

to comply with the final regulations for either: (1) the taxpayer's last taxable year ending before October 18, 2006, if the taxpayer timely files (including extensions) its Federal income tax return after October 18, 2006, for that last taxable year; or (2) the taxpayer's first taxable year ending on or after October 18, 2006.

.02 This revenue procedure does not apply to:

(1) A change in computing depreciation resulting from a taxpayer claiming the rehabilitation credit in accordance with § 1.168(k)-1(g)(6) or § 1.1400L(b)-1(g)(6);

(2) A change in computing depreciation that is not a change in method of accounting under § 1.446-1T(e)(2)(ii)(d)(3). However if, in accordance with § 1.1400L(b)-1(g)(4)(iii), a taxpayer is changing its computation of depreciation for qualified New York Liberty Zone property because of the amendment made to § 1.1400L(b)-1T(c)(2)(ii) by the final regulations under § 1400L(b) and the taxpayer made an election under § 1.168(k)-1T(e)(1) for the class of property that included such qualified New York Liberty Zone property, § 1.1400L(b)-1(g)(4)(iii) expressly provides that this change in computing depreciation is a change in method of accounting and, thus, § 1.446-1T(e)(2)(ii)(d)(3)(iii) does not apply to such change in computing depreciation.

(3) A change in computing depreciation that is due to a posting error, mathematical error, or a change in underlying facts;

(4) A change in computing depreciation for depreciable property that is placed in service by a taxpayer in a taxable year ending before December 30, 2003, that is a capital asset under the taxpayer's present and proposed methods of accountings, and for which the taxpayer wants to effect the change in computing depreciation to comply with the final regulations by filing amended Federal tax returns in accordance with Notice CC-2004-007 (January 28, 2004);

(5) A change in the treatment of property from a non-capital asset (for example, inventory, materials and supplies) to a capital, depreciable asset (or vice versa); or

(6) A change from expensing the cost of depreciable property to capitalizing and depreciating that cost (or vice versa).

SECTION 4. APPLICATION

.01 A taxpayer within the scope of this revenue procedure is, in accordance with section 6.01 of Rev. Proc. 2002-9, granted the consent of the Commissioner to change to a method of accounting within the scope of this revenue procedure to comply with the final regulations provided the taxpayer follows the automatic change in method of accounting procedures in Rev. Proc. 2002-9 (or its successor) with the following modifications:

(1) The scope limitations in section 4.02 of Rev. Proc. 2002-9 do not apply for the taxpayer's first taxable year ending on or after October 18, 2006, or, if applicable, for the taxpayer's last taxable year ending

before October 18, 2006, if the taxpayer timely files its Federal income tax return after October 18, 2006, for that last taxable year; and

(2) For purposes of section 6.02(4)(a) of Rev. Proc. 2002-9, the taxpayer must include on line 1a of the Form 3115 the designated automatic accounting method change number 105.

.02 A change in method of accounting within the scope of this revenue procedure results in a § 481(a) adjustment.

SECTION 5. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 2002-9 is modified and amplified to include the automatic change in method of accounting provided in section 4 of this revenue procedure in section 2 of the APPENDIX of Rev. Proc. 2002-9.

SECTION 6. EFFECTIVE DATE

This revenue procedure is effective October 18, 2006.

SECTION 7. DRAFTING INFORMATION

The principal author of this revenue procedure is Douglas Kim of the Office of Associate Chief Counsel (Passthroughs & Special Industries). For further information regarding this revenue procedure, contact Douglas Kim at (202) 622-3110 (not a toll-free call).

26 CFR 601.204: Changes in accounting periods and in methods of accounting. (Also Part I, §§ 441, 442, 898, 1502; 1.441-1, 1.442-1, 1.1502-76.)

Rev. Proc. 2006-45

TABLE OF CONTENTS

SECTION 1. PURPOSE	853
SECTION 2. BACKGROUND	853
.01 <i>Taxable Year Defined</i>	853
(1) <i>In general</i>	853
(2) <i>Annual accounting period</i>	853
(3) <i>Required taxable year</i>	853
.02 <i>Change in Taxable Year</i>	853
(1) <i>In general</i>	853
(2) <i>Annualization of short period return</i>	853
(3) <i>No retroactive change in annual accounting period</i>	853
.03 <i>Approval of a Change</i>	853

