

Part III - Administrative, Procedural, and Miscellaneous

Certain Changes in Method of Accounting for Organizations to which Section 833 Applies

Notice 2011-4

SECTION 1. PURPOSE

This notice provides procedures for a taxpayer to obtain automatic consent to change its method of accounting for unearned premiums by reason of § 833(c)(5) of the Internal Revenue Code (Code). Rev. Proc. 2008-52, 2008-2 C.B. 587, as amplified, clarified, and modified by Rev. Proc. 2009-39, 2009-2 C.B. 371, is modified; Notice 2010-79, 2010-49 I.R.B. 809, is clarified and modified.

SECTION 2. BACKGROUND

Section 833 of the Code provides special rules for existing Blue Cross and Blue Shield organizations within the meaning of § 833(c)(2), and certain other organizations that are described in § 833(c)(3).

Section 9016 of the Patient Protection and Affordable Care Act (H.R. 3590, P.L. 111-148) (the "Affordable Care Act") added § 833(c)(5) to the Code, effective for taxable years beginning after December 31, 2009. Section 833(c)(5) provides that § 833 does

not apply to an otherwise-eligible organization unless the organization's medical loss ratio (MLR) during the taxable year is not less than 85 percent.

The application of § 833 in a taxable year followed by nonapplication of that provision in the subsequent taxable year (or vice versa) may result in one or more changes in accounting method. For example, accounting for 100 percent of unearned premiums under § 833(a)(3) in one year, but only 80 percent of unearned premiums under § 832(b)(4) in the next year is a change in method of accounting. Likewise, the loss (or recovery) of insurance company status may implicate a number of changes in methods of accounting because some methods of accounting are available only to insurance companies under Subchapter L. The special deduction allowed under §§ 833(a)(2) and 833(b) is not, however, a method of accounting.

SECTION 3. SCOPE

This notice applies to an existing Blue Cross or Blue Shield organization within the meaning of § 833(c)(2), or an organization described in § 833(c)(3), that is required to change its method of accounting for unearned premiums by reason of failing to meet the MLR requirements of § 833(c)(5), or by reason of meeting the MLR requirements of § 833(c)(5) after failing to meet those requirements in a prior year.

SECTION 4. CHANGES IN METHOD OF ACCOUNTING

A taxpayer that is required to change methods of accounting for unearned premiums under a situation described in Section 3 of this notice, must use the automatic change in method procedures of Rev. Proc. 2008-52, or its successor, as modified by this notice.

SECTION 5. EFFECT ON OTHER DOCUMENTS

.01 Rev. Proc. 2008-52 is modified to add new section XX to the APPENDIX, to read as follows:

SECTION XX. Certain Changes in Method of Accounting for Organizations to which Section 833 Applies

(1) Description of change. This change applies to an existing Blue Cross or Blue Shield organization within the meaning of § 833(c)(2), or an organization described in § 833(c)(3), that is required to change its method of accounting for unearned premiums by reason of failing to meet the MLR requirements of § 833(c)(5), or by reason of meeting the MLR requirements of § 833(c)(5) after failing to meet those requirements in a prior year.

(2) Scope limitations inapplicable. The scope limitations of section 4.02 of this revenue procedure do not apply to this change.

(3) Accelerated § 481(a) adjustment period in certain situations. In addition to the circumstances set forth in section 5.04(3) of this revenue procedure, the § 481 adjustment period provided in section 5.04(1) will be accelerated in the event a taxpayer with a remaining balance of a § 481(a) adjustment that arose by reason of a change in method of accounting described in this section is required to effect another change in method of accounting described in this section. Thus, for example, a taxpayer that fails to satisfy the requirements of § 833(c)(5) and as a result has a positive § 481(a) adjustment is required to accelerate the remaining balance, if any, of that adjustment in a subsequent taxable year in

which the taxpayer meets the requirements of § 833(c)(5).

(4) Designated automatic accounting method change number. The designated automatic accounting method change number for a change under section XX of this APPENDIX is "XXX." See section 6.02(4) of this revenue procedure.

(5) Contact information. For further information regarding this section, please contact Rebecca L. Baxter at (202) 622-7117 (not a toll-free call).

.02 Section 3.09 of Notice 2010-79 is clarified and modified to provide that changes in method of accounting for unearned premiums that are required as a result of the operation of § 833(c)(5) must be implemented under the automatic method change procedures of Rev. Proc. 2008-52, or its successor.

SECTION 6. EFFECTIVE DATE

This notice is effective December 27, 2010.

DRAFTING INFORMATION

The principal author of this notice is Rebecca L. Baxter of the Office of Associate Chief Counsel (Financial Institutions & Products (CC:FIP:B04)). For further information regarding this notice contact Ms. Baxter on (202) 622-7117 (not a toll-free call).