

Instructions for Form 1128

(Rev. June 1987)

Application for Change in Accounting Period

(Section references are to the Internal Revenue Code, unless otherwise noted.)

General Instructions

You should normally receive a determination on your application within 75 days. If you do not hear from us within 75 days of submitting your completed Form 1128, you may inquire about the status of your application by writing to: Control Clerk, CC:C:4, Internal Revenue Service, Room 5040, 1111 Constitution Ave., N.W., Washington, D.C. 20224.

Paperwork Reduction Act Notice.—We ask for this information to carry out the Internal Revenue laws of the United States. We need it to ensure that taxpayers are complying with these laws and to allow us to figure and collect the right amount of tax. Taxpayers are required to give us this information.

Items You Should Note

Generally, certain tax entities must use the calendar year as their tax year. These entities are: partnerships (however, see Exceptions below), S corporations, and personal service corporations. If these entities establish to the satisfaction of the Secretary that there is a business purpose for a tax year other than a calendar year, they may change or adopt another year by filing Form 1128. These changes are generally effective for tax years beginning after 1986. In addition, any tax-exempt trust, charitable trust, or foreign trust (other than a foreign trust that has no income effectively connected with the U.S.) will also have to adopt a calendar tax year.

For more information regarding the tax years of partnerships, S corporations, and personal service corporations, see section 806 of the Tax Reform Act of 1986. Also, see Rev. Proc. 87-32 and Rev. Rul. 87-57 for guidance for these taxpayers. For more information regarding the tax years of trusts, see section 1403 of the Tax Reform Act of 1986.

A. Purpose of Form.—File this form to request a change in an annual accounting period. Partnerships can also use the form to adopt an accounting period.

If you need more information, see **Publication 538**, Accounting Periods and Methods.

B. Who Must File Form 1128.—Generally, individuals, partnerships, corporations (including S corporations, IC-DISCs, FSCs, and foreign corporations), estates, trusts, and tax exempt organizations must file Form 1128 to change accounting periods.

The parent of an affiliated group that files a consolidated return must file Form 1128 on behalf of the consolidated group. One Form 1128 may be filed for the group if the Form 1128 clearly indicates that it is for the parent corporation and all its subsidiaries, and the parent corporation

answers all relevant questions on the application for every member of the consolidated group.

If you are requesting a change to a 52-53 week tax year and, in addition, wish to change the month with reference to which the tax year ends, prior approval of the Commissioner is necessary.

See Regulations section 1.441-2(c)(4) and 1.1502-76(a)(1) and Publication 538, for more information.

Exceptions: Form 1128 is not required to be filed by:

(a) an employee plan or employee trust using **Form 5308**, Request for Change in Plan/Trust Year;

(b) a corporation that meets the terms of Regulations section 1.442-1(c) and files the required statement instead of Form 1128;

(c) a subsidiary corporation required to change its annual accounting period to file a consolidated return with its parent (see Regulations sections 1.442-1(d) and 1.1502-76(a));

(d) a corporation making an election to be treated as an S corporation filing **Form 2553**, Election by a Small Business Corporation, to change its annual accounting period (See Rev. Proc. 87-32);

(e) a partnership that is adopting or changing to the tax year of one or more of its partners who have an aggregate interest in the partnership of greater than 50 percent;

(f) if a partnership cannot determine a tax year in (e), a partnership adopting or changing to the tax year of all of the principal partners (a principal partner is one who holds a 5% or more interest in partnership profits or capital);

(g) a partnership adopting or changing to a tax year described in regulations section 1.706-1(b). This includes the calendar year if the partnership is required to use such year;

(h) newly married individuals wishing to adopt the accounting period of the other spouse in order to file a joint return. Regulations section 1.442-1(e) must be followed; or

(i) an organization exempt under section 501(a) unless that organization has changed its annual accounting period at any time within the 10 calendar years ending with the calendar year that includes the beginning of the short period resulting from the change of an annual accounting period, and it had an annual return filing requirement at any time during that 10-year period. See Rev. Proc. 85-58, 1985-2 C.B. 740. This exception does not apply to farmer's cooperatives exempt from Federal income tax under section 521; organizations described in sections 526, 527, or 528; organizations described in section 401(a); and

organizations involved in a group change in accounting period for all its subordinate organizations.

Note: A new partnership not described in (e), (f), or (g) above must apply for advance approval of its tax year. The application should be made on Form 1128. An application by letter must state that the new partnership is adopting a tax year and must include the information requested in Sections A and C and in the signature area of Form 1128.

