

Elections Into Mark-to-Market Accounting Under Section 1.475(c)-1 of the Regulations

Notice 97-37

On December 24, 1996, final regulations (T.D. 8700, [1997-7 I.R.B. 5] 61 F.R. 67715) were published to furnish guidance under § 475 of the Internal Revenue Code, including the scope of exemptions from the mark-to-market requirements. These regulations contain elections out of certain exemptions, including the intragroup-customer election (§ 1.475(c)-1(a)(3)(iii)(B) of the Income Tax Regulations), the customer paper election (§ 1.475(c)-1(b)(4)(i)), and the negligible sales election (§ 1.475(c)-1(c)(1)(ii)). Section 1.475(c)-1(b)(4)(i)(B) provides a June 23, 1997, deadline to make the customer paper election on an amended return.

The Internal Revenue Service recognizes that taxpayers need further guidance concerning these elections. The Service intends to issue guidance that will address the interplay of the elections under § 1.475(c)-1, the extent to which these elections are available on a retroactive basis, and the application of the § 475(b)(2) identification requirements to taxpayers making these elections. Because taxpayers need additional guidance to evaluate whether to make an election, and because the elections cannot be revoked without the consent of the Commissioner, the additional guidance will extend the filing deadline from June 23, 1997, to at least 45 days after that guidance is released. It should be noted, however, that an amended return making an election must be filed within the statute of limitations on assessment under § 6501(a).

The principal drafter of this notice is Alan B. Munro of the Office of Assistant Chief Counsel (Financial Institutions and Products). For further information regarding this notice contact Mr. Munro on (202) 622-3920 (not a toll-free call).
