
- (ii) Miscellaneous items, see section 122.

(3) The per diem or actual expense allowance, the monetary allowance in lieu of transportation, and the mileage allowance received by members of the Armed Forces, National Oceanic and Atmospheric Administration, and the Public Health Service, while in a travel status or on temporary duty away from their permanent stations, are included in their gross income except to the extent excluded under the accountable plan provisions of § 1.62-2.

\* \* \* \* \*

**§ 1.61-22T [Removed]**

**Par. 3.** Section 1.61-22T is removed.

**Par. 4.** Section 1.217-2 is amended by adding paragraph (g)(6) to read as follows:

**§ 1.217-2 Deduction for moving expenses paid or incurred in taxable years beginning after December 31, 1969.**

\* \* \* \* \*

(g) \* \* \*

(6) *Disallowance of deduction.* No deduction is allowed under this section for any moving or storage expense reimbursed by an allowance that is excluded from gross income.

**§ 1.217-2T [Removed]**

**Par. 5.** Section 1.217-2T is removed.

**Margaret Milner Richardson,**  
*Commissioner of Internal Revenue.*

Approved: July 27, 1995.

**Leslie Samuels,**  
*Assistant Secretary of the Treasury.*  
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**26 CFR Part 1**

[TD 8608]

RIN 1545-AS93

**Adjustments Required by Changes in Method of Accounting**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations relating to the requirements for changes in method of accounting. These regulations clarify the Commissioner's authority to prescribe terms and conditions for effecting a change in method of accounting. The regulations affect taxpayers changing a method of accounting for federal income tax purposes.

**DATES:** These regulations are effective August 4, 1995. For dates of applicability see §§ 1.446-1(e)(3)(iii) and 1.481-5.

**FOR FURTHER INFORMATION CONTACT:** Cheryl Oseekey, (202) 622-4970 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

On December 28, 1994, the IRS published a notice of proposed rulemaking in the **Federal Register** (59 FR 66825), relating to the requirements for changes in method of accounting. That document proposed clarifying amendments to the regulations under sections 446 and 481. No public hearing was requested or held.

Two comments responding to this notice were received. After consideration of the comments, the amendments proposed by IA-42-93 are adopted with minor editorial revisions by this Treasury decision.

**Summary of Comments**

The notice of proposed rulemaking proposes to conform the existing regulations under sections 446(e) and 481(c) to long-standing IRS administrative practices regarding the use of adjustment periods under section 481(a) and the use of a cut-off method. Under the general rule of the proposed regulations, any section 481(a) adjustment attributable to a voluntary or an involuntary change in method of accounting is taken into account in the taxable year of change, whether the adjustment increases or decreases taxable income. However, the regulations also propose to amend §§ 1.446-1(e)(3) and 1.481-5 to clarify the Commissioner's authority to prescribe the terms and conditions for

effecting a change in method of accounting. Under the regulations, the terms and conditions that may be prescribed by the Commissioner include the taxable year or years in which a section 481(a) adjustment is taken into account and the use of a cut-off method to effect a change in method of accounting.

Two comments were received in response to the notice. The comments questioned IRS authority to require the use of a cut-off method, and whether to require it is sound administrative practice. After considering the comments, the IRS and the Treasury Department continue to believe that the IRS has the authority under section 446(e) to impose a cut-off method, and that it is consistent with section 481(a). Furthermore, the IRS and the Treasury Department believe that requiring a change in method of accounting on a cut-off basis in appropriate circumstances is administratively sound. For example, the application of a cut-off method to effect a change within the last-in, first-out (LIFO) inventory method is justified on the basis of simplicity because it eliminates the need to revalue LIFO increments.

The amendments proposed by IA-42-93 are adopted by this Treasury decision.

**Special Analyses**

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Small Business Administration for comment on its impact on small business.