SECTION 3. SIGNIFICANT CHANGES	853
SECTION 4. SCOPE	854
.01 <i>Applicability</i>	854
.02 <i>Inapplicability</i>	854
(1) <i>Prior change</i>	854
(2) <i>Interest in a pass-through entity or a CFC</i>	854
(3) <i>Shareholder of certain FSCs or IC-DISCs</i>	855
(4) <i>FSC and IC-DISC</i>	855
(5) <i>S or terminated S corporation</i>	855
(6) <i>Electing S corporation</i>	855
(7) <i>PSC</i>	855
(8) <i>CFC</i>	855
(9) <i>Tax-exempt organization</i>	855
(10) <i>Possessions corporation</i>	855
(11) <i>Cooperative association</i>	855
(12) <i>Corporation with a required taxable year</i>	856
(13) <i>Corporation that exits a consolidated group</i>	856
(14) <i>Certain members of a consolidated group</i>	856
.03 <i>Nonautomatic Changes</i>	856
.04 <i>Examples</i>	856
SECTION 5. DEFINITIONS	856
.01 <i>Corporation</i>	856
.02 <i>Pass-through Entity</i>	856
.03 <i>Required Taxable Year</i>	856
.04 <i>Natural Business Year</i>	856
(1) <i>25-percent gross receipts test</i>	856
(2) <i>Exception</i>	856
(3) <i>Special rules</i>	856
.05 <i>First Effective Year</i>	857
.06 <i>Short Period</i>	857
SECTION 6. TERMS AND CONDITIONS OF CHANGE	857
.01 <i>In General</i>	857
.02 <i>Record Keeping/Book Conformity</i>	857
(1) <i>In general</i>	857
(2) <i>Certain short periods exempt from financial statement conformity</i>	857
(3) <i>Foreign law books and records</i>	857
.03 <i>First Effective Year Tax Return</i>	857
(1) <i>When to file</i>	857
(2) <i>Annualization</i>	857
.04 <i>Subsequent Year Tax Returns</i>	857
.05 <i>52–53-week Taxable Years</i>	857
.06 <i>Creation of Net Operating Loss or Capital Loss</i>	857
.07 <i>Creation of General Business Credits</i>	857
.08 <i>Consolidated Groups</i>	857
.09 <i>Concurrent Change for Related Entities</i>	857
.10 <i>CFCs</i>	858
SECTION 7. GENERAL APPLICATION PROCEDURES	858
.01 <i>Approval</i>	858
.02 <i>Filing Requirements</i>	858
(1) <i>Where to file</i>	858
(2) <i>When to file</i>	858
(3) <i>Label</i>	858
(4) <i>Signature requirements</i>	858
(5) <i>No user fee</i>	858
(6) <i>Additional information</i>	858

(7) Consolidated application	859
SECTION 8. REVIEW OF APPLICATION	859
.01 Service Center Review	859
.02 Review of Director	859
SECTION 9. EFFECTIVE DATE	859
SECTION 10. EFFECT ON OTHER DOCUMENTS	859
SECTION 11. PAPERWORK REDUCTION ACT	859
DRAFTING INFORMATION	859

SECTION 1. PURPOSE

This revenue procedure provides the exclusive procedures for a corporation (as defined in section 5.01 of this revenue procedure) within its scope to obtain automatic approval to change its annual accounting period under § 442 of the Internal Revenue Code and § 1.442-1(b) of the Income Tax Regulations. This revenue procedure clarifies, modifies, amplifies, and supersedes Rev. Proc. 2002-37, 2002-1 C.B. 1030. A corporation complying with all the applicable provisions of this revenue procedure will be deemed to have established a business purpose and obtained the approval of the Commissioner of Internal Revenue to change its annual accounting period under § 442 and the regulations thereunder.

SECTION 2. BACKGROUND

.01 Taxable Year Defined.

(1) *In general.* Section 441(b) and § 1.441-1(b)(1) provide that the term “taxable year” generally means the taxpayer’s annual accounting period, if it is a calendar or fiscal year, or, if applicable, the taxpayer’s required taxable year.

(2) *Annual accounting period.* Section 441(c) and § 1.441-1(b)(3) provide that the term “annual accounting period” means the annual period (calendar year or fiscal year) on the basis of which the taxpayer regularly computes its income in keeping its books.

(3) *Required taxable year.* Section 1.441-1(b)(2) provides that certain taxpayers must use the particular taxable year that is required under the Code and the regulations thereunder. See § 1.441-1(b)(2) for examples of taxpayers, including certain corporations, with required taxable years.

.02 Change in Taxable Year.

(1) *In general.* Section 1.442-1(a)(1) generally provides that a taxpayer that wants to change its annual accounting period and use a new taxable year must obtain the approval of the Commissioner.

(2) *Annualization of short period return.* Section 443(b) and § 1.443-1(b)(1)(i) generally provide that if a return is made for a short period resulting from a change of an annual accounting period, the taxable income for the short period must be placed on an annual basis by multiplying the income by 12 and dividing the result by the number of months in the short period. Unless § 443(b)(2) and § 1.443-1(b)(2) apply, the tax for the short period generally is the same part of the tax computed on an annual basis as the number of months in the short period is of 12 months. But see, for example, §§ 1.852-3(e), 1.857-2(a)(4), and 1.1502-76 for exceptions to this general rule for a regulated investment company (RIC), a real estate investment trust (REIT), and a subsidiary corporation ceasing to be a member of a consolidated group, respectively.

(3) *No retroactive change in annual accounting period.* Unless specifically authorized by the Commissioner, a taxpayer may not request, or otherwise make, a retroactive change in annual accounting period, regardless of whether the change is to a required taxable year.

.03 Approval of a Change. Section 1.442-1(b) provides, in part, that in order to secure the approval of the Commissioner to change an annual accounting period, a taxpayer must file an application, generally on Form 1128, “*Application To Adopt, Change, or Retain a Tax Year,*” with the Commissioner within such time and in such manner as is provided in ad-

ministrative procedures published by the Commissioner. In general, a change in annual accounting period will be approved if the taxpayer establishes a business purpose for the requested annual accounting period and agrees to the Commissioner’s prescribed terms, conditions, and adjustments for effecting the change.

SECTION 3. SIGNIFICANT CHANGES

Significant changes to Rev. Proc. 2002-37 made by this revenue procedure include:

.01 Sections 4.01(2), 4.01(3), and 4.01(4) of Rev. Proc. 2002-37 are removed from the applicability section and are reinserted, where appropriate, in the relevant inapplicability subsections under section 4.02 of this revenue procedure.

