or surface freight transfer facilities (the $15,000,000,000 national limitation).

Section 142(m)(2)(B) provides that an issue is not treated as a qualified highway or surface freight transfer facility issue if the aggregate face amount of bonds issued pursuant to such issue for any qualified highway or surface freight transfer facility (when added to the aggregate face amount of bonds previously so issued for such facility) exceeds the amount allocated to such facility under section 142(m)(2)(C). Section 142(m)(2)(C) provides that the Secretary of Transportation shall allocate the $15,000,000,000 national limitation among qualified highway or surface freight transfer facilities in such a manner as the Secretary determines appropriate.

Sections 142(a)(15) and 142(m) apply to bonds issued after August 10, 2005.

ALLOCATIONS BY DEPARTMENT OF TRANSPORTATION

While sections 142(a)(15) and 142(m) are under the jurisdiction of the Internal Revenue Service, the allocation of the $15,000,000,000 national limitation is under the jurisdiction of the Department of Transportation. On January 5, 2006, the Department of Transportation published in the **Federal Register** a notice soliciting requests for allocations of the $15,000,000,000 national limitation (71 Fed. Reg. 642).

Except as otherwise provided in this notice, if the Secretary of Transportation allocates a portion of the $15,000,000,000 national limitation to a project or facility, the Internal Revenue Service shall treat the portion of that project or facility which is to be financed with the bonds, as represented in the request for the allocation, as meeting the definition of qualified highway or surface freight transfer facilities in section 142(m)(1). Thus, for example, the Internal Revenue Service will rely on the Secretary of Transportation's determination in allocating a portion of the national limitation to a project or facility that it receives the required Federal assistance under title 23 or title 49 of the United States Code for purposes of the eligible project or facility definition under section 142(m). Whether such representation accurately describes the portion of the project or facility to be financed by the bonds and whether such portion of the project or facility is actually financed by the bonds remains subject to verification upon examination by the Internal Revenue Service. A determination by the Secretary of Transportation that a project or portion thereof meets the definition of qualified highway or surface freight transfer facilities is not a determination that: (1) any amounts are chargeable to a facility's capital account or would be so chargeable either with a proper election by a taxpayer or but for a proper election by a taxpayer to deduct the amounts (see § 1.103–8(a)(1)(i) of the Income Tax Regulations); or (2) any other requirements that must be met in order for interest on the bonds to be excluded from gross income are satisfied.

INFORMATION REPORTING

An issuer of tax-exempt private activity bonds for qualified highway or surface freight transfer facilities must complete Form 8038, *Information Return for Tax-Exempt Private Activity Bond Issues*, in accordance with the instructions and complete Part II by checking the box on Line 11m (Other) writing "qualified highway or surface freight transfer facility bonds" in the space provided for the bond description, and entering the amount of the bonds in the Issue Price column.

DRAFTING INFORMATION

The principal author of this notice is Aviva M. Roth of the Office of Associate Chief Counsel (Tax Exempt & Government Entities). For further information regarding this notice, contact Aviva M. Roth at (202) 622–3980 (not a toll-free call).

Elections Created or Affected by the American Jobs Creation Act of 2004

Notice 2006–47

The purpose of this notice is to alert taxpayers to various elections under the Internal Revenue Code that were created by the American Jobs Creation Act of 2004, Pub. L. No. 108–357, 118 Stat. 1418 (the Act), which was enacted on October 22, 2004, and provide interim guidance on how those elections may be made. In light of changes made by the Act, the notice also informs taxpayers that they may revoke certain elections that are currently in effect. Additional guidance regarding these elections or revocations will be issued, as needed.

SCOPE

This notice is not intended to be all inclusive, and thus, does not cover each and every election or revocation of an election that was either created or affected by the Act. Most notably, this notice does not address any election or revocation for which published guidance was issued prior to May 1, 2006. In particular, this notice does not address the elections or revocations described in the following sections of the Act:

1. Act Sec. 101 — Repeal of Exclusion for Extraterritorial Income. See section 5 of Rev. Proc. 2001–37, 2001–1 C.B. 1327.

2. Act Sec. 231 — Members Of Family Treated As 1 Shareholder. See Notice 2005–91, 2005–51 I.R.B. 1164.

3. Act Sec. 248 — Election to Determine Corporate Tax on Certain International Shipping Activities Using Per Ton Rate. See Notice 2005–2, 2005–3 I.R.B. 337.

4. Act Sec. 422 — Incentives to Reinvest Foreign Earnings in United States. See section 7 of Notice 2005–10, 2005–6 I.R.B. 474.

5. Act Sec. 501 — Deduction of State and Local General Sales Taxes in Lieu of State and Local Income Taxes. See Notice 2005–31, 2005–14 I.R.B. 830.

6. Act Sec. 833 — Disallowance of Certain Partnership Loss Transfers. See Notice 2005–32, 2005–16 I.R.B. 895.

7. Act Sec. 836 — Limitation on Transfer or Importation of Built-In Losses. See Notice 2005–70, 2005–41 I.R.B. 694.

INTERIM PROVISIONS

The Treasury Department and the Internal Revenue Service provide the following interim rules to implement the elections

and revocations discussed below. The Service will treat elections or revocations as effective if they are made in the form and manner set forth in this notice. These interim rules will apply until further guidance is issued.

A. Title I — Provisions Relating to Repeal of Exclusion for Extraterritorial Income

1. Act Sec. 102 — Deduction Relating to Income Attributable to Domestic Production Activities

Act section 102(c) allows a taxpayer to revoke an election under section 631(a) of the Code to treat the cutting of timber as a sale or exchange. Any section 631(a) election for a taxable year ending on or before October 22, 2004, may be revoked under Act section 102(c) for any taxable year ending after that date. In addition, any election under section 631(a) for a taxable year ending on or before October 22, 2004 (and any revocation of the election under Act section 102(c)), is disregarded for purposes of determining whether the taxpayer is eligible to make a subsequent election under section 631(a). A revocation under Act section 102(c) will remain in effect until the first taxable year for which the taxpayer makes a new election under section 631(a).