**Drafting Information**

The principal author of these regulations is Rosemary DeLeone, Office of Assistant Chief Counsel (Income Tax and Accounting), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

**List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements.

**Adoption of Amendments to the Regulations**

Accordingly, 26 CFR part 1 is amended as follows:

**PART 1—INCOME TAXES**

**Paragraph 1.** The authority citation for part 1 is amended by revising the entry for section 1.446-1 and by adding the following citations in numerical order to read as follows:

- Authority:** 26 U.S.C. 7805. \* \* \*
- Section 1.446-1 also issued under 26 U.S.C. 446 and 461(h). \* \* \*
- Section 1.481-1 also issued under 26 U.S.C. 481.
- Section 1.481-2 also issued under 26 U.S.C. 481.
- Section 1.481-3 also issued under 26 U.S.C. 481.
- Section 1.481-4 also issued under 26 U.S.C. 481.
- Section 1.481-5 also issued under 26 U.S.C. 481. \* \* \*

**Par. 2.** Section 1.446-1 is amended by revising paragraph (e)(3) to read as follows:

**§ 1.446-1 General rule for methods of accounting.**

\* \* \* \* \*

(e) \* \* \*

(3)(i) Except as otherwise provided under the authority of paragraph (e)(3)(ii) of this section, to secure the Commissioner's consent to a taxpayer's change in method of accounting the taxpayer must file an application on Form 3115 with the Commissioner within 180 days after the beginning of the taxable year in which the taxpayer desires to make the change in method of accounting. To the extent applicable, the taxpayer must furnish all information requested on the Form 3115. This information includes all classes of items that will be treated differently under the new method of accounting, any amounts that will be duplicated or omitted as a result of the proposed change, and the taxpayer's computation of any adjustments necessary to prevent such duplications or omissions. The Commissioner may require such other information as may be necessary to determine whether the proposed change will be permitted. Permission to change a taxpayer's method of accounting will not be granted unless the taxpayer agrees to the Commissioner's prescribed terms and conditions for effecting the change, including the taxable year or years in which any adjustment necessary to prevent amounts from being duplicated or omitted is to be taken into account. See section 481 and the regulations thereunder, relating to certain

adjustments resulting from accounting method changes, and section 472 and the regulations thereunder, relating to adjustments for changes to and from the last-in, first-out inventory method.

(ii) Notwithstanding the provisions of paragraph (e)(3)(i) of this section, the Commissioner may prescribe administrative procedures under which taxpayers will be permitted to change their method of accounting. The administrative procedures shall prescribe those terms and conditions necessary to obtain the Commissioner's consent to effect the change and to prevent amounts from being duplicated or omitted. The terms and conditions that may be prescribed by the Commissioner may include terms and conditions that require the change in method of accounting to be effected on a cut-off basis or by an adjustment under section 481(a) to be taken into account in the taxable year or years prescribed by the Commissioner.

(iii) This paragraph (e)(3) is effective for Consent Agreements signed on or after December 27, 1994. For Consent Agreements signed before December 27, 1994, see § 1.446-1(e)(3) (as contained in the 26 CFR part 1 edition revised as of April 1, 1995).

**Par. 3.** Section 1.481-1 is amended as follows:

1. Paragraph (a)(2) is amended by adding the phrase "(hereinafter referred to as pre-1954 years)" to the end of the paragraph.

2. The third sentence of paragraph (c)(1) is amended by removing "pre-1954 Code years" and replacing it with "pre-1954 years".

3. Paragraphs (c) (2), (3), and (4) are revised.

4. Paragraphs (c) (6) and (7) are removed.

5. Paragraph (d) is revised.

6. Paragraph (e) is removed.

The revised paragraphs read as follows:

**§ 1.481-1 Adjustments in general.**

\* \* \* \* \*

(c) \* \* \*

(2) If a change in method of accounting is voluntary (i.e., initiated by the taxpayer), the entire amount of the adjustments required by section 481(a) is generally taken into account in computing taxable income in the taxable year of the change, regardless of whether the adjustments increase or decrease taxable income. See, however, §§ 1.446-1(e)(3) and 1.481-4 which provide that the Commissioner may prescribe the taxable year or years in which the adjustments are taken into account.