.02 Section 4.02(2) of this revenue procedure removes section 4.02(2)(b) of Rev. Proc. 2002-37 because the entities formerly described by section 4.02(2)(b) of Rev. Proc. 2002-37 are included in section 4.02(2)(a) of this revenue procedure.

.03 Section 4.02(2)(e) of this revenue procedure provides that an interest in a pass-through entity that does not have a required taxable year is disregarded solely for purposes of section 4.02(2). Thus, having an interest in a pass-through entity that does not have a required taxable year does not make a corporation ineligible for use of this revenue procedure.

.04 Section 4.02(5) of this revenue procedure excludes from the scope an S or terminated S corporation. See Rev. Proc. 2006-46, 2006-45 I.R.B. 859, for procedures to follow for certain automatic changes in the annual accounting period of an S corporation.

.05 Section 4.02(8) of this revenue procedure excludes from the scope certain controlled foreign corporations (CFCs).

.06 Section 4.02(13) of this revenue procedure excludes from the scope a corporation that exits a consolidated group in its first effective year.

.07 Section 4.02(14) of this revenue procedure excludes from the scope certain changes to (or from) a 52–53 week taxable year by a member of a consolidated group.

.08 Section 6.02 of this revenue procedure provides that only certain short periods are exempt from the financial statement conformity requirement and incorporates the clarification in Notice 2002–72, 2002–2 C.B. 843, of the record keeping/book conformity term and condition with regard to CFCs.

.09 Section 6.03(1) of this revenue procedure provides that certain CFCs are not required to file a first effective year tax return.

.10 Sections 6.05 (changes in natural business year for an electing S corporation) and 6.06 (changes in ownership taxable year for an electing S corporation) of Rev. Proc. 2002–37 are not included in this revenue procedure because this revenue procedure does not apply to S corporations. The removal of these sections from the terms and conditions of this revenue procedure is not intended to imply that a corporation that elects to be an S corporation is not required to conform to the requirements for accounting periods for S corporations. See § 1378 and § 1.1378–1(a) for the permitted years of an S Corporation and see Rev. Proc. 2006–46 for procedures to follow for certain automatic changes in the annual accounting period of an S corporation.

.11 Section 6.06 of this revenue procedure incorporates the modified carryback term and condition of section 4.01 of Rev. Proc. 2003–34, 2003–1 C.B. 856.

.12 Section 6.08 of this revenue procedure clarifies that in the case of a change in annual accounting period by the common parent of a consolidated group, the consolidated return rules will apply (e.g., § 1.1502–21) unless this revenue procedure specifically provides otherwise.

.13 Section 6.09 of this revenue procedure incorporates the clarification in Notice 2002–72, that certain entities with required taxable years that must concurrently change their annual accounting period as a term and condition for the approval of a related taxpayer’s change of annual accounting period must do so

under the applicable automatic approval procedures notwithstanding any limitations in those procedures to the contrary or any conflicting testing date provisions.

.14 Section 6.10 of this revenue procedure provides that a CFC that revokes its one month deferral election under § 898 is not eligible to make another change in taxable year for a period of 48 months following the first day of the first effective year.

.15 Sections 7.02(1)(b), 7.02(2)(b), and 7.02(4)(b) of this revenue procedure provide the filing requirements for certain CFCs and noncontrolled section 902 corporations.

.16 Section 7.02(2) of this revenue procedure provides that the Form 1128 or Form 5471, *Information Return of U.S. Persons With Respect To Certain Foreign Corporations*, must be filed no earlier than the day following the end of the first effective year.

.17 Section 7.02(7) of this revenue procedure provides that, for purposes of a change in annual accounting period, a consolidated group consists of the parent and any subsidiary that is a member of the group on the last day of the short period.

SECTION 4. SCOPE

.01 *Applicability.* Except as provided in section 4.02, this revenue procedure is the exclusive procedure for a corporation within its scope to secure the Commissioner’s approval and applies to a corporation requesting approval to change its annual accounting period, including a corporation that wants to change to (or from) a 52–53-week taxable year.

.02 *Inapplicability.* This revenue procedure does not apply to the following corporations:

(1) *Prior change.* A corporation that has changed its annual accounting period within the most recent 48-month period ending with the last month of the requested taxable year, unless:

(a) the prior change was made in order to comply with the common taxable year requirement of either § 1.1502–75(d)(3)(v) or 1.1502–76(a)(1) (see § 1.442–1(c));

(b) the prior change was made by a corporation that either was acquired within the preceding 12 months by a new majority shareholder using a different taxable year, or whose majority share-

holder changed its taxable year within the preceding 12 months, if that corporation does not file consolidated income tax returns with its majority shareholder and seeks to change to the taxable year of that shareholder in order to file consolidated financial statements. For purposes of this section 4.02(1)(b), “majority shareholder” means ownership that satisfies the test of § 1504(a)(2), substituting “more than 50 percent” for “at least 80 percent;”

(c) except in the case of a CFC, the prior change was from a 52–53-week taxable year that references a particular month to a non-52–53-week taxable year that ends on the last day of that month, and vice versa;

(d) the prior change was to a required taxable year (as defined in section 5.03 of this revenue procedure) or was a concurrent change required by either this revenue procedure or Rev. Proc. 2002–39 (or any successor);

(e) the corporation wants to change from a 52–53-week taxable year to a non-52–53-week taxable year that ends with reference to the same month, and vice versa; or

(f) the corporation is a CFC that wants to revoke its one month deferral election under § 898(c)(1)(B) and change its taxable year to the majority U.S. shareholder year (as defined in § 898(c)(1)(C)).

