



Tangible Property Regulations (TPRs) – Frequently Asked Questions

[Important Notice Regarding TPRs](#)

When do the new regulations go into effect?

Compliance with the final regulations is mandatory with tax years beginning after Dec. 31, 2013. This means that the regulations must be reflected on tax returns that you file now, whether for the 2014 calendar year or a fiscal year that begins in 2014.

How does a business comply with these new rules?

Even though reporting expenditures and dispositions in compliance with the rules changed by the TPRs is mandatory, most of the required changes are considered to be “changes in method of accounting,” and require that taxpayers get “consent” from the IRS to comply with the required changes.

The consent process can be onerous, requiring, in connection with a tax return, the preparation of one or more Forms 3115 (Application for Change in Accounting Method). These forms may require calculations known as Section 481(a) adjustments, intended to prevent items of income or deduction from being omitted or duplicated.

For example, if a calendar year taxpayer deducted a repair cost in 2012 that should have been capitalized under the new repair regulations, the taxpayer would have to begin taking depreciation deductions in the 2014 year (calculated as if the taxpayer had, in 2012, capitalized the cost and began taking depreciation deductions for the cost). To prevent the taxpayer from getting both the benefit of the 2012 deduction of the cost and of the depreciation deductions to be taken in 2014 and later years, the taxpayer must make a 481(a) adjustment that increases the taxpayer’s gross income for 2014 by the amount of cost that would not have been depreciated as of 2014, if the asset had been capitalized in 2012.

The above example of a 481(a) adjustment is unfavorable to the taxpayer, but other 481(a) adjustments can be favorable—for example, adjustments required because amounts that in pre-2014 years were required to be capitalized are, instead, deducted under the new regulations.

Form(s) 3115 **must be filed in duplicate:** 1) one copy with your 2014 federal income tax return, and 2) one copy with the National Office of the IRS in Ogden, Utah.

Does Form 3115 have to be filed?

Because of the large burden of the accounting method consent process to comply with the repair regulations, the IRS provided optional relief to “small business taxpayers” in Rev. Proc. 2015-20 that was issued in February, 2015. For this purpose, a small business is a business that has:

(1) less than \$10 million in total assets or

(2) for the three years preceding the accounting method change year, average annual gross receipts of less than \$10 million.

Under the relief, the taxpayer is not required to file Form(s) 3115 for many of the accounting method changes required by the repair regulations *if the taxpayer otherwise complies with the required changes beginning with costs and dispositions in the 2014 year.*

For some taxpayers, it will not be advantageous to avail themselves of the relief. For example, if the sum of all of the 481(a) adjustments for changes eligible for the relief is a substantial favorable adjustment, the taxpayer would be better off filing the Form(s) 3115, and taking the taxpayer-friendly deduction.

Taxpayers who do not meet the “small business taxpayer” rules above, and who have tangible assets or real property, are required to file Form(s) 3115 with their 2014 tax return.

What are the consequences of not filing a required Form 3115?

By law, compliance with the Final Tangible Property Regulations is mandatory. If your business decides not to implement the new rules, the consequences may have several negative effects: the IRS is expecting most businesses to file Form 3115. Not filing may increase exposure for an IRS audit. A failure to proactively respond to TPR may cause certain irrevocable elections. Without filing the form, it will be unclear to the IRS that you properly adopted the TPRs and therefore you may be denied its beneficial provisions (e.g. routine maintenance safe harbor) on audit. Many of the provisions of the TPRs are favorable, so adoption is not only required but recommended.

What does this mean for tax preparation fees?

All taxpayers should be aware that these MANDATORY rules are complicated and will require additional time and resources in order to properly comply. These rules will require a detailed review of items on depreciation schedules and, in many cases, a re-evaluation of the decision to add, keep, or remove items from the schedule. Failure to report any changes may result in the loss of current depreciation deductions and the ultimate loss of cost basis of improperly capitalized assets, even though they were capitalized properly according to the rules in place prior to TPRs.

If you are required to file Form(s) 3115, there will be a ONE-TIME fee increase to comply with these mandatory provisions.

What are the next steps?

Small Business Taxpayer. If you qualify for the “small business taxpayer” relief in Rev. Proc 2015-20, CSR will contact you if we perceive that utilizing the relief is not to your advantage and that the tax benefits of filing Form(s) 3115 will outweigh the associated fees to do so. Remember, a “small business taxpayer” is one with (1) less than \$10 million in total assets or (2) for the three years preceding the accounting method change year, average annual gross receipts of less than \$10 million. No action is needed by you to take advantage of the “small business tax payer” relief.

Taxpayers not meeting the “Small Business Taxpayer” Exception. If your situation indicates that you are required to file Form(s) 3115, or that it would be advantageous for you to file Form(s) 3115, we will prepare the form, and calculate the 481(a) adjustments required. Due to continued expected additional guidance and delay from the IRS, your return may be extended in order to comply with these new regulations.