(3) If the change in method of accounting is involuntary (i.e., not

initiated by the taxpayer), then only the amount of the adjustments required by section 481(a) that is attributable to taxable years beginning after December 31, 1953, and ending after August 16, 1954, (hereinafter referred to as post-1953 years) is taken into account. This amount is generally taken into account in computing taxable income in the taxable year of the change, regardless of whether the adjustments increase or decrease taxable income. See, however, §§ 1.446-1(e)(3) and 1.481-4 which provide that the Commissioner may prescribe the taxable year or years in which the adjustments are taken into account. See also § 1.481-3 for rules relating to adjustments attributable to pre-1954 years.

(4) For any adjustments attributable to post-1953 years that are taken into account entirely in the year of change and that increase taxable income by more than \$3,000, the limitations on tax provided in section 481(b) (1) or (2) apply. See § 1.481-2 for rules relating to the limitations on tax provided by sections 481(b) (1) and (2).

\* \* \* \* \*

(d) Any adjustments required under section 481(a) that are taken into account during a taxable year must be properly taken into account for purposes of computing gross income, adjusted gross income, or taxable income in determining the amount of any item of gain, loss, deduction, or credit that depends on gross income, adjusted gross income, or taxable income.

**Par. 4.** Section 1.481-2 is amended as follows:

1. The first and second sentences of paragraph (a) are revised.

2. The first sentence of paragraph (b) introductory text is revised.

3. The first sentence of paragraph (c)(1) is revised.

4. The first sentence of paragraph (c)(2) is amended by removing "subparagraph (1) of this paragraph" and replacing it with "paragraph (c)(1) of this section".

5. Paragraph (c)(3) introductory text is amended by removing "subparagraph (1) of this paragraph" and replacing it with "paragraph (c)(1) of this section".

6. Paragraph (c)(4) is revised.

7. Paragraph (c)(6) is amended by removing "Internal Revenue Code of 1954" and replacing it with "Internal Revenue Code of 1986".

8. The second sentence of paragraph (d) is amended by removing "Internal Revenue Code of 1954" and replacing it with "Internal Revenue Code of 1986".

9. *Example (1)* of paragraph (d) is amended by removing "pre-1954 Code

years” and replacing it with “pre-1954 years” in each place that it appears.

The revised paragraphs read as follows:

**§ 1.481-2 Limitation on tax.**

(a) *Three-year allocation.* Section 481(b)(1) provides a limitation on the tax under chapter 1 of the Internal Revenue Code for the taxable year of change that is attributable to the adjustments required under section 481(a) and § 1.481-1 if the entire amount of the adjustments is taken into account in the year of change. If such adjustments increase the taxpayer’s taxable income for the taxable year of the change by more than \$3,000, then the tax for such taxable year that is attributable to the adjustments shall not exceed the lesser of the tax attributable to taking such adjustments into account in computing taxable income for the taxable year of the change under section 481(a) and § 1.481-1, or the aggregate of the increases in tax that would result if the adjustments were included ratably in the taxable year of the change and the two preceding taxable years. \* \* \*

(b) *Allocation under new method of accounting.* Section 481(b)(2) provides a second alternative limitation on the tax for the taxable year of change under chapter 1 of the Internal Revenue Code that is attributable to the adjustments required under section 481(a) and § 1.481-1 where such adjustments increase taxable income for the taxable year of change by more than \$3,000. \* \* \*

(c) *Rules for computation of tax.* (1) The first step in determining whether either of the limitations described in section 481(b) (1) or (2) applies is to compute the increase in tax for the taxable year of the change that is attributable to the increase in taxable income for such year resulting solely from the adjustments required under section 481(a) and § 1.481-1.

