

Part III

Administrative, Procedural, and Miscellaneous

26 CFR 1.446–6: REMIC Inducement Fees (Also §§ 446, 481, 860C; 1.446–1, 1.860C–1)

Rev. Proc. 2004–30

SECTION 1. PURPOSE

This revenue procedure provides the procedures for taxpayers described in section 3 to change their methods of accounting for inducement fees received in connection with becoming holders of noneconomic residual interests in Real Estate Mortgage Investment Conduits (REMICs) to a safe harbor method provided under § 1.446–6(e)(1)–(2) of the Income Tax Regulations.

SECTION 2. BACKGROUND

.01 Under § 1.446–6, if a taxpayer receives an inducement fee in connection with becoming the holder of a noneconomic residual interest in a REMIC, the inducement fee must be taken into account over the remaining expected life of the applicable REMIC in a manner that reasonably reflects, without regard to § 1.446–6(c), the after-tax costs and benefits of holding that noneconomic residual interest. See § 1.446–6(c) and (d). Section 1.446–6 provides two safe harbor methods of accounting for these inducement fees, the book method in § 1.446–6(e)(1) and the modified REMIC regulatory method in § 1.446–6(e)(2). Section 1.446–6(e)(3) authorizes the Commissioner to provide one or more additional safe harbor methods by publishing a revenue ruling or revenue procedure.

.02 If a method of accounting for inducement fees received with respect to becoming the holder of noneconomic REMIC residual interests does not comply with § 1.446–6, that method of accounting is impermissible. Any change in a taxpayer's treatment of these inducement fees, including a change to conform to § 1.446–6, is a change in method of accounting to which the provisions of §§ 446 and 481 of the Internal Revenue Code and the regulations thereunder apply.

.03 Under § 446(e) and § 1.446–1(e)(2)(i), a taxpayer generally must secure the consent of the Commissioner before changing a method of accounting for federal income tax purposes. Section 1.446–1(e)(3)(ii) authorizes the Commissioner to prescribe administrative procedures setting forth the terms and conditions necessary to obtain consent to change a method of accounting. Except as provided in sections 3 and 4 of this revenue procedure, a taxpayer seeking to change the taxpayer's method of accounting for inducement fees must follow the advance consent procedures of Rev. Proc. 97–27, 1997–21 I.R.B. 10 (or successor), as modified and amplified by Rev.

Proc. 2002–19, 2002–1 C.B. 696, as amplified and clarified by Rev. Proc. 2002–54, 2002–2 C.B. 432.

.04 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), provides procedures by which taxpayers may obtain automatic consent to change to the methods of accounting described in the Appendix of the revenue procedure. Section 5.03 of Rev. Proc. 2002-9 provides that, unless otherwise provided, a taxpayer making a change in method of accounting under the revenue procedure must take into account a § 481(a) adjustment in the manner provided in section 5.04 of the revenue procedure.

SECTION 3. SCOPE

This revenue procedure applies to a taxpayer that seeks to change from any method of accounting for inducement fees received with respect to becoming the holder of noneconomic REMIC residual interests (including one of the safe harbor methods provided under § 1.446–6(e)) to one of the safe harbor methods provided under § 1.446–6(e)(1)–(2).

SECTION 4. CHANGE IN METHOD OF ACCOUNTING

A taxpayer within the scope of this revenue procedure must follow the automatic change in method of accounting provisions of Rev. Proc. 2002-9 (or successor), with all of the following modifications:

(1) The scope limitations in section 4.02 of Rev. Proc. 2002–9 do not apply to a taxpayer that wants to make the change for the taxpayer’s first taxable year ending on or after May 11, 2004.

(2) The taxpayer prepares and files the newest version of the Form 3115 in accordance with section 6 of Rev. Proc. 2002–9, and the taxpayer enters the designated number for the automatic change in method in Line 1a of the Form 3115. The designated number for the automatic accounting method change authorized by this revenue procedure is “79”.

(3) The taxpayer identifies the specific safe harbor method under § 1.446–6(e) to which the taxpayer is changing.

SECTION 5. EFFECTIVE DATE

This revenue procedure is effective on May 11, 2004.

SECTION 6. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 2002–9 is modified and amplified to include this automatic change in section 4.01 of the APPENDIX.

DRAFTING INFORMATION

The principal authors of this revenue procedure are John W. Rogers III and Tina Jannotta of the Office of Associate Chief Counsel (Financial Institutions and Products). For further information regarding this revenue procedure, contact Mr. Rogers at (202) 622-3950 (not a toll-free call).