

Revenue Procedure 2002-9, Section 4.02(6)

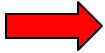
SECTION 4. SCOPE

.01 Applicability. This revenue procedure applies to a taxpayer requesting the Commissioner's consent to change to a method of accounting described in the APPENDIX of this revenue procedure. This revenue procedure is the exclusive procedure for a taxpayer within its scope to obtain the Commissioner's consent.

.02 Inapplicability. Except as otherwise provided in the APPENDIX of this revenue procedure (see, for example, section 1.01 of the APPENDIX of this revenue procedure), this revenue procedure does not apply in the following situations:

- (1) Under examination. If, on the date the taxpayer would otherwise file a copy of the application with the national office, the taxpayer is under examination (as provided in section 3.08 of this revenue procedure), except as provided in sections 6.03(2) (90-day window), 6.03(3) (120-day window), 6.03(4) (director consent) and 6.03(5) (changes lacking audit protection) of this revenue procedure;
- (2) Before an appeals office. If, on the date the taxpayer would otherwise file a copy of the application with the national office, the taxpayer is before an appeals office with respect to any income tax issue and the method of accounting to be changed is an issue under consideration by the appeals office (as provided in section 3.09(2) of this revenue procedure);
- (3) Before a federal court. If, on the date the taxpayer would otherwise file a copy of the application with the national office, the taxpayer is before a federal court with respect to any income tax issue and the method of accounting to be changed is an issue under consideration by the federal court (as provided in section 3.09(3) of this revenue procedure);
- (4) Consolidated group member. A corporation that is (or was formerly) a member of a consolidated group is under examination, before an appeals office, or before a federal court (for purposes of sections 4.02(1), (2), and (3) of this revenue procedure) if the consolidated group is under examination, before an appeals office, or before a federal court for a taxable year(s) that the corporation was a member of the group;
- (5) Partnerships and S corporations. For an entity (including a limited liability company) treated as a partnership or an S corporation for federal income tax purposes, if, on the date the entity would otherwise file a copy of the application with the national office, the entity's accounting method to be changed is an issue under consideration in an

examination of a partner, member, or shareholder's federal income tax return or an issue under consideration by an appeals office or by a federal court with respect to a partner, member, or shareholder's federal income tax return;



(6) Prior change. If the taxpayer, within the last five taxable years (including the year of change), (a) has made a change in the same method of accounting (with or without obtaining the Commissioner's consent), or (b) has applied to change the same method of accounting without effecting the change (whether, for example, the application to change was withdrawn, not perfected, not granted, or denied). For purposes of this paragraph 4.02(6), a change in method of accounting does not include the adoption of a method of accounting in the initial tax return of a taxpayer or in the first taxable year in which the taxpayer has the item to which the method of accounting relates;

(7) Section 381(a) transaction. Except as otherwise provided in this section 4.02(7), if the taxpayer engages in a transaction to which § 381(a) applies within the proposed taxable year of change (determined without regard to any potential closing of the year under § 381(b)(1)).

(a) No differences in methods. An acquiring corporation may change its method of accounting pursuant to this revenue procedure if the acquiring corporation would be permitted to continue to use its prior method of accounting under the rules of §§ 1.381(c)(4)-1(b)(1) and (3)(i) (taking into account the third sentence of § 1.381(c)(4)-1(b)(4) relating to no prior method established by a party to the transaction) or §§ 1.381(c)(5)-1(b)(1) and (3)(i) (taking into account the second sentence of § 1.381(c)(5)-1(b)(4)(i) relating to no prior inventory method established by a party to the transaction) because all of the parties to the transaction used the same method of accounting on the date of distribution or transfer. The change pursuant to this revenue procedure is ignored for purposes of determining whether on the date of distribution or transfer the parties to the transaction used the same methods of accounting under 1.381(c)(4)-1(b) or § 1.381(c)(5)-1(b), and thus §§ 1.381(c)(4)-1(b)(3)(ii) and (c) and §§ 1.381(c)(5)-1(b)(3)(ii) and (c) will not apply.

(b) Separate trades or businesses. An acquiring corporation may change pursuant to this revenue procedure a method of accounting used by a trade or business operated by such corporation if the trade or business would be permitted to continue to use its prior method of accounting under the rules of §§ 1.381(c)(4)-1(b)(2) or §§ 1.381(c)(5)-1(b)(2). The change pursuant to this revenue procedure is ignored for purposes of determining whether on the date of distribution or transfer the parties to the transaction used the same methods of accounting under § 1.381(c)(4)-1(b) or § 1.381(c)(5)-1(b), and thus §§ 1.381(c)(4)-1(b)(3) and (c) and §§ 1.381(c)(5)-1(b)(3) and (c) will not apply.

(8) Final year of trade or business. If the taxpayer would be required by section 5.04(3)(c) of this revenue procedure to take the entire amount of the § 481(a) adjustment into account in computing taxable income for the year of change.