



TaxNewsFlash

United States

No. 2018-463
October 26, 2018

Proposed regulations: Removal of regulations on advance payments, goods and long-term contracts

Proposed regulations (REG-104872-18) to remove existing regulations that are no longer necessary after the enactment of the new U.S. tax law (Pub. L. No. 115-97) are included in the Internal Revenue Bulletin 2018-44 (October 29, 2018).

Read the [proposed regulations](#) [PDF 220 KB] as initially released for publication in the Federal Register earlier in October 2018.

The proposed regulations would remove existing Reg. section 1.451-5 relating to the treatment of advance payments for goods and long-term contracts and would affect accrual method taxpayers that receive advance payments for goods, including those for inventorable goods. In general, Reg. section 1.451-5 permits taxpayers to defer the inclusion of income from advance payments for goods for federal tax purposes until the advance payments are recognized in gross receipts under the taxpayer's method of accounting for financial reporting purposes.

This action was expected. The new tax law added a new section 451(b) to the Code, which states that for accrual method taxpayers, the "all events test" is not met any later than when the item of income is taken into account as revenue in a taxpayer's applicable financial statement or such other financial statement as the Treasury Secretary may prescribe.

The new tax law also added a new section 451(c) which permits an accrual method taxpayer that receives an advance payment during the tax year to include the portion of the payment in income in the tax year of receipt as required under section 451(b) and to defer including the remaining portion of the payment until the following tax year, similar to the rules in Rev. Proc. 2004-34. These new Code sections override the deferral method provided by Reg. section 1.451-5. Therefore, it was expected that these regulations would be withdrawn.

KPMG observation

Taxpayers that are presently using a method of accounting permitted by Reg. section 1.451-5 will need to make an accounting method change to a permitted method of accounting for advance payments, effective for tax years beginning after December 31, 2017.

Interim guidance has been issued under Notice 2018-35 permitting taxpayers to continue to rely on Rev. Proc. 2004-34 to make automatic accounting method changes for advance payments until guidance is issued specific to section 451(b) and 451(c).

Other changes that do not qualify under Rev. Proc. 2004-34 are generally non-automatic method changes and must be filed by the end of the year of change. It is uncertain whether Treasury and IRS will issue procedural guidance providing additional automatic accounting method changes before the end of the calendar year.

Comments, requests for public hearing

Before the proposed regulations are adopted as final regulations, consideration will be given to any comments that are timely submitted to the IRS in the preamble under the "Addresses" section.

A public hearing will be scheduled, if requested, by any person that timely submits comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the Federal Register.

The information contained in TaxNewsFlash is not intended to be "written advice concerning one or more Federal tax matters" subject to the requirements of section 10.37(a)(2) of Treasury Department Circular 230, as the content of this document is issued for general informational purposes only, is intended to enhance the reader's knowledge on the matters addressed therein, and is not intended to be applied to any specific reader's particular set of facts. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

KPMG International is a Swiss cooperative that serves as a coordinating entity for a network of independent member firms. KPMG International provides no audit or other client services. Such services are provided solely by member firms in their respective geographic areas. KPMG International and its member firms are legally distinct and separate entities. They are not and nothing contained herein shall be construed to place these entities in the relationship of parents, subsidiaries, agents, partners, or joint venturers. No member firm has any authority (actual, apparent, implied or otherwise) to obligate or bind KPMG International or any member firm in any manner whatsoever.

Direct comments, including requests for subscriptions, to [Washington National Tax](#). For more information, contact KPMG's Federal Tax Legislative and Regulatory Services Group at + 1 202.533.4366, 1801 K Street NW, Washington, DC 20006-1301.

To unsubscribe from TaxNewsFlash-United States, reply to [Washington National Tax](#).

[Privacy](#) | [Legal](#)