

**Notice of Intert to Issue Guidance
Allowing Farmers to Expeditiously
Change Their Method of
Accounting for Deferred Payment
Sales Contract in Computing
Alternative Minimum Tax**

Notice 97-13

SUMMARY: The Internal Revenue Service intends to provide approval for taxpayers engaged in the business of farming to change their method of accounting for the income from certain deferred payment sales contracts for purposes of computing their alternative minimum tax (AMT). Farmers will be allowed to change to a permissible method of accounting for this income, effective for taxable years beginning after December 31, 1996, by attaching Form 3115 to their 1997 federal income tax returns to be filed during 1998. Farmers who change their method of accounting in accordance with this procedure will then receive audit protection with respect to the use of an impermissible method of accounting for all taxable years prior to the change, in accordance with generally applicable rules.

BACKGROUND: The Service has received numerous inquiries on the proper treatment, for AMT purposes, of income from the sale of products raised by farmers or other inventory property sold in the ordinary course of the farming business under deferred payment sales contracts. A deferred payment sales contract is one where at least one payment is to be received after the close of the taxable year in which the product is sold.

Section 56(a)(6) of the Code provides that, in computing alternative minimum taxable income (AMTI), income from the disposition of property such as farm products is determined without regard to the installment method under § 453. Thus, a farmer using the cash method, who sells farm products under a deferred payment sales contract and does not elect out of the installment method of reporting, must include in AMTI in the year of the sale both the cash received and the fair market value (or the issue price) of the deferred payment obligation. Otherwise, the farmer is using an impermissible method of accounting. If the farmer elects not to apply the installment method to the sale, and reports the income in the year of

the sale, there is no AMTI adjustment with respect to the sale.

Section 446(e) generally provides that a taxpayer that changes its method of accounting must secure the Commissioner's consent before computing income using the new method. In general, taxpayers who wish to change their method of accounting must file Form 3115, Application for Change in Accounting Method, with the Commissioner within the first 180 days of the taxable year in which the taxpayer desires to make the change, and must pay a user fee (ranging from \$500 to \$900). Treas. Reg. § 1.446-1(e)(3)(i). In addition, § 1.446-1(e)(3)(ii) authorizes the Commissioner to prescribe administrative procedures setting forth the limitations, terms, and conditions necessary to obtain consent to change a method of accounting.

AUTOMATIC CHANGE IN METHOD OF ACCOUNTING: The Service will issue guidance that will allow farmers currently using an impermissible method of accounting for income from the sale of farm products under deferred payment sales contracts for AMT purposes to automatically change to a permissible method of accounting. Under the forthcoming guidance, farmers will be allowed to request the method change by attaching Form 3115 to their timely filed 1997 federal income tax return (due in 1998). No user fee will be required.

The method change will be effective for taxable years beginning after December 31, 1996. In addition, the method change will result in audit protection for all prior taxable years with respect to the impermissible method of accounting (*i.e.*, the examining agent will not propose that a farmer change the impermissible method of accounting for any prior taxable year) in accordance with generally applicable rules. See Rev. Proc. 92-20, Section 10.12, 1992-1 C.B. 685. Farmers currently using an impermissible method of accounting for such sales should continue to use that method in computing AMT for taxable years ending prior to January 1, 1997.

The automatic method change procedure will not be available to farmers who have received written notification from an examining agent (*e.g.*, by examination plan, information document request, notification of proposed adjustments or income tax examination

changes) prior to January 28, 1997, specifically citing as an issue under consideration the farmer's method of accounting for income from sales of farm products under deferred payment sales contracts for AMT purposes. In addition, the guidance will not apply if the farmer's method of accounting for such income for AMT purposes is an issue under consideration by an appeals office or a federal court.

DRAFTING INFORMATION: The principal author of this notice is William A. Jackson of the Office of Assistant Chief Counsel (Income Tax and Accounting). For further information regarding this notice, contact Jonathan Strum at (202) 622-4960 (not a toll-free call).