C. Time and Place for Filing.—Generally, you must file Form 1128 by the 15th day of the second calendar month after the short period ends. For example, if you are requesting a change to the calendar year, you must file Form 1128 by February 15 of the next year. For partnership adoptions, see Specific Instructions for Section C.

If you are requesting to retain a tax year, you must file Form 1128 by the 75th day of the beginning of the tax year that you desire to retain.

File Form 1128 with the Commissioner of Internal Revenue, Washington, D.C. 20224; Attention CC:C:4. However, a request for a change in accounting period for an exempt organization and a request for a change in the trust years for a qualified or unqualified plan should be filed with the Assistant Commissioner (Employee Plans and Exempt Organizations), 1111 Constitution Ave., N.W., Washington, D.C. 20224.

Note: If an affiliated group filing a consolidated return wishes to change its year end and is considering the use of Rev. Proc. 84-34, 1984-1 C.B. 508, every member of the affiliated group must meet all its requirements and comply with all its conditions.

Exceptions: If you are filing Form 1128 for reason (1), (2), (3), or (4) below, DO NOT file it with the Commissioner. Instead, file an original Form 1128 only with the Director of the Service Center where you file your return.

(1) If you are an individual changing from a fiscal year to a calendar year; receiving income from only wages, salaries, interest, dividends, capital gains, pensions, annuities, rents, or royalties; and meeting all the provisions of Rev. Proc. 66-50, 1966-2 C.B. 1260;

(2) If you are a trustee or co-trustee requesting a change for an inter vivos or testamentary trust and meeting all the provisions of Rev. Proc. 68-41, 1968-2 C.B. 943;

(3) If you are an exempt organization requesting a change under the simplified method of Rev. Proc. 85-58, 1985-2 C.B. 740 or Rev. Proc. 76-10, 1976-1 C.B. 548, see Specific Instructions, Section F, for details; or

(4) Corporations requesting a change under Rev. Proc. 84-34.

(5) Partnerships, S corporations, or personal service corporations requesting a change under the expeditious approval provisions of Rev. Proc. 87-32.

If you are filing under any of the above exceptions, you may assume that the change has been approved unless you receive a letter from the Director of the Internal Revenue Service Center denying approval because the Form 1128 either is not timely filed or does not comply with the provisions of the revenue procedure.

D. Late Applications.—If you file after the 15th day of the second calendar month following the end of the short period (for partnership adoptions by the end of the month following the close of the tax year to be adopted), it is "LATE." The application will be considered for processing only upon a showing of "good cause" and if it can be shown to the satisfaction of the Commissioner that granting an extension will not jeopardize the Government's interests. To facilitate consideration of extension requests, information fully responsive to each of the criteria set forth in section 4 of Rev. Proc. 79-63, 1979-2 C.B. 578 should be provided. An extension of time will ordinarily be denied if the application is received beyond 90 days after the time required for filing Form 1128, except in very unusual and compelling circumstances.

E. Premature Applications.—Generally, an application may not be approved if it is submitted more than 60 days prior to the close of the short year. For partnership adoptions, see Specific Instructions for Section C.

F. Restrictions.—IRS will generally approve Form 1128 if: (1) you establish a substantial business purpose; or (2) you and your spouse want to use the same tax year so you can file a joint return, and you and the Commissioner agree to the terms, conditions, and adjustments under which the change or adoption will be made. In determining whether you have established a substantial business purpose, IRS will consider all facts and circumstances relating to the change or adoption, including tax consequences. IRS will also consider the effect of the change on your annual business activity cycle. The agreement between you and the Commissioner may also provide terms, conditions, and adjustments necessary to prevent a substantial distortion of income. IRS will not approve Form 1128 if the effect would distort income reported. Examples of income distortion include:

- Deferring part of the income or shifting many of the deductions to another year in order to substantially reduce the tax.
- Deferring income or shifting deductions for any other person, such as a partner, a beneficiary, or an S corporation shareholder.
- Creating a short period with either:
 - (a) a large operating loss; or
 - (b) for an S corporation, substantial amounts treated as long-term capital gain.

G. Penalty.—A penalty will be imposed if you do not make estimated tax payments as required by either section 6654 (for individuals) or 6154 (for corporations) while awaiting approval of Form 1128.

H. Foreign Sales Corporations.—A Foreign Sales Corporation (FSC) as defined in section 922 must complete Sections A and G.

Specific Instructions

Individual taxpayers need only complete Section A and the signature area. All other filers should complete Section A, the

signature area, and all other parts that apply to them. On any attachments show the taxpayer's name, identifying number, and address. Also show that the sheet is an attachment to Form 1128.

State whether the taxpayer desires a conference in the National Office if the IRS proposes to disapprove its request.