(2) *Interest in a pass-through entity or a CFC.* A corporation that has an interest in a pass-through entity (as defined in section 5.02 of this revenue procedure) or a CFC as of the end of the first effective year (as defined in section 5.05 of this revenue procedure). However, an interest in a pass-through entity or CFC will be disregarded for this purpose if any of the following conditions are met:

(a) the pass-through entity or CFC would be required under the Code or regulations to change its taxable year to the new taxable year of the corporation (or, in the case of a CFC, to a taxable year that is described in section 4.02(8)(b)). See section 6.09 of this revenue procedure for a special term and condition related to this exception;

(b) the new taxable year of the corporation would result in no change in or less deferral (as described in § 1.706–1(b)(3)) from the pass-through entity or CFC than the present taxable year of the corporation. If the entity is a partnership or a CFC, the

corporation should compare the existing deferral period (between the pass-through entity's and the corporation's current taxable years) with the new deferral period (between the new required taxable year of the pass-through entity or CFC and the corporation's new taxable year). See section 4.04 of this revenue procedure for an example of this rule;

(c) the pass-through entity or CFC in which the corporation has an interest has been in existence for at least 3 taxable years and the interest is *de minimis*. For this purpose, an interest is *de minimis* if:

(i) for each of the prior 3 taxable years of the corporation, the amount of income (including ordinary income or loss, capital gains or losses, rents, royalties, interest, dividends and deduction equivalents of credits) from *de minimis* interest in a pass-through entity or CFC is less than or equal to (A) 5 percent of the corporation's gross receipts (or, in the case of a member of a consolidated group, the consolidated group's gross receipts) for each of those taxable years, and (B) \$500,000; and

(ii) the amount of income from all *de minimis* interest in pass-through entities and CFCs in the aggregate is less than or equal to the amounts described in (A) and (B) of (c)(i) above. See section 4.04 of this revenue procedure for an example of this rule;

(d) the corporation wants to change from a 52–53-week taxable year to a non-52–53-week taxable year that ends with reference to the same month, and vice versa;

(e) the pass-through entity or CFC does not have a required year;

(f) the corporation wants to change to a natural business year (as defined in section 5.04 of this revenue procedure) that satisfies the 25-percent gross receipts test described in that section; or

(g) the corporation is a CFC that wants to revoke its one month deferral election under § 898(c)(1)(B) and change its taxable year to the majority U.S. shareholder year (as defined in § 898(c)(1)(C)).

(3) *Shareholder of certain FSCs or IC-DISCs*. A corporation that is a shareholder of a foreign sales corporation (FSC) or interest charge domestic international sales corporation (IC-DISC), as of the end of the short period (as defined in section 5.06 of this revenue procedure). However,

an interest in a FSC or IC-DISC is disregarded if any of the following conditions is met:

(a) the FSC or IC-DISC in which the corporation is the principal shareholder (*i.e.*, the shareholder with the highest percentage of voting power as defined in § 441(h)) would be required to change its taxable year pursuant to §§ 1.921–1T(b)(4) and (6) to the new taxable year of the corporation. See section 6.09 of this revenue procedure for a special term and condition related to this exception;

(b) the new taxable year of the corporation would result in no change in or less deferral of income (as determined under the principles of § 1.706–1(a)(3)) from the FSC or IC-DISC than the present taxable year of the corporation;

(c) the corporation wants to change from a 52–53-week taxable year to a non-52–53-week taxable year that ends with reference to the same month, and vice versa;

(d) the corporation wants to change to a natural business year that satisfies the 25-percent gross receipts test described in section 5.04 of this revenue procedure; or

(e) the corporation is a CFC that wants to revoke its one month deferral election under § 898(c)(1)(B) and change its taxable year to the majority U.S. shareholder year (as defined in § 898(c)(1)(C));

(4) *FSC and IC-DISC*. A corporation that is a FSC or an IC-DISC. See § 1.921–1T(b)(4) for rules regarding automatic changes of the annual accounting period of a FSC or IC-DISC to the taxable year of its principal shareholder;

(5) *S or terminated S corporation*. A corporation that either is an S corporation (as defined in § 1361) or a corporation that is requesting a change in annual accounting period that is within an S termination year (as defined in § 1362(e)(4)). See Rev. Proc. 2006–46 for procedures to follow for certain automatic changes in the annual accounting period of an S corporation;

(6) *Electing S corporation*. A corporation that attempts to make an S corporation election for the taxable year immediately following the short period, unless the change is to a permitted taxable year, or from a 52–53-week taxable year to a non-52–53-week taxable year that ends with reference to the same month, and vice versa;

(7) *PSC*. A corporation that is a personal service corporation (PSC) (as defined in § 441(i)). See Rev. Proc. 2006–46 for procedures to follow for certain automatic changes in the annual accounting period of a PSC;

(8) *CFC*. A corporation that is a controlled foreign corporation as defined in § 957, including a CFC that also is a passive foreign investment company (PFIC) as defined in § 1297(a), unless:

(a) the CFC does not have a required taxable year under § 898;

(b) the CFC is changing to its required taxable year under § 898, to a 52–53-week taxable year that references that year, or, if the CFC has a majority U.S. shareholder year (as defined in § 898(c)(3)), to a one-month deferral year described in § 898(c)(2) or to a 52–53-week taxable year that references such one-month deferral year; or

(c) with respect to the CFC's taxable years beginning after July 10, 1989, no U.S. shareholder has been required to include in gross income an amount described in § 951(a) (subpart F inclusion).

