



IRS Eases Process for Small Businesses to Adopt Tangible Property Regs

Rev Proc 2015-20, 2015-9 IRB ; IR 2015-29

This Revenue Procedure will make adoption of the new repair regulations much easier for small businesses. If you have any questions please call dm-t.

In a Revenue Procedure and News Release, IRS has created a number of special procedures that will allow small businesses (under \$10 million of assets or \$10 million or less of gross receipts) to more easily adopt the tangible property regs that were issued in 2013. These procedures generally involve limiting the changes in accounting needed to adopt the regs to amounts paid or incurred, and dispositions, in tax years beginning on or after Jan. 1, 2014. The Revenue Procedure also sheds light on the regs' de minimis safe harbor.

Background. In 2013, IRS issued a group of regs on capitalizing, deducting, etc. the costs of tangible personal property. (TD 9636) Additional regs on dispositions of tangible property were issued in 2014. IRS also issued corresponding revenue procedures on related changes in method of accounting. (Rev proc 2014-16, 2014-9, 2015-14)

Except as otherwise expressly provided in the Code and the regs thereunder, Code Sec. 446(e) and Reg. § 1.446-1(e)(2) require a taxpayer to secure the consent of IRS before changing an accounting method for federal tax purposes. Reg. § 1.446-1(e)(3)(ii) authorizes IRS 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 Code 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 Code Sec. 446(e) and Code Sec. 481 when applying the final tangible property regs.

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Under Reg. § 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 Code Sec. 162 , provided the amount otherwise constitutes an ordinary and necessary business expense. Under Reg. § 1.263(a)-1(f)(1)(ii)(D) , a taxpayer without an applicable financial statement 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 IRS.

Revenue Procedure eases process of adopting regs for small businesses. To ease the administrative burden faced by small business taxpayers in prospectively applying the final tangible property regs beginning in 2014, [Rev Proc 2015-20](#) modifies certain procedures provided in [Rev Proc 2015-14](#) to permit small business taxpayers to make changes in methods of accounting with a [Code Sec. 481](#) adjustment that takes into account only amounts paid or incurred, and dispositions, in tax years beginning on or after Jan. 1, 2014. This modification means that, effectively, small business taxpayers making these changes in accounting method for the first tax year that begins on or after Jan. 1, 2014, may elect to make the change on a cut-off basis.

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 regs in their first tax year that begins on or after Jan. 1, 2014, solely through the filing of a federal tax return. Accordingly, for the first tax year that begins on or after Jan. 1, 2014, small business taxpayers that choose to prospectively apply the tangible property regs to amounts paid or incurred, and dispositions, in tax years beginning on or after Jan. 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.

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Under [Rev Proc 2015-13, Sec. 6.02](#) , 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 [Rev Proc 2015-20](#) , a taxpayer chooses to make certain tangible property changes in accounting method on a federal tax return without filing a Form 3115, concurrent automatic changes, other than those specifically addressed in [Rev Proc 2015-20](#) , are not permitted to be made without completing a Form 3115.

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

[Rev Proc 2015-20](#) 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 [Code Sec. 481\(a\)](#) adjustment that does not take into account amounts paid or incurred in tax years beginning before Jan. 1, 2014. If a small business taxpayer chooses to make a [Code Sec. 481\(a\)](#) adjustment that does not take into account amounts paid or incurred in tax years beginning before Jan. 1, 2014, then the taxpayer also must choose to make a [Code Sec. 481\(a\)](#) adjustment that does not take into account dispositions in tax years beginning before Jan. 1, 2014, for certain changes.

[Rev Proc 2015-20](#) provides a similar option for dispositions, permitting small business taxpayers to choose to make certain tangible property disposition changes with a [Code Sec. 481\(a\)](#) adjustment that does not take into account dispositions in tax years beginning before Jan. 1, 2014. Specifically, if a small business taxpayer chooses to make a [Code Sec. 481\(a\)](#) adjustment that does not take into account dispositions in tax years beginning before Jan. 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 [Code Sec. 481\(a\)](#) adjustment

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that does not take into account amounts paid or incurred in tax years beginning before Jan. 1, 2014, for any change made under section 10.11(3)(a) of [Rev Proc 2015-14](#).

For a small business taxpayer that chooses to make a tangible property disposition change that only takes into account dispositions in 2014 and succeeding tax years, it is unnecessary and inappropriate to permit a late partial disposition election, which would permit partial dispositions for tax years beginning prior to Jan. 1, 2014. Accordingly, [Rev Proc 2015-20](#) 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 [Rev Proc 2015-20](#), changed to a method of accounting and calculated a [Code Sec. 481\(a\)](#) adjustment that took into account only dispositions in tax years beginning on or after Jan. 1, 2014.

Who is a small business taxpayer? For purposes of [Rev Proc 2015-20](#), a small business taxpayer is a taxpayer with one or more separate and distinct trade(s) or business(es), within the meaning of [Reg. § 1.446-1\(d\)](#) that has: (a) total assets of less than \$10 million as of the first day of the tax year for which a change in method of accounting under the final tangible property regs 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 tax years, as determined under [Reg. § 1.263\(a\)-3\(h\)\(3\)](#) (substituting "separate and distinct trade or business" for "taxpayer").

However, the revenue procedure does not apply to any separate and distinct trade or business if that trade or business does not meet (a) and or (b) above.

IRS clarifies de minimis rule. IRS also provides that the [Reg. § 1.263\(a\)-1\(f\)](#) 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

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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.

Effective date. The revenue procedure is effective for tax years beginning on or after Jan. 1, 2014.

A small business taxpayer that (a) wants to use the Revenue Procedure for its first tax year beginning on or after Jan. 1, 2014, and (b) previously filed its federal tax return for that tax year with a Form 3115 to change to a method of accounting specified in the 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 tax year beginning on or after Jan. 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](#) .

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