Effective Date: An election under section 631(a) for a taxable year ending on or before October 22, 2004, may be revoked for a taxable year ending after that date.

Deadline for Making Election: The revocation must occur by the due date (including extensions) for filing the tax return for the first taxable year for which the revocation is to be effective.

If, before June 15, 2006, a taxpayer filed its federal tax return for a taxable year ending after October 22, 2004, and the taxpayer wants to revoke a section 631(a) election for that taxable year, the taxpayer may make the revocation by filing an amended federal tax return for that taxable year, and all subsequent affected taxable year(s), on or before November 15, 2006.

If a taxpayer already revoked a section 631(a) election on a federal income tax return that was filed before June 15, 2006, but did not include with that return all of the information specified below under Interim Rules, the taxpayer should complete the appropriate line in Part II of the December 2005 or later revision of Form T, if Form T is otherwise required to be filed, or prepare a statement revoking the section 631(a) election as specified below under Interim Rules, and attach it to the taxpayer's next filed federal income tax return.

Interim Rules: The election under section 631(a) may be revoked by either completing the appropriate line in Part II of the December 2005 or later revision of Form T, if Form T is otherwise required to be filed, or attaching a statement revoking the election to the applicable tax return. The statement should identify the revocation as a revocation under Act section 102(c). If, in accordance with this notice, the taxpayer is revoking a section 631(a) election for a prior taxable year by filing amended federal tax return(s), this statement should be attached to the amended federal tax return(s).

B. Title II — Business Tax Incentives

1. Act Sec. 242 — Modification of Application of Income Forecast Method of Depreciation

Act section 242 allows taxpayers, under new section 167(g)(7) of the Code, to either include participations and residuals expected to be paid before the end of the tenth taxable year following the taxable year in which the property is placed in service in the adjusted basis of property for which the income forecast method of depreciation is used, or exclude participations and residuals from the adjusted basis of property for which the income forecast method of depreciation is used and deduct the participations and residuals in the taxable year that the participations and residuals are paid. The method elected for a given property must be applied consistently thereafter.

Effective Date: Property placed in service after October 22, 2004.

Deadline for Making Election: The election must be made by the due date (including extensions) for filing the return for the taxable year the income forecast property is placed in service.

If, before June 15, 2006, a taxpayer filed its federal tax return for a taxable year ending after October 22, 2004, and if the taxpayer wants to make a section 167(g)(7) election for income forecast property placed in service during that taxable year, the taxpayer may make the election either: (1) by filing an amended federal tax return for the taxable year in which the income forecast property was placed in service, and all subsequent affected taxable year(s), on or before November 15, 2006; or (2) by filing a Form 3115, *Application for Change in Accounting Method*, for the first or second taxable year ending on or after December 31, 2005, in accordance with the automatic change in method of accounting provisions of Rev. Proc. 2002–9, 2002–1 C.B. 327, as modified and clarified by Announcement 2002–17, 2002–1 C.B. 561, modified and amplified by Rev. Proc. 2002–19, 2002–1 C.B. 696, and amplified, clarified, and modified by Rev. Proc. 2002–54, 2002–2 C.B. 432, or any successor. The change in method of accounting from filing a Form 3115 results in a section 481(a) adjustment. Further, the scope limitations in section 4.02 of Rev. Proc. 2002–9 do not apply. Moreover, for purposes of section 6.02(4)(a) of Rev. Proc. 2002–9, the taxpayer should include on line 1a of the Form 3115 the designated automatic accounting method change number "99".

Section 1.446–1(e)(3)(ii) of the Income Tax Regulations authorizes the Commissioner to prescribe administrative procedures setting forth the limitations, terms, and conditions deemed necessary to permit a taxpayer to obtain consent to change a method of accounting. In addition, section 2.04 of Rev. Proc. 2002–9 provides that unless specifically authorized by the Commissioner, a taxpayer may not request, or otherwise make, a retroactive change in method of accounting, regardless of whether the change is from a permissible or an impermissible method. See generally Rev. Rul. 90–38, 1990–1 C.B. 57.

In accordance with section 1.446–1(e)(3)(ii), Rev. Rul. 90–38, and section 2.04 of Rev. Proc. 2002–9, a taxpayer making a section 167(g)(7) election for a prior taxable year by filing amended federal tax return(s) in accordance with this notice is hereby granted consent to make this retroactive change in method of accounting using a cut-off method.

If a taxpayer already made a section 167(g)(7) election on a federal income tax return that was filed before June 15, 2006, but did not include with that return all of the information specified below under Interim Rules, the taxpayer should attach a statement containing the information specified below under Interim Rules to the taxpayer's next filed federal income tax return.

Interim Rules: For each property placed in service during a particular taxable year, a taxpayer should attach a statement to the return for that taxable year providing the name (or other unique identifying designation) of the property, stating how the taxpayer will treat participations and residuals, and providing the date the property was placed in service. If, in accordance with this notice, a taxpayer is making a section 167(g)(7) election for a prior taxable year by filing amended federal tax return(s), this statement should be attached to the amended federal tax return(s). If, in accordance with this notice, a taxpayer is making a section 167(g)(7) election for a prior taxable year by filing a Form 3115 for the first or second taxable year ending on or after December 31, 2005, the statement should be attached to the Form 3115.

2. Act Sec. 244 — Special Rules for Certain Film and Television Productions

Act section 244 allows taxpayers to elect, under new section 181 of the Code, to treat the cost of any qualified film or television production (as defined in section 181(d)) as an expense that is not chargeable to capital account and to deduct it. This election does not apply, however, to any qualified film or television production the aggregate cost of which exceeds $15,000,000 (or $20,000,000 for the areas specified in section 181(a)(2)(B)). Any election made under section 181 may not be revoked without the prior written consent of the Commissioner.