(9) *Tax-exempt organization*. A corporation that is a tax-exempt organization, other than an organization exempt from federal income tax under § 521, 526, 527, or 528. See Rev. Proc. 85–58, 1985–2 C.B. 740, for procedures to follow in changing an annual accounting period of a tax-exempt organization that is not within the scope of this revenue procedure;

(10) *Possessions corporation*. A corporation that has in effect an election under § 936;

(11) *Cooperative association*. A corporation that is a cooperative association (within the meaning of § 1381(a)) with a loss in the short period required to effect the change of annual accounting period, unless it is changing from a 52–53-week taxable year to a non-52–53-week taxable year that ends with reference to the same month, and vice versa, or the patrons of the cooperative association are substantially the same in the year before the change of annual accounting period, in the short period required to effect the change, and in the year following the change. For purposes of this subsection, “substantially the same” means that ownership of more than 90 percent of the cooperative association's stock is owned by the same members; or

(12) *Corporation with a required taxable year.* A corporation that has a required taxable year (e.g., a REIT, or a Qualified Settlement Fund or Designated Settlement Fund as defined in § 1.468B), unless the corporation is changing to their required taxable year.

(13) *Corporation that exits a consolidated group.* A corporation that ceases to be a member of a consolidated group during the consolidated group's first effective year.

(14) *Certain members of a consolidated group.* A corporation that is a member of a consolidated group requesting to change to (or from) a 52–53-week taxable year unless the requested taxable year is identical to the taxable year of the consolidated group.

.03 *Nonautomatic Changes.* A corporation that is unable to obtain automatic approval for a change in accounting period under this or any other applicable revenue procedure, or under a regulation, must secure prior approval from the Commissioner for a change in an accounting period pursuant to § 442 and the regulations thereunder. See Rev. Proc. 2002–39 (or any successor).

.04 Examples.

(1) *Example 1.* (a) Corporations V, W, X, Y, and Z hold equal 20 percent interests in the capital and profits of partnership ABC. V and W are calendar year taxpayers. X and Y have taxable years ending June 30, and Z has a taxable year ending September 30. ABC does not have a business purpose for a particular taxable year, and thus, pursuant to § 1.706–1, ABC is required to use a taxable year ending June 30 because that taxable year results in the least aggregate deferral of income to its partners. Z currently has a 3-month deferral period (the number of months from the end of ABC's taxable year to the end of Z's taxable year). Z wants to change its taxable year to a calendar year.

(b) If Z changes its taxable year to a calendar year, ABC would be required to change its taxable year under § 706 to its majority interest taxable year, which would be the calendar year. As a result of Z's new taxable year and ABC's new taxable year, Z's deferral period would be eliminated. Because Z's new taxable year would reduce Z's deferral, Z may disregard its interest in ABC under section 4.02(2)(b) of this revenue procedure.

(2) *Example 2.* (a) Corporation X, a calendar year taxpayer, wants to change its taxable year to a year ending June 30. X has interests in five partnerships, ABC, DEF, GHI, JKL, and MNO. All of the partnerships have been in existence for over three taxable years. X's interests in each of ABC and DEF is greater than 50 percent. X's interest in GHI, JKL, and MNO is 15 percent, 10 percent, and 5 percent, respectively. GHI uses the majority interest taxable year ending May 31 and JKL and

MNO each use their respective majority interest taxable year ending December 31. X's distributive share of income/(loss) from JKL for the prior three taxable years is \$300,000, \$(100,000), and \$200,000, respectively, and from MNO is \$300,000, \$200,000, and \$100,000, respectively. X's gross receipts for each of those same taxable years was \$15,000,000.

(b) X's interests in its pass-through entities will be disregarded for purposes of section 4.02(2) of this revenue procedure only if each pass-through entity satisfies one of the exceptions enumerated under section 4.02(2) of this revenue procedure. In the instant case, X's interests in ABC and DEF each meet the exception in section 4.02(2)(a) because X is the majority interest partner in each partnership. X's interest in GHI meets the exception in section 4.02(2)(b) because X's new taxable year would result in less deferral than its old taxable year (the deferral between May 31 and June 30 of 1 month as compared to the deferral between May 31 and December 31 of 7 months). Because X is not the majority interest partner in JKL and MNO and because its new taxable year would not result in less deferral from these partnerships, X's interests in JKL and MNO may be disregarded only if they satisfy the *de minimis* exception in section 4.02(2)(c). Although the income from JKL and MNO for each of the prior three taxable years is less than 5 percent of X's gross receipts and \$500,000, the income for year 1 from JKL and MNO, in the aggregate (\$300,000 and \$300,000), exceeds the \$500,000 amount specified in section 4.02(2)(c)(ii). Consequently, JKL and MNO fail to satisfy the *de minimis* exception in section 4.02(2)(c). Because X's interests in all of its pass-through entities will not be disregarded, X is not within the scope of this revenue procedure.

SECTION 5. DEFINITIONS

The following definitions apply solely for the purpose of this revenue procedure:

.01 *Corporation.* The term “corporation” includes associations, joint-stock companies, and insurance companies, as provided in § 7701(a)(3) and the regulations thereunder, and includes each member of a consolidated group that is a member of the group on the last day of the first effective year.