\* \* \* \* \*

(4) The tax for the taxable year of the change shall be the tax for such year, computed without taking any of the adjustments referred to in paragraph (c)(1) of this section into account, increased by the smallest of the following amounts—

(i) The amount of tax for the taxable year of the change attributable solely to taking into account the entire amount of the adjustments required by section 481(a) and § 1.481-1;

(ii) The sum of the increases in tax liability for the taxable year of the change and the two immediately preceding taxable years that would have resulted solely from taking into account one-third of the amount of such

adjustments required for each of such years as though such amounts had been properly attributable to such years (computed in accordance with paragraph (c)(2) of this section); or

(iii) The net increase in tax attributable to allocating such adjustments under the new method of accounting (computed in accordance with paragraph (c)(3) of this section).

\* \* \* \* \*

**§ 1.481-3 [Amended]**

**Par. 5.** Section 1.481-3 is amended as follows:

1. The language “pre-1954 Code years” is removed and the language “pre-1954 years” is added in its place in the section heading and the first, second and third sentences of the section.

2. Remove the last sentence of the section.

**§ 1.481-4 [Removed]**

**Par. 6.** Section 1.481-4 is removed.

**§ 1.481-5 [Redesignated as § 1.481-4]**

**Par. 7.** Section 1.481-5 is redesignated as § 1.481-4 and is revised to read as follows:

**§ 1.481-4 Adjustments taken into account with consent.**

(a) In addition to the terms and conditions prescribed by the Commissioner under § 1.446-1(e)(3) for effecting a change in method of accounting, including the taxable year or years in which the amount of the adjustments required by section 481(a) is to be taken into account, or the methods of allocation described in section 481(b), a taxpayer may request approval of an alternative method of allocating the amount of the adjustments under section 481. See section 481(c). Requests for approval of an alternative method of allocation shall set forth in detail the facts and circumstances upon which the taxpayer bases its request. Permission will be granted only if the taxpayer and the Commissioner agree to the terms and conditions under which the allocation is to be effected. See § 1.446-1(e) for the rules regarding how to secure the Commissioner’s consent to a change in method of accounting.

(b) An agreement to the terms and conditions of a change in method of accounting under § 1.446-1(e)(3), including the taxable year or years prescribed by the Commissioner under that section (or an alternative method described in paragraph (a) of this section) for taking the amount of the adjustments under section 481(a) into account, shall be in writing and shall be signed by the Commissioner and the

taxpayer. It shall set forth the items to be adjusted, the amount of the adjustments, the taxable year or years for which the adjustments are to be taken into account, and the amount of the adjustments allocable to each year. The agreement shall be binding on the parties except upon a showing of fraud, malfeasance, or misrepresentation of material fact.

**Par. 8.** Section 1.481-5 is added to read as follows:

**§ 1.481-5 Effective dates.**

Sections 1.481-1, 1.481-2, 1.481-3, and 1.481-4 are effective for Consent Agreements signed on or after December 27, 1994. For Consent Agreements signed before December 27, 1994, see §§ 1.481-1, 1.481-2, 1.481-3, 1.481-4, and 1.481-5 (as contained in the 26 CFR part 1 edition revised as of April 1, 1995).

**§ 1.481-6 [Removed]**

**Par. 9.** Section 1.481-6 is removed.

**Margaret Milner Richardson,**  
*Commissioner of Internal Revenue.*

Approved: July 26, 1995.

**Leslie Samuels,**  
*Assistant Secretary of the Treasury.*  
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**26 CFR Parts 40, 48, and 602**

[TD 8609]

RIN 1545-AS10

**Gasohol; Compressed Natural Gas**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations relating to gasohol blending and the tax on compressed natural gas (CNG). The regulations reflect and implement certain changes made by the Energy Policy Act of 1992 (the Energy Act) and the Omnibus Budget Reconciliation Act of 1993 (the 1993 Act). The regulations relating to gasohol blending affect certain blenders, enterers, refiners, and throughputters. The regulations relating to CNG affect persons that sell or buy CNG for use as a fuel in a motor vehicle or motorboat.

**EFFECTIVE DATE:** These regulations are effective October 1, 1995.

**FOR FURTHER INFORMATION CONTACT:** Frank Boland (202) 622-3130 (not a toll-free call).