Effective Date: Qualified film and television productions commencing after October 22, 2004, and before January 1, 2009. A production commences when principal photography begins with respect to the production.

Deadline for Making Election: The election must be made by the due date (including extensions) for filing the return for the taxable year in which costs of the production are first paid or incurred. The taxpayer also should attach a statement to the return for each subsequent taxable year in which costs of the production are paid or incurred.

If a taxpayer begins principal photography of a production after October 22, 2004, but first paid or incurred costs of the production before October 23, 2004, the taxpayer is entitled to make a section 181 election for those costs. If, before June 15, 2006, the taxpayer filed its federal tax return for the taxable year in which the costs of the production were first paid or incurred, and if the taxpayer wants to make a section 181 election for that taxable year, the taxpayer may make the election either: (1) by filing an amended federal tax return for the taxable year in which the costs of the production were first paid or incurred, and all subsequent affected taxable year(s), on or before November 15, 2006, provided that all of these years are open under the period of limitations on assessment under section 6501(a); or (2) by filing a Form 3115, *Application for Change in Accounting Method*, for the first or second taxable year ending on or after December 31, 2005, in accordance with the automatic change in method of accounting provisions of Rev. Proc. 2002–9, 2002–1 C.B. 327, as modified and clarified by Announcement 2002–17, 2002–1 C.B. 561, modified and amplified by Rev. Proc. 2002–19, 2002–1 C.B. 696, and amplified, clarified, and modified by Rev. Proc. 2002–54, 2002–2 C.B. 432, or any successor. The change in method of accounting from filing a Form 3115 results in a section 481(a) adjustment. Further, the scope limitations in section 4.02 of Rev. Proc. 2002–9 do not apply. Moreover, for purposes of section 6.02(4)(a) of Rev. Proc. 2002–9, the taxpayer should include on line 1a of the Form 3115 the designated automatic accounting method change number "100".

Section 1.446–1(e)(3)(ii) of the Income Tax Regulations authorizes the Commissioner to prescribe administrative procedures setting forth the limitations, terms, and conditions deemed necessary to permit a taxpayer to obtain consent to change a method of accounting. In addition, section 2.04 of Rev. Proc. 2002–9 provides that unless specifically authorized by the Commissioner, a taxpayer may not request, or otherwise make, a retroactive change in method of accounting, regardless of whether the change is from a permissible or an impermissible method. See generally Rev. Rul. 90–38, 1990–1 C.B. 57.

In accordance with section 1.446–1(e)(3)(ii), Rev. Rul. 90–38, and section 2.04 of Rev. Proc. 2002–9, a taxpayer making a section 181 election for a prior taxable year by filing amended federal tax return(s) in accordance with this notice is hereby granted consent to make this retroactive change in method of accounting using a cut-off method.

If a taxpayer already made a section 181 election on a federal income tax return that was filed before June 15, 2006, but did not include with that return all of the information specified below under Interim Rules, the taxpayer should attach a statement containing the information specified below under Interim Rules to the taxpayer's next filed federal income tax return.

Interim Rules: For each production to which the election applies, a taxpayer should attach a statement to the return for the taxable year in which costs of the production are first paid or incurred stating that the taxpayer is making an election under section 181 and providing the name (or other unique identifying designation) of the production, the date principal photography commenced (if applicable), the cost paid or incurred for the production during the taxable year, the qualified compensation (as defined in section 181(d)(3)) paid or incurred for the production during the taxable year, and the total compensation paid or incurred for the production during the taxable year. If the taxpayer expects that the total cost of the production will be significantly paid or incurred in an area specified in section 181(a)(2)(B), the statement also should identify the area and the cost paid or incurred in that area during the taxable year.

If a taxpayer pays or incurs additional costs of the production in any taxable year subsequent to the taxable year in which costs of the production are first paid or incurred, the taxpayer should attach a statement to the return for that subsequent taxable year providing the name (or other unique identifying designation) of the production, the date principal photography commenced (if applicable), the cost paid or incurred for the production during the taxable year, the aggregate cost paid or

incurred for the production during the taxable year and all prior taxable years, the qualified compensation (as defined in section 181(d)(3)) paid or incurred for the production during the taxable year, the aggregate qualified compensation paid or incurred for the production during the taxable year and all prior taxable years, the total compensation paid or incurred for the production during the taxable year, and the aggregate total compensation paid or incurred for the production during the taxable year and all prior taxable years. If the taxpayer expects that the total cost of the production will be significantly paid or incurred in an area specified in section 181(a)(2)(B), the statement also should identify the area, the cost paid or incurred in that area during the taxable year, and the aggregate cost paid or incurred in that area during the taxable year and all prior taxable years.

If, in accordance with this notice, a taxpayer is making a section 181 election for a prior taxable year by filing an amended federal tax return, the above statements, as applicable, should be attached to each amended return. If, in accordance with this notice, a taxpayer is making a section 181 election for a prior taxable year by filing a Form 3115 for the first or second taxable year ending on or after December 31, 2005, the statement in the above paragraph should be attached to the Form 3115 except the amounts of the cost or compensation paid or incurred for the production should only be the amounts paid or incurred in taxable years prior to the year of change (as defined in section 5.02 of Rev. Proc. 2002–9).

C. Title III — Tax Relief for Agriculture and Small Manufacturers

1. Act Sec. 313 — Apportionment of Small Ethanol Producer Credit

Act section 313 allows a cooperative described in section 1381(a) of the Code to elect, on an annual basis, under new section 40(g)(6) of the Code, to allocate the cooperative's small ethanol producer credit *pro rata* among its patrons on the basis of the quantity or value of business done with or for its patrons for the taxable year.

Effective Date: Taxable years ending after October 22, 2004.