.02 *Pass-through Entity.* The term “pass-through entity” means a partnership (as defined in § 7701(a)(2) and the regulations thereunder); a trust (as defined in § 301.7701–4); an estate; a common trust fund (as defined in § 584); a PFIC that the corporation has elected to treat as a qualified electing fund (as defined in § 1295); and a closely-held REIT (as defined in § 6655(e)(5)(B)), but only to the extent the corporation is described in § 6655(e)(5)(A).

.03 *Required Taxable Year.* The “required taxable year” is the particular taxable year that certain taxpayers are re-

quired to use under the Code and the regulations thereunder. See § 1.441–1(b)(2) for examples of taxpayers, including certain corporations, with required taxable years.

.04 *Natural Business Year.* A “natural business year” is a year for which a corporation satisfies the following “25-percent gross receipts test”:

(1) *25-percent gross receipts test.* Except as provided in (2) below, the 25-percent gross receipts test is satisfied if each of the results described in (a) and (b) below equals or exceeds 25-percent:

(a) Gross receipts from sales and services for the most recent 12-month period that ends with the last month of the requested annual accounting period are totaled and then divided into the amount of gross receipts from sales and services for the last 2 months of this 12-month period.

(b) The same computation as in (1)(a) above is made for the two preceding 12-month periods ending with the last month of the requested annual accounting period.

(2) *Exception.* The corporation must determine whether any annual accounting period other than the requested annual accounting period also meets the 25-percent gross receipts test described in (1). If one or more other annual accounting periods produce higher averages of the three percentages (rounded to 1/100 of a percent) described in (1) than the requested annual accounting period, then the requested annual accounting period will not qualify as the corporation's natural business year.

(3) *Special rules.*

(a) To apply the 25-percent gross receipts test for any particular year, the corporation must compute its gross receipts under the method of accounting used to prepare its federal income tax return for such taxable year.

(b) Regardless of the corporation's method of accounting, the corporation's share of taxable income from a pass-through entity generally must be reported as gross receipts from sales and services in the month that the pass-through entity's taxable year ends.

(c) If a corporation has a predecessor organization and is continuing the same business as its predecessor, the corporation must use the gross receipts from sales and services of its predecessor for purposes of

computing the 25-percent gross receipts test.

(d) If the corporation (including any predecessor organization) does not have a 47-month period of gross receipts (36-month period for requested taxable year plus additional 11-month period for comparing requested taxable year with other potential taxable years), then it cannot establish a natural business year under this revenue procedure.

(e) If the requested taxable year is a 52–53-week taxable year, the calendar month ending nearest to the last day of the 52–53-week taxable year is treated as the last month of the requested taxable year for purposes of computing the 25-percent gross receipts test.

.05 First Effective Year. The “first effective year” is the first taxable year for which a change in annual accounting period is effective. The first effective year generally is the short period required to effect the change. In the case of a short period of 6 days or less, the first effective year is the taxable year that includes such short period under § 1.441–2(b)(2)(ii). The first effective year also is the first taxable year for complying with all the terms and conditions set forth in this revenue procedure necessary to effect the change in annual accounting period.

.06 Short Period. In the case of a change in annual accounting period, a corporation’s “short period” is the period beginning with the day following the close of the old taxable year and ending with the day preceding the first day of the new taxable year.

SECTION 6. TERMS AND CONDITIONS OF CHANGE

.01 In General. A change in annual accounting period filed under this revenue procedure must be made pursuant to the terms and conditions provided in this revenue procedure.

.02 Record Keeping/Book Conformity.

(1) *In general.* The corporation must compute its income and keep its books and records (including financial statements and reports to creditors) on the basis of the requested taxable year. The books and records of the corporation must be closed as of the last day of the first effective year and the corporation must

conform the accounting period used for financial statement purposes and reports to creditors concurrently.

(2) *Certain short periods exempt from financial statement conformity.* If the corporation is not required to issue financial statements for the short period required to effect the change, the corporation will be deemed to have met the financial statement conformity requirement for the first effective year provided the corporation’s accounting period used for financial statement purposes already conforms to the requested taxable year or the corporation makes the change in accounting period used for financial statement purposes and reports to creditors concurrently.

(3) *Foreign law books and records.* The terms and conditions in section 6.02(1) of this revenue procedure do not apply to require a corporation to close and conform books and records that are required to be maintained for foreign law purposes (e.g., foreign tax reporting purposes) on the basis of a different taxable year than the requested taxable year. In addition, the terms and conditions in section 6.02(1) of this revenue procedure do not apply to require a noncontrolled section 902 corporation to close and conform any books and records that are maintained for foreign law purposes, regardless of whether foreign law requires such books and records to be maintained on the basis of a different taxable year than the requested taxable year.

.03 First Effective Year Tax Return.

(1) *When to file.* The corporation generally must file a federal income tax return for the first effective year by the due date of that return, including extensions pursuant to § 1.443–1(a). A CFC or a noncontrolled section 902 corporation that is not required to file Form 1120F (because it is not engaged in United States trade or business) need not file a first effective year tax return (or have its U.S. shareholder file such a return on its behalf).

(2) *Annualization.* The corporation’s taxable income for the short period must be annualized and the tax must be computed in accordance with the provisions of § 443(b) and § 1.443–1(b). However, for changes to (or from) a 52–53-week taxable year referencing the same month as the current (or requested) taxable year, see special rules in § 1.441–2.