Name.—If the application concerns a husband and wife who file a joint return, enter your name and your spouse's name.

Identifying Number

Individuals.—Individuals should enter their social security number in this block. If the application is made on behalf of a husband and wife who file their income tax return jointly, enter the social security numbers of both. However, if you or your spouse are engaged in a trade or business, enter the employer identification number instead of the social security numbers.

Others.—Applicants other than individuals should enter their employer identification numbers in this block.

Person to Contact

The person to contact must be the person authorized to sign the Form 1128, or the applicant's authorized representative.

Section A.—All Filers

Items 1a and 1b.—If either ending date represents a 52-53 week accounting period, also show in item 1 whether you elected the period under section 441(f)(1)(A) or 441(f)(1)(B). For more details, see Regulations sections 1.441-2(a) and (b).

Item 2.—The short period return that is required must begin on the day following the close of the old tax year and end on the day before the first day of the new tax year. For taxpayers adopting a tax year, the short period return that is required must begin on the date business commenced operations or date of incorporation and end on the day before the first day of the new tax year.

Section C.—Partnerships

A partnership must get the Commissioner's advance approval to change or adopt an accounting period unless it meets any of the exceptions (e), (f), or (g) under General Instruction B. Partners MUST also get advance approval to change their accounting periods.

A new partnership that is required to obtain the Commissioner's advance approval to adopt an accounting period (see Note under General Instruction B) has until the end of the month after the new period ends to file the application.

For an unincorporated organization that qualifies as an "investing partnership" or that explores mineral property under an "operating agreement," see section 761(a)(1), (2), or (3) and applicable regulations.

Item 1.—Enter the first date a business transaction results in a tax consequence such as receiving income or incurring an expense.

Section E.—S Corporations

In general, an S corporation will not be granted permission to change to a tax year unless the tax year is a permitted year.

A "permitted year" is:

- (1) a year that ends on December 31, or
- (2) any other accounting period for which the corporation establishes a business purpose to the satisfaction of the Commissioner.

For purposes of (2), any deferral of income to shareholder shall not be treated as a business purpose. For guidance with respect to what constitutes a business purpose, taxpayers should refer to Rev. Proc. 87-57.

Section F.—Tax Exempt Organizations

The purpose of Rev. Proc. 85-58 is to simplify the procedures to be followed by certain tax exempt organizations desiring to change their annual accounting period. Rev. Proc. 85-58 states that an organization exempt under section 501(a) need not file Form 1128 unless that organization has changed its annual accounting period at any time within the 10 calendar years ending with the calendar year that includes the beginning of the short period resulting from the change of an annual accounting period, and it had an annual return filing requirement at any time during that 10-year period. Rev. Proc. 85-58 does not apply to: farmers' cooperatives exempt from Federal income tax under section 521; organizations described in section 526, 527, or 528; organizations described in section 401(a); and organizations requesting a change in accounting periods on a group basis.

A central organization should follow Rev. Proc. 76-10 to apply for a group change in accounting period for all its subordinate organizations. Rev. Proc. 76-10 does not apply to: farmers' cooperatives exempt from Federal income tax under section 521; certain organizations that have unrelated business income defined in section 512(a); and organizations that are private foundations defined in section 509(a).

Signature

Form 1128 MUST be signed.

Individual.—If this application pertains to a husband and wife, the names of both should appear in the heading and both must sign.

Estate or Trust.—Show the name of the estate or trust and the signature and title of the fiduciary or other person legally authorized to sign.

Partnership.—Show the partnership name, followed by the signature of one of the partners and the phrase "Member of partnership."

Corporations, S Corporations, IC-DISCs, FSCs, Cooperatives, Foreign Corporations, and Controlled Foreign Corporations (CFCs).

—The application must show the name of the company and the signature of the president, vice-president, treasurer, assistant treasurer, or chief accounting officer (such as tax officer) authorized to sign, and their official title. Receivers, trustees, or assignees must sign any application they are required to file. For a subsidiary corporation filing a consolidated return with its parent, the form should be signed by an authorized officer of the parent corporation. For a CFC, the form must be signed by the controlling U.S. shareholder(s).

Tax Exempt Organization.—Show the name of the organization and the signature of a principal officer or other person authorized to sign, followed by his or her title.

Preparer Other Than Applicant.—Sign on page 3 and, unless you are self-employed, show the name of the firm that employs you. If you file on an applicant's behalf, include a power of attorney. Show any specific acts the power of attorney grants, such as representation before IRS.

If the person to contact is an agent for the taxpayer, a power of attorney must be attached to the application.