Deadline for Making Election: The election must be made on a timely filed return (including extensions) for the taxable year to which the election applies. If, before June 15, 2006, a cooperative filed its federal tax return for a taxable year ending after October 22, 2004, and if the cooperative wants to make a section 40(g)(6) election to allocate the cooperative's small ethanol producer credit *pro rata* among its patrons for that taxable year, the cooperative may make the election by filing an amended return for that taxable year on or before November 15, 2006. If a cooperative already made a section 40(g)(6) election on a federal income tax return that was filed before June 15, 2006, but did not include with that return all of the information specified below under Interim Rules, the cooperative should attach a statement containing the information specified below under Interim Rules to the cooperative's next filed federal income tax return. Once made, the election is irrevocable for that taxable year. Pursuant to section 1347(b) of the Energy Policy Act of 2005, Pub. L. No. 109–58, 119 Stat. 594, 1056, effective for taxable years ending after August 8, 2005, the election shall not take effect unless the cooperative provides written notice of the election that is mailed to its patrons during the payment period described in section 1382(d).

Interim Rules: The election may be made by attaching the statement described in the instructions to Form 6478, *Credit for Alcohol Used as Fuel*, to the cooperative's return. The cooperative should notify its patrons of the amount of credit apportioned to them in a written notice or on Form 1099–PATR, *Taxable Distributions Received From Cooperatives*, on or before the last day of the payment period (as defined in section 1382(d)) for the taxable year of the cooperative.

2. Act Sec. 322 — Expensing of Certain Reforestation Expenditures

Act section 322 allows taxpayers to elect, under section 194(b) of the Code, to treat up to $10,000 of reforestation expenditures with respect to any qualified timber property as an expense that is not chargeable to capital account and to deduct those expenditures in the year paid or incurred under section 194(b). The remainder of the reforestation expenditures for the year may be amortized over 84 months under section 194(a).

Taxpayers making an election for a qualified timber property under sections 194(a) or 194(b) should create and maintain separate timber accounts for each qualified timber property and should include all reforestation treatments and the dates upon which each was applied. Any qualified timber property that is subject to a section 194 election may not be included in any other timber account (*e.g.*, depletion block) for which depletion is allowed under section 611. At no time may an amortizable timber account become part of a depletable timber account for purposes of deduction under section 165(a). The timber account should be maintained until the timber is disposed of through sale, harvest or other transaction. All records relating to a qualified timber property account also should be maintained until disposal occurs.

Effective Date: Reforestation expenditures with respect to a qualified timber property paid or incurred after October 22, 2004.

Deadline for Making Election: The election must be made on a timely filed return (including extensions) for the taxable year in which the reforestation expenditures with respect to a qualified timber property were paid or incurred.

If, before June 15, 2006, a taxpayer filed its federal tax return for a taxable year ending after October 22, 2004, in which reforestation expenditures were paid or incurred after October 22, 2004, with respect to any qualified timber property, and if the taxpayer wants to make a section 194(b) election for the reforestation expenditures paid or incurred during that taxable year, the taxpayer may make the election either: (1) by filing an amended federal tax return for the taxable year in which the taxpayer paid or incurred the reforestation expenditures for which the taxpayer wants to make the election, and all subsequent affected taxable year(s), on or before November 15, 2006; or (2) by filing a Form 3115, *Application for Change in Accounting Method*, for the first or second taxable year ending on or after December 31, 2005, in accordance with the automatic change in method of accounting provisions of Rev. Proc. 2002–9, 2002–1 C.B. 327, as modified and clarified by Announce-

ment 2002–17, 2002–1 C.B. 561, modified and amplified by Rev. Proc. 2002–19, 2002–1 C.B. 696, and amplified, clarified, and modified by Rev. Proc. 2002–54, 2002–2 C.B. 432, or any successor. The change in method of accounting from filing a Form 3115 results in a section 481(a) adjustment. Further, the scope limitations in section 4.02 of Rev. Proc. 2002–9 do not apply. Moreover, for purposes of section 6.02(4)(a) of Rev. Proc. 2002–9, the taxpayer should include on line 1a of the Form 3115 the designated automatic accounting method change number "101".

Section 1.446–1(e)(3)(ii) of the Income Tax Regulations authorizes the Commissioner to prescribe administrative procedures setting forth the limitations, terms, and conditions deemed necessary to permit a taxpayer to obtain consent to change a method of accounting. In addition, section 2.04 of Rev. Proc. 2002–9 provides that unless specifically authorized by the Commissioner, a taxpayer may not request, or otherwise make, a retroactive change in method of accounting, regardless of whether the change is from a permissible or an impermissible method. See generally Rev. Rul. 90–38, 1990–1 C.B. 57.

In accordance with section 1.446–1(e)(3)(ii), Rev. Rul. 90–38, and section 2.04 of Rev. Proc. 2002–9, a taxpayer making a section 194(b) election for a prior taxable year by filing amended federal tax return(s) in accordance with this notice is hereby granted consent to make this retroactive change in method of accounting using a cut-off method.

If a taxpayer already made a section 194(b) election on a federal income tax return that was filed before June 15, 2006, but did not include with that return all of the information specified below under Interim Rules, the taxpayer should complete Part IV of the December 2005 or later revision of Form T, if Form T is otherwise required to be filed, or prepare a statement containing the information specified below under Interim Rules, and attach it to the taxpayer's next filed federal income tax return.

Interim Rules: The election may be made by entering the deduction claimed on the appropriate line of a taxpayer's income tax return for the year in which the reforestation expenditures were paid or incurred, and either completing Part IV of the December 2005 or later revision of Form T, if Form T is otherwise required to be filed, or attaching a statement to the return that includes the following information for each qualified timber property for which an election is being made: the unique stand identification numbers, the total number of acres reforested during the taxable year, the nature of the reforestation treatments, and the total amounts of the qualified reforestation expenditures eligible to be amortized under section 194(a) or deducted under section 194(b). If, in accordance with this notice, a taxpayer is making a section 194(b) election for a prior taxable year by filing amended federal tax return(s), this statement should be attached to the amended federal tax return(s). If, in accordance with this notice, a taxpayer is making a section 194(b) election for a prior taxable year by filing a Form 3115 for the first or second taxable year ending on or after December 31, 2005, the statement should be attached to the Form 3115.