.04 Subsequent Year Tax Returns. Returns for subsequent taxable years generally must be made on the basis of a full 12 months (or on a 52–53-week basis) ending on the last day of the requested taxable year, unless the corporation secures the approval of the Commissioner to change that taxable year.

.05 52–53-week Taxable Years. If applicable, the corporation must comply with § 1.441–2(e) (relating to the timing of taking items into account in those cases where the taxable year of a pass-through entity ends with reference to the same calendar month as one or more of its owners).

.06 Creation of Net Operating Loss or Capital Loss. If the corporation generates a net operating loss (NOL) or capital loss (CL) in the short period required to effect a change in annual accounting period, the corporation may not carry the NOL or CL back, but must carry it over in accordance with the provisions of §§ 172 and 1212, respectively, beginning with the first taxable year after the short period. However, except as otherwise provided in the Code or regulations, the short period NOL or CL is carried back or carried over in accordance with § 172 or 1212, respectively, if it is either: (a) \$50,000 or less, or (b) less than the NOL or CL, respectively, generated for the full 12-month period beginning with the first day of the short period. The corporation must wait until this 12-month period has expired to determine whether it qualifies for the exception in (b) above.

.07 Creation of General Business Credits. If there is an unused general business credit or any other unused credit generated in the short period, the corporation must carry that unused credit forward. An unused credit from the short period may not be carried back.

.08 Consolidated Groups. In the case of a change in annual accounting period by the common parent of a consolidated group, the consolidated return rules will apply (e.g., § 1.1502–21) unless this revenue procedure specifically provides otherwise. In addition, every member of the consolidated group must meet all the requirements and meet and comply with all the terms and conditions of this revenue procedure.

.09 Concurrent Change for Related Entities. If a corporation’s interest in a pass-through entity, FSC, or IC-DISC (related

entity) is disregarded pursuant to section 4.02(2)(a) or 4.02(3)(a) of this revenue procedure because the related entity is required to change its taxable year to the corporation's new taxable year (or, in the case of a CFC, because it does not have a required year under § 898), the related entity must change its taxable year concurrently with the corporation's change in taxable year, either under this revenue procedure, Rev. Proc. 2006-46, or Rev. Proc. 2002-39 (or any successor), whichever is applicable. If the related entity that is required to change is a corporation, such as a CFC, it is deemed to be within section 4.01 of this revenue procedure and if the related entity is a pass-through entity, such as a partnership, it is deemed to be within section 4.01(1) of Rev. Proc. 2006-46. The preceding sentence applies notwithstanding any conflicting testing date provisions under the Code (*e.g.*, § 706(b)(4)(A)(ii), § 898(c)(3)(B), § 1.921-1T(b)(6), and the special provision in § 706(b)(4)(B)) or regulations, or any other limitation under sections 4.02 and 7.02(2) of this revenue procedure or sections 4.02 and 7.02(2) of Rev. Proc. 2006-46.

.10 *CFCs*. In the case of a CFC that revokes its one month deferral election under § 898, the CFC shall not be eligible to change its taxable year during a 48-month period following the first day of the first effective year unless the change is necessary to conform to a new required taxable year under § 898.

SECTION 7. GENERAL APPLICATION PROCEDURES

.01 *Approval*. Approval is hereby granted to any corporation within the scope of this revenue procedure to change its annual accounting period, provided the corporation complies with all the applicable provisions of this revenue procedure. Approval is granted beginning with the first effective year. A corporation granted approval under this revenue procedure to change its annual accounting period is deemed to have established a business purpose for the change to the satisfaction of the Commissioner.

.02 *Filing Requirements*.

(1) *Where to file*.

(a) *In general*. Any corporation (including the common parent of a consolidated group) that wants to change its

annual accounting period pursuant to the provisions of this revenue procedure must complete and file an application (*i.e.*, a current Form 1128) with the Director, Internal Revenue Service Center, Attention: ENTITY CONTROL, where the corporation files its federal income tax return. No copies of Form 1128 should be sent to the national office. The corporation also should attach a copy of the Form 1128 to the federal income tax return filed for the first effective year.

(b) *Certain foreign corporations*. In the case of a CFC or a noncontrolled section 902 corporation that is not required to file a federal income tax return, the controlling domestic shareholders (as defined in § 1.964-1T(c)(5)) that want to change the foreign corporation's accounting period on behalf of the foreign corporation pursuant to the provisions of this revenue procedure must satisfy the requirements set forth in § 1.964-1T(c)(3), and, except as provided in section 7.02(1)(c) of this revenue procedure, the designated shareholder who retains the jointly executed consent described in § 1.964-1T(c)(3)(ii) must complete and file a current Form 1128 on behalf of the foreign corporation with its federal income tax return for its taxable year with or within which ends the first effective year of the foreign corporation. Each other controlling domestic shareholder (or its common parent) should also attach a copy of the Form 1128 to its federal income tax return filed for its taxable year with or within which ends such taxable year of the designated shareholder. No copies of Form 1128 should be sent to the national office.

(c) *Taxable years under section 898*. In the case of a taxable year described in section 4.02(8)(b) of this revenue procedure, in lieu of filing Form 1128, the CFC's controlling domestic shareholders must indicate the change in taxable year on the Form 5471 filed with respect to the CFC's first effective year.

(2) *When to file*. (a) *In general*. The Form 1128 must be filed no earlier than the day following the end of the first effective year and no later than the due date (including extensions) for filing the federal income tax return for the first effective year.

