



under § 1362(a) of the Internal Revenue Code effective for the taxable year beginning January 1, 1997.

BACKGROUND: Pursuant to § 1378, an S corporation generally must have a calendar year as its tax year. However, a corporation may not automatically change its annual accounting period to a calendar year if it attempts to elect to be an S corporation effective for the taxable year immediately following the short period required to effect the change. See § 1.442-1(c)(2)(v) of the Income Tax Regulations; Rev. Proc. 92-13, 1992-1 C.B. 665, section 4.01(5). In addition, a corporation is precluded under § 1.442-1(c)(2)(i) from automatically changing its annual accounting period if the corporation has changed it within the last ten calendar years, and under Rev. Proc. 92-13, section 4.01(2), if the corporation has changed it within the last six calendar years.

The Small Business Job Protection Act of 1996 (SBJPA), Pub. L. No. 104-188, 110 Stat. 1755, significantly amended Subchapter S of the Code, expanding eligibility to elect to be an S corporation. These amendments generally are effective for taxable years beginning after December 31, 1996, and are intended to allow more corporations to elect to be S corporations as of January 1, 1997.

WAIVER OF LIMITATIONS: Consistent with this intent, the Service waives the limitations of §§ 1.442-1(c)(2)(i) and (c)(2)(v), and of sections 4.01(2) and 4.01(5) of Rev. Proc. 92-13, on a corporation's ability to automatically change its annual accounting period to a calendar year effective for the short period ending December 31, 1996, provided that the corporation:

(1) is otherwise eligible to change its annual accounting period under either § 1.442-1(c) or Rev. Proc. 92-13;

(2) timely and otherwise validly elects to be an S corporation effective for the taxable year beginning on January 1, 1997; and

(3) follows the special filing procedures set forth below.

FILING PROCEDURES: A corporation that relies upon this notice to change its annual accounting period under either § 1.442-1(c) or Rev. Proc. 92-13 must:

(1) properly complete a Form 2553, Election by a Small Business Corporation;

Waiver of Certain Limitations on Obtaining Automatic Consent To Change an Accounting Period and Elect To Be an S Corporation Effective January 1, 1997

Notice 97-20

SUMMARY: The Internal Revenue Service waives certain limitations on a corporation's ability to automatically change its annual accounting period in order to elect to be an S corporation

(2) properly complete a Form 1128, Application to Adopt, Change or Retain a Tax Year, and attach it to the Form 2553;

(3) write "FILED UNDER NOTICE 97-20" at the top of both the Form 2553 and the Form 1128; and

(4) timely file the Form 2553 (with the attached Form 1128) with the appropriate Internal Revenue Service Center (Attention: ENTITY CONTROL) in accordance with the instructions for Form 2553. A corporation that qualifies to automatically change its annual accounting period under § 1.442-1(c) as a result of this notice should not file the statement required by § 1.442-1(c)(1).

DRAFTING INFORMATION: The principal author of this notice is Susie K. Bird of the Office of Assistant Chief Counsel (Income Tax and Accounting). For further information, contact Ms. Sandra Cheston at (202) 622-4840 (not a toll-free call).

PAPERWORK REDUCTION ACT: The collections of information contained in this notice have 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 1545-1532.

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 the **FILING PROCEDURES** section of this notice. This information is required by the Service to implement the provisions of the Small Business Job Protection Act of 1996 expanding eligibility to elect to be an S corporation. The collections of information are mandatory for a taxpayer that chooses to change its annual accounting period to a calendar year effective for the short period ending December 31, 1996, and elect to be an S corporation effective for the taxable year beginning January 1, 1997. The likely respondents are corporations.

The estimated total annual reporting burden is 500 hours.

The estimated annual burden per respondent will vary from 1 minute to 2 minutes, depending on individual circumstances, with an estimated average of 1.5 minutes. The estimated number of respondents is 20,000. The estimated frequency of responses is once.

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.