An election under section 194 may be revoked only with the consent of the Commissioner, which will only be granted in rare and unusual circumstances. An application for consent to revoke an election under section 194 should be submitted to the Internal Revenue Service in the form of a letter ruling request. The application should contain all of the information necessary to demonstrate the rare and unusual circumstances that would justify granting the revocation including: the name and address of the taxpayer, the taxable years for which the election was in effect, and the reason for revoking the election.

3. Act Sec. 338 — Expensing of Capital Costs Incurred in Complying With Environmental Protection Agency Sulfur Regulations

Act section 338 allows small business refiners (as defined in section 45H(c)(1) of the Code) to elect, under new section 179B of the Code, to deduct 75 percent of the qualified capital costs (as defined in section 45H(c)(2)) that are paid or incurred by the taxpayer during the taxable year. In general, qualified capital costs are costs paid or incurred during a certain period to comply with the Highway Diesel Fuel Sulfur Control Requirements of the Environmental Protection Agency. The basis of any property must be reduced by the portion of the cost of the property taken into account under the election. Any election made under section 179B(a) may not be revoked without the prior written consent of the Commissioner. This notice does not apply to the election under new section 179B(e), which was added by section 1324 of the Energy Policy Act of 2005.

Effective Date: Qualified capital costs that are paid or incurred after December 31, 2002, in taxable years ending after that date.

Deadline for Making Election: The election must be made by the due date (including extensions) for filing the return for the taxable year in which the qualified capital costs are paid or incurred.

If, before June 15, 2006, a taxpayer filed its federal income tax return for a taxable year ending after December 31, 2002, in which qualified capital costs were paid or incurred after December 31, 2002, and if the taxpayer wants to make a section 179B(a) election for all qualified capital costs paid or incurred during that taxable year, the taxpayer may make the election either: (1) by filing an amended federal tax return for the taxable year in which the taxpayer paid or incurred the qualified capital costs for which the taxpayer wants to make the election, and all subsequent affected taxable year(s), on or before November 15, 2006, provided that these years are open under the period of limitations on assessment under section 6501(a); or (2) by filing a Form 3115, *Application for Change in Accounting Method*, for the first or second taxable year ending on or after December 31, 2005, in accordance with the automatic change in method of accounting provisions of Rev. Proc. 2002–9, 2002–1 C.B. 327, as modified and clarified by Announcement 2002–17, 2002–1 C.B. 561, modified and amplified by Rev. Proc. 2002–19, 2002–1 C.B. 696, and amplified, clarified, and modified by Rev. Proc. 2002–54, 2002–2 C.B. 432, or any successor. The change in method of accounting from filing a Form 3115 results in a section 481(a) adjustment. Further, the scope limitations in section 4.02 of Rev. Proc. 2002–9 do not apply. Moreover, for purposes of section 6.02(4)(a) of Rev. Proc. 2002–9, the taxpayer should include on line 1a of the Form 3115 the designated automatic accounting method change number "102".

Section 1.446–1(e)(3)(ii) of the Income Tax Regulations authorizes the Commis-

sioner to prescribe administrative procedures setting forth the limitations, terms, and conditions deemed necessary to permit a taxpayer to obtain consent to change a method of accounting. In addition, section 2.04 of Rev. Proc. 2002–9 provides that unless specifically authorized by the Commissioner, a taxpayer may not request, or otherwise make, a retroactive change in method of accounting, regardless of whether the change is from a permissible or an impermissible method. See generally Rev. Rul. 90–38, 1990–1 C.B. 57.

In accordance with section 1.446–1(e)(3)(ii), Rev. Rul. 90–38, and section 2.04 of Rev. Proc. 2002–9, a taxpayer making a section 179B(a) election for a prior taxable year by filing amended federal tax return(s) in accordance with this notice is hereby granted consent to make this retroactive change in method of accounting using a cut-off method.

If a taxpayer already made a section 179B(a) election on a federal income tax return that was filed before June 15, 2006, but did not include with that return all of the information specified below under Interim Rules, the taxpayer should attach a statement containing the information specified below under Interim Rules to the taxpayer's next filed federal income tax return.

Interim rules: The election may be made by entering the deduction claimed at the appropriate place on a taxpayer's federal tax return for the taxable year in which the qualified capital costs are paid or incurred, and by attaching a statement to the return providing the amount of the qualified capital costs, the calculation of the deduction under section 179B, a description of the property for which the basis is reduced by the portion of the cost of the property taken into account under the election, and the amount of that basis reduction. If, in accordance with this notice, a taxpayer is making a section 179B(a) election for a prior taxable year by filing amended federal tax return(s), this statement should be attached to the amended federal tax return(s). If, in accordance with this notice, a taxpayer is making a section 179B(a) election for a prior taxable year by filing a Form 3115 for the first or second taxable year ending on or after December 31, 2005, the statement should be attached to the Form 3115.

4. Act Sec. 339 — Credit for Production of Low Sulfur Diesel Fuel

Act section 339 allows cooperative organizations described in section 1381(a) of the Code to elect, on an annual basis, under new section 45H(g) of the Code, to apportion any portion of the low sulfur diesel fuel production credit for the taxable year among patrons eligible to share in patronage dividends on the basis of the quantity or value of business done with or for those patrons for the taxable year.

Effective Date: The election applies to expenses paid or incurred after December 31, 2002, in taxable years ending after that date.