(b) *Certain foreign corporations*. An application that is filed by a controlling

domestic shareholder (or its common parent) on behalf of a CFC or a noncontrolled section 902 corporation is due no later than the due date (including extensions) of such shareholder's (or its common parent's) federal income tax return for its tax year with or within which ends the first effective year of the foreign corporation.

(3) *Label*. In order to assist in the processing of the change in annual accounting period, reference to this revenue procedure should be made a part of the Form 1128 or Form 5471 by either typing or legibly printing the following statement at the top of page 1 of the Form 1128 or Form 5471: "FILED UNDER REV. PROC. 2006-45."

(4) *Signature requirements*.

(a) *In general*. Form 1128 must be signed on behalf of the corporation requesting the change of annual accounting period by an individual with authority to bind the corporation in such matters. If the corporation is a member of a consolidated group, the Form 1128 must be signed by a duly authorized officer of the common parent. If an agent is authorized to represent the corporation before the Service, to receive the original or a copy of correspondence concerning the application, or to perform any other act(s) regarding the application on behalf of the corporation, a power of attorney reflecting such authorization(s) should be attached to the application. A corporation's representative without a power of attorney to represent the corporation will not be given any information about the application.

(b) *Certain foreign corporations*. An application that is filed on behalf of a CFC or a noncontrolled section 902 corporation need not be signed. However, the controlling domestic shareholders must satisfy the requirement set forth in § 1.964-1T(c)(3) and the designated shareholder must retain the jointly executed consent described in § 1.964-1T(c)(3)(ii).

(5) *No user fee*. A user fee is not required for an application filed under this revenue procedure and, except as provided in section 8.01 of this revenue procedure, the receipt of an application filed under this revenue procedure generally will not be acknowledged.

(6) *Additional information*. In the case of a corporation changing to a natural business year that satisfies the 25-percent gross receipts test described in section

5.06 of this revenue procedure, the corporation must supply the gross receipts from sales and services for the most recent 47 months for itself (or any predecessor) in compliance with the instructions to Form 1128.

(7) *Consolidated application.* A common parent must file a single application to change the annual accounting period of its consolidated group, which consists of the parent and any subsidiary that is a member of the group on the last day of the short period.

SECTION 8. REVIEW OF APPLICATION

.01 *Service Center Review.* A Service Center may deny a change of annual accounting period under this revenue procedure only if: (a) the Form 1128 is not filed timely, or (b) the corporation fails to meet the scope or any term and condition of this revenue procedure. If the change is denied, the Service Center will return the Form 1128 with an explanation for the denial.

.02 *Review of Director.* The appropriate director may ascertain if the change in annual accounting period was made in compliance with all the applicable provisions of this revenue procedure. Corporations changing their annual accounting period pursuant to this revenue procedure without complying with all the provisions (including the terms and conditions) of this revenue procedure ordinarily will be deemed to have initiated the change in annual accounting period without the approval of

the Commissioner. Upon examination, a corporation that has initiated an unauthorized change of annual accounting period may be denied the change. For example, the corporation may be required to recompute its taxable income or loss in accordance with its former (or required, if applicable) taxable year.

SECTION 9. EFFECTIVE DATE

This revenue procedure generally is effective for all changes in annual accounting periods for which the first effective year ends on or after October 18, 2006. However, if the time period for filing Form 1128 or Form 5471 with respect to a taxable year set forth in section 7.02(2) of this revenue procedure has not yet expired, a corporation within the scope of this revenue procedure may elect early application of the revenue procedure by providing the notification set forth in section 7.02(3) on the top of page 1 of Form 1128 or Form 5471 and by satisfying the other procedural requirements of section 7.

SECTION 10. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 2002-37 is clarified, modified, amplified, and superseded.

SECTION 11. PAPERWORK REDUCTION ACT

The collection of information contained in this revenue procedure has been reviewed and approved by the Office

of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545-1786. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

The collection of information in this revenue procedure is found in section 7. The information in section 7 is required in order to determine whether the corporation properly obtained automatic approval to change its annual accounting period. The likely respondents are corporations. The estimated total annual reporting burden for the requirements contained in section 7 of this revenue procedure is reflected in the burden estimates for Forms 1128 and 5471.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

DRAFTING INFORMATION

The principal authors of this revenue procedure are Roy A. Hirschhorn and Jeffrey Marshall of the Office of Associate Chief Counsel (Income Tax and Accounting). For further information regarding this revenue procedure, contact Mr. Marshall at (202) 622-4960 (not a toll-free call).

26 CFR 601.204: Changes in accounting periods and in methods of accounting. (Also Part I, §§ 441, 442, 444, 706, 1378; 1.441-1, 1.441-3, 1.442-1, 1.706-1, 1.1378-1.)

Rev. Proc. 2006-46

TABLE OF CONTENTS

SECTION 1. PURPOSE	861
SECTION 2. BACKGROUND	861
.01 <i>Taxable Year Defined.</i>	861
(1) <i>In general.</i>	861
(2) <i>Annual accounting period.</i>	861
(3) <i>Required taxable year.</i>	861
.02 <i>Adoption of a Taxable Year.</i>	862
.03 <i>Change in Taxable Year.</i>	862
(1) <i>In general.</i>	862
(2) <i>Annualization of short period return.</i>	862
(3) <i>No retroactive change in annual accounting period.</i>	862