Deadline for Making Election: The election must be made on a timely filed return (including extensions) for the taxable year to which the election applies. If, before June 15, 2006, a cooperative filed its federal tax return for a taxable year ending after December 31, 2002, and if the cooperative wants to make a section 45H(g) election to apportion any portion of the low sulfur diesel fuel production credit for that taxable year among patrons eligible to share in patronage dividends for that taxable year, the cooperative may make the election by filing an amended return for that taxable year on or before November 15, 2006, provided that all of these years are open under the period of limitations on assessment under section 6501(a). If a cooperative already made a section 45H(g) election on a federal income tax return that was filed before June 15, 2006, but did not include with that return all of the information specified below under Interim Rules, the cooperative should attach a statement containing the information specified below under Interim Rules to the cooperative's next filed federal income tax return. Once made, the election is irrevocable for that taxable year.

Interim Rules: The election may be made by attaching the statement described in the instructions to new Form 8896, *Low Sulfur Diesel Fuel Production Credit*, to the cooperative's return. The cooperative should notify the patrons of the amount of credit apportioned to them in a written notice or on Form 1099–PATR, *Taxable Distributions Received From Cooperatives*, on or before the last day of the payment period (as defined in section 1382(d)) for the taxable year of the cooperative.

D. Title IV — Tax Reform and Simplification for United States Businesses

1. Act Sec. 401 — Interest Expense Allocation Rules

Act section 401 allows worldwide affiliated groups (as defined in new section 864(f)(1)(C) of the Code) to make a one-time election, under new section 864(f) of the Code, to allocate interest expense on a worldwide basis. Act section 401 also provides a one-time election to expand the financial institution group of a worldwide affiliated group. Once made, the elections apply for the taxable year for which made and all subsequent taxable years, unless revoked with the consent of the Secretary.

Effective Date: The election to allocate interest expense on a worldwide basis may be made only for the first taxable year beginning after December 31, 2008, in which a worldwide affiliated group exists that includes at least 1 foreign corporation. The election to expand a financial institution group may be made only for the first taxable year beginning after December 31, 2008, in which the pre-election worldwide affiliated group includes 1 or more financial corporations.

Deadline for Making Election: Each election must be made by the due date (including extensions) for filing the return for the first taxable year to which the election applies.

Interim Rules: Guidance for making these elections, which first become available in taxable years beginning after 2008, will be provided in the instructions to Form 1118 or in other guidance at a later date.

2. Act Sec. 404 — Reduction to 2 Foreign Tax Credit Baskets

Act section 404 allows taxpayers to elect, under new section 904(d)(2)(H)(ii) of the Code, to treat foreign tax paid or accrued in taxable years beginning after December 31, 2004, and before January 1, 2007, on an amount that does not constitute income for U.S. tax purposes as imposed on general limitation income or financial services income. Once the elec-

tion is made, it applies to the taxable year for which made and all subsequent taxable years beginning before January 1, 2007, unless revoked with the consent of the Commissioner.

Effective Date: Foreign taxes paid or accrued in taxable years beginning after December 31, 2004, and before January 1, 2007.

Deadline for Making Election: The election must be made by the due date (including extensions) for filing the tax return for the first taxable year to which the election applies.

If, before June 15, 2006, a taxpayer filed its federal tax return for a taxable year ending after December 31, 2004, and if the taxpayer wants to make a section 904(d)(2)(H)(ii) election for foreign taxes paid or accrued during that taxable year, the taxpayer may make the election by filing an amended federal tax return for the taxable year in which the foreign taxes were paid or accrued, and all subsequent affected taxable year(s), on or before November 15, 2006.

Interim Rules: An election to treat tax on amounts that do not constitute income for U.S. tax purposes as imposed on financial services income should be made by attaching a statement to the applicable tax return and including the foreign taxes for which the election is made on the separate Form 1116 or Form 1118 filed with respect to financial services income. No separate statement is required to elect to treat taxes on amounts that do not constitute income for U.S. tax purposes as imposed on general limitation income. See Treas. Reg. § 1.904–6(a)(1)(iv). If, in accordance with this notice, a taxpayer is making a section 904(d)(2)(H)(ii) election for a prior taxable year by filing amended federal tax return(s), this statement should be attached to the amended federal tax return(s).

3. Act Sec. 408 — Translation of Foreign Taxes

Act section 408 allows taxpayers that otherwise must translate foreign income tax payments at the average exchange rate to elect, under new section 986(a)(1)(D) of the Code, to use the exchange rate in effect on the date the taxes are paid, provided the foreign taxes are denominated in nonfunctional currency. Once made, the election applies to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Commissioner.

Effective Date: Taxable years beginning after December 31, 2004.

Deadline for Making Election: The election must be made by the due date (including extensions) for filing the tax return for the first taxable year to which the election applies.

If, before June 15, 2006, a taxpayer filed its federal tax return for a taxable year ending after December 31, 2004, and if the taxpayer wants to make a section 986(a)(1)(D) election for that taxable year, the taxpayer may make the election by filing an amended federal tax return for the taxable year in which the foreign taxes were paid or accrued, and all subsequent affected taxable year(s), on or before November 15, 2006.

Interim Rules: A taxpayer may elect to use the payment date exchange rates to translate all foreign income taxes, or it may elect to use the payment date exchange rates to translate only those nonfunctional currency foreign income taxes that are attributable to qualified business units with U.S. dollar functional currencies. The election should be made by attaching a statement to the applicable tax return. The statement should identify whether the election is made for all foreign taxes or only for foreign taxes attributable to qualified business units with a U.S. dollar functional currency. If, in accordance with this notice, a taxpayer is making a section 986(a)(1)(D) election for a prior taxable year by filing amended federal tax return(s), this statement should be attached to the amended federal tax return(s).

E. Title VII — Miscellaneous Provisions

1. Act Sec. 706 — Certain Alaska Natural Gas Pipeline Property treated as 7-Year Property

Act section 706 allows taxpayers to elect, under new section 168(i)(16)(B)(ii) of the Code, to treat any Alaska natural gas pipeline (as defined in section 168(i)(16)) that is placed in service after December 31, 2004, and before January 1, 2014, as being placed in service on January 1, 2014. If the election is made, the Alaska natural gas pipeline that is subject to the election will be subject to depreciation beginning on January 1, 2014, and will be 7-year property under section 168(e)(3)(C).

Effective Date: Property placed in service after December 31, 2004.

Deadline for Making Election: The election must be made by the due date (including extensions) for filing the return for the taxable year the Alaska natural gas pipeline is placed in service (determined before the application of section 168(i)(16)(B)(ii)).

Interim Rule: The election may be made by not claiming any depreciation for the pipeline on the return for the taxable year the Alaska natural gas pipeline is placed in service (determined before the application of section 168(i)(16)(B)(ii)) if this taxable year is before the taxpayer's taxable year that includes January 1, 2014.

F. Title VIII — Revenue Provisions

1. Act Sec. 909 — Sales or Dispositions to Implement Federal Energy Regulatory Commission or State Electric Restructuring Policy

Act section 909 allows taxpayers that realize qualified gain from a qualifying electric transmission transaction (QETT) to elect, under new section 451(i) of the Code, to recognize all or part of the gain ratably over an 8-year period beginning with the year that includes the date of the QETT.

Effective Date: QETTs after October 22, 2004, and before January 1, 2007 (subsequently extended by the Energy Policy Act of 2005 to QETTs before January 1, 2008).

Deadline for Making Election: The election must be made by the due date (including extensions) for filing the return for the taxable year in which the QETT occurred.

If, before June 15, 2006, a taxpayer filed its federal tax return for a taxable year ending after October 22, 2004, and if the taxpayer wants to make a section 451(i) election for a QETT occurring during that taxable year, the taxpayer may make the election either: (1) by filing an amended federal tax return for the taxable year in which the QETT occurred and all subsequent affected taxable year(s), on or before November 15, 2006; or (2) by filing a Form 3115, *Application for Change in Accounting Method*, for the first or second

taxable year ending on or after December 31, 2005, in accordance with the automatic change in method of accounting provisions of Revenue Procedure 2002–9, 2002–1 C.B. 327, as modified and clarified by Announcement 2002–17, 2002–1 C.B. 561, modified and amplified by Revenue Procedure 2002–19, 2002–1 C.B. 696, and amplified, clarified, and modified by Revenue Procedure 2002–54, 2002–2 C.B. 432, or any successor. The change in method of accounting from filing a Form 3115 results in a section 481(a) adjustment. Further, the scope limitations in section 4.02 of Revenue Procedure 2002–9 do not apply. Moreover, for purposes of section 6.02(4)(a) of Revenue Procedure 2002–9, the taxpayer should include on line 1a of the Form 3115 the designated automatic method change number "103".

Section 1.446–1(e)(3)(ii) of the Income Tax Regulations authorizes the Commissioner to prescribe administrative procedures setting forth the limitations, terms, and conditions deemed necessary to permit a taxpayer to obtain consent to change a method of accounting. In addition, section 2.04 of Rev. Proc. 2002–9 provides that unless specifically authorized by the Commissioner, a taxpayer may not request, or otherwise make, a retroactive change in method of accounting, regardless of whether the change is from a permissible or an impermissible method. See generally Rev. Rul. 90–38, 1990–1 C.B. 57.

In accordance with section 1.446–1(e)(3)(ii), Rev. Rul. 90–38, and section 2.04 of Rev. Proc. 2002–9, a taxpayer making a section 451(i) election for a prior taxable year by filing amended federal tax return(s) in accordance with this notice is hereby granted consent to make this retroactive change in method of accounting using a cut-off method.

If a taxpayer already made a section 451(i) election on a federal income tax return that was filed before June 15, 2006, but did not include with that return all of the information specified below under Interim Rules, the taxpayer should attach a statement containing the information specified below under Interim Rules to the taxpayer's next filed federal income tax return. Once made, the election is irrevocable.

Interim Rules: The election may be made on a statement attached to the return for the taxable year in which the QETT occurred, that provides all of the details regarding the QETT, including a description of the items of property sold; the date of the QETT; the amount of proceeds realized and the amount of gain realized; a description of any exempt utility property purchased, its cost, the date of purchase, and the identity of the purchaser (taxpayer or other member of the taxpayer's affiliated group); and a representation indicating the total cost of exempt utility property the taxpayer intends to purchase.

If, in accordance with this notice, a taxpayer is making a section 451(i) election for a prior taxable year by filing amended federal tax return(s), this statement should be attached to the amended federal tax return(s). If, in accordance with this notice, a taxpayer is making a section 451(i) election for a prior taxable year by filing a Form 3115 for the first or second taxable year ending on or after December 31, 2005, the statement should be attached to the Form 3115.

PAPERWORK REDUCTION ACT

The collection of information contained in this notice 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 1545–1986.

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 collections of information in this notice are in sections A.1., B.1., B.2., C.1., C.2., C.3., C.4., D.2., D.3., and F.1.

1. Act Sec. 102 (section A.1.)

The estimated total annual reporting or recordkeeping burden is 100 hours.

The estimated annual burden per respondent/recordkeeper varies from 15 minutes to 1 hour, depending on individual circumstances, with an estimated average of 30 minutes. The estimated number of respondents or recordkeepers is 200.

The estimated annual frequency of responses (used for reporting requirements only) is once.

The likely respondents are businesses or other for-profit institutions, farms and individuals.

This information is needed to inform the IRS that an election under section 631(a) has been revoked in accordance with Act section 102(c).

2. Act section 242 (section B.1.)

The estimated total annual reporting or recordkeeping burden is 500 hours.

The estimated annual burden per respondent/recordkeeper varies from 30 minutes to 10 hours, depending on individual circumstances, with an estimated average of 1 hour. The estimated number of respondents or recordkeepers is 500.

The estimated annual frequency of responses (used for reporting requirements only) is once.

The likely respondents are individuals and businesses.

This information is needed to ensure the consistent treatment of participations and residuals for each property.

3. Act section 244 (section B.2.)

The estimated total annual reporting or recordkeeping burden is 500 hours.

The estimated annual burden per respondent/recordkeeper varies from 30 minutes to 10 hours, depending on individual circumstances, with an estimated average of 1 hour. The estimated number of respondents or recordkeepers is 500.

The estimated annual frequency of responses (used for reporting requirements only) is once.

The likely respondents are individuals and businesses.

This information is needed to ensure that each film or television production qualifies for the deduction.

4. Act section 313 (section C.1.)

The estimated total annual reporting or recordkeeping burden is 40 hours.

The estimated annual burden per respondent/recordkeeper varies from 30 minutes to 1.5 hours, depending on individual circumstances, with an estimated average of 1 hour. The estimated number of respondents or recordkeepers is 40.

The estimated annual frequency of responses (used for reporting requirements only) is once.

The likely respondents are cooperatives described in section 1381(a).

This information is needed to support the *pro rata* apportionment among patrons of the cooperative, as allowed by section 40(g)(6).

5. Act section 322 (section C.2.)

The estimated total annual reporting or recordkeeping burden is 3 million hours.

The estimated annual burden per respondent/recordkeeper varies from 30 minutes to 3 hours, depending on individual circumstances, with an estimated average of 1.5 hours. The estimated number of respondents or recordkeepers is 2 million.

The estimated annual frequency of responses (used for reporting requirements only) is once.

The likely respondents are large timber producers and independent timber producers, including nonindustrial landowners.

This information is needed to prevent the improper shifting of basis between qualified timber properties for which depletion is available and qualified timber properties for which depletion is not available because an election under section 194 has been made.

6. Act section 338 (section C.3.)

The estimated total annual reporting or recordkeeping burden is 75 hours.

The estimated annual burden per respondent/recordkeeper varies from 30 minutes to 1 hour, depending on individual circumstances, with an estimated average of 45 minutes. The estimated number of respondents or recordkeepers is 100.

The estimated annual frequency of responses (used for reporting requirements only) is once.

The likely respondents are businesses.

This information is needed to ensure that the deduction is properly determined and to ensure the specific identification of each property for which the basis is reduced.

7. Act section 339 (section C.4.)

The estimated total annual reporting or recordkeeping burden is 50 hours.

The estimated annual burden per respondent/recordkeeper varies from 30 minutes to 1.5 hours, depending on individual circumstances, with an estimated average of 1 hour. The estimated number of respondents or recordkeepers is 50.

The estimated annual frequency of responses (used for reporting requirements only) is once.

The likely respondents are cooperatives described in section 1381(a).

This information is needed to support the apportionment of the section 45H(g) credit among patrons of a cooperative.

8. Act section 404 (section D.2.)

The estimated total annual reporting or recordkeeping burden is 7,500 hours.

The estimated annual burden per respondent/recordkeeper varies from 15 minutes to 1 hour, depending on individual circumstances, with an estimated average of 30 minutes. The estimated number of respondents or recordkeepers is 15,000.

The estimated annual frequency of responses (used for reporting requirements only) is once.

The likely respondents are large multinational corporations that are financial services entities.

This information is needed to enable the IRS to verify the computation of the allowable foreign tax credit.

9. Act section 408 (section D.3.)

The estimated total annual reporting or recordkeeping burden is 25,000 hours.

The estimated annual burden per respondent/recordkeeper varies from 15 minutes to 1 hour, depending on individual circumstances, with an estimated average of 30 minutes. The estimated number of respondents or recordkeepers is 50,000.

The estimated annual frequency of responses (used for reporting requirements only) is once.

The likely respondents are large multinational corporations.

This information is needed to enable the IRS to verify the computation of the allowable foreign tax credit.

10. Act section 909 (section F.1.)

The estimated total annual reporting or recordkeeping burden is 1,000 hours.

The estimated annual burden per respondent/recordkeeper varies from 30 minutes to 2 hours, depending on individual circumstances, with an estimated average of 1 hour. The estimated number of respondents or recordkeepers is 1,000.

The estimated annual frequency of responses (used for reporting requirements only) is once.

The likely respondents are providers of electric transmission services.

This information is needed to ensure that the gain from the sale of certain electric transmission property is properly reported.

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.

EFFECT ON OTHER DOCUMENTS

Rev. Proc. 2002–9, 2002–1 C.B. 327, as modified and clarified by Announcement 2002–17, 2002–1 C.B. 561, modified and amplified by Rev. Proc. 2002–19, 2002–1 C.B. 696, and amplified, clarified, and modified by Rev. Proc. 2002–54, 2002–2 C.B. 432, is modified and amplified to include these automatic changes in method of accounting in the APPENDIX.

DRAFTING INFORMATION

The principal author of this notice is Henry S. Schneiderman of the Office of Associate Chief Counsel (Procedure & Administration). For further information regarding the elections under Act sections 401, 404 or 408, contact the Office of Associate Chief Counsel (International) at (202) 622–3800 (not a toll-free call). For further information regarding the elections under Act sections 102, 242, 244, 313, 322, 338, 339 or 706, contact the Office of Associate Chief Counsel (Passthroughs & Special Industries) at (202) 622–3000 (not a toll-free call). For further information regarding the election under Act section 909, contact the Office of Associate Chief Counsel (Income Tax & Accounting) at (202) 622–4800 (not a toll-free call).

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26 CFR 601.201: Rulings and determination letters.

Rev. Proc. 2006–23

SECTION 1. PURPOSE AND BACKGROUND

.01 *Purpose.* This revenue procedure sets forth the procedures by which taxpayers may obtain assistance from the U.S. competent authority under the provisions of tax coordination agreements entered into between the Internal Revenue Service (IRS) and the tax agencies of American Samoa, Guam, the Commonwealth of the Northern Mariana Islands (NMI), the United States Virgin Islands (USVI), and Puerto Rico (collectively, the possessions), as described in section 1.02 of this revenue procedure. The tax