

must maintain such records as are necessary to clearly reflect income in accordance with this section, section 446 and §1.446-1.

(h) *Effective date.* This section applies for taxable years beginning after December 31, 1953, and ending after August 16, 1954, but generally does not apply to sales made after December 31, 1987, in taxable years ending after such date. For sales made after December 31, 1987, sales made by a dealer in personal or real property shall not be treated as sales on the installment plan. (However, see section 453(1)(2) for exceptions to this rule.)

[T.D. 8270, 54 FR 46377, Nov. 3, 1989]

**§ 1.453A-2 Treatment of revolving credit plans; taxable years beginning on or before December 31, 1986.**

(a) *In general.* If a dealer sells or otherwise disposes of personal property under a revolving credit plan—

(1) Such sales will be treated as sales on the installment plan to the extent provided in paragraph (c) of this section;

(2) Income from sales treated as sales on the installment plan under paragraph (c) of this section may be returned on the installment method; and

(3) Income returned on the installment method is computed in accordance with §1.453A-1, except that—

(i) The gross profit on such sales is computed without regard to §1.453A-1 (e)(2);

(ii) Under the circumstances described in paragraph (c)(6)(vi) of this section, the taxpayer may, in computing income for a taxable year, treat all such sales as sales made in such taxable year for purposes of applying the gross profit percentage; and

(iii) The rule contained in §1.453A-1 (e)(3) is applied in accordance with paragraph (c)(6)(v) of this section.

(b) *Coordination with traditional installment plan.* A dealer who makes sales of personal property under both a revolving credit plan and a traditional installment plan (1) may elect to report only sales under the traditional installment plan on the installment method, (2) may elect to report only sales under the revolving credit plan on the installment method, or (3) may

elect to report both sales under the revolving credit plan and the traditional installment plan on the installment method.

(c) *Revolving credit plans.* (1) To the extent provided in this paragraph (c) sales under a revolving credit plan will be treated as sales on the installment plan. The term “revolving credit plan” includes cycle budget accounts, flexible budget accounts, continuous budget accounts, and other similar plans or arrangements for the sale of personal property under which the customer agrees to pay each billing-month (as defined in paragraph (c)(6)(iii) of this section) a part of the outstanding balance of the customer’s account. Sales under a revolving credit plan do not constitute sales on the installment plan merely by reason of the fact that the total debt at the end of a billing-month is paid in installments. The terms and conditions of a revolving credit plan do not contemplate that each sale under the plan will be paid for in two or more payments and thus do not meet the requirements of §1.453A-1(c)(3)(i). In addition, since under a revolving credit plan payments are not generally applied to liquidate any particular sale, and since the terms and conditions of such plan contemplate that account balances may be paid in full or in installments, it is generally impossible to determine that a particular sale under a revolving credit plan is to be or is in fact paid for in installments so as to meet the requirements of §1.453A-1 (c)(3)(ii). However, paragraphs (c) (2) and (3) of this section provides rules under which a certain percentage of charges under a revolving credit plan will be treated as sales on the installment plan. For purposes of arriving at this percentage, these rules, in general, treat as sales on the plan those sales under a revolving installment credit plan:

(i) Which are of the type which the terms and conditions of the plan contemplate will be paid for in two or more installments and

(ii) Which are charged to accounts on which subsequent payments indicate that such sales are being paid for in two or more installments.

(2)(i) The percentage of charges under a revolving credit plan which will be

treated as sales on the installment plan shall be computed by making an actual segregation of charges in a probability sample of the revolving credit accounts and by applying the rules contained in paragraph (c)(3) of this section to determine what percentage of charges in the sample is to be treated as sales on the installment plan. (See paragraph (c)(5) of this section for rules to be used if some of the sales under a revolving credit plan are non-personal property sales (as defined in paragraph (c)(6)(iv) of this section.) Such segregation shall be made of charges which make up the balances in the sample accounts as of the end of each customer's last billing-month ending within the taxable year. (See paragraph (c)(6)(v) of this section for rules to be used in determining which charges make up the balance of an account.) However, in making such segregation, any account to which a sale is charged during the taxable year on which no payment is credited after the billing-month within which the sale is made (hereinafter called the "billing-month of sale") and on or before the end of the first billing-month ending in the taxpayer's next taxable year shall be disregarded and not taken into account in the determination of what percentage of charges in the sample is to be treated as sales on the installment plan. In order to obtain a probability sample, the accounts shall be selected in accordance with generally accepted probability sampling techniques. The appropriateness of the sampling technique and the accuracy and reliability of the results obtained must, if requested, be demonstrated to the satisfaction of the district director. If the district director is not satisfied that the taxpayer's sample is appropriate or that the results obtained are accurate and reliable, the taxpayer shall recompute the sample percentage or make appropriate adjustments to the original computations in a manner satisfactory to the district director. The taxpayer shall maintain records in sufficient detail to show the method of computing and applying the sample.

(ii) For taxable years ending before January 31, 1964, a taxpayer who has reported for income tax purposes all or a portion of sales under a revolving

credit plan as sales on the installment method may apply the percentage obtained for the first taxable year ending on or after such date in determining the percentage of charges under a revolving credit plan for such prior taxable year (or years) which will be treated as sales on the installment plan. However, in computing the percentage to be applied in determining the percentage of charges under a revolving credit plan which will be treated as sales on the installment plan for such prior taxable year (or years), the rule stated in § 1.453A-1(e)(3) shall not apply. See paragraph (c)(6)(v) of this section for rules relating to the application of payments to finance charges for such prior taxable years.

(3) For the purpose of determining the percentage described in paragraph (c)(2) of this section, a charge under a revolving credit plan will be treated as a sale on the installment plan only if such charge is a sale (as defined in paragraph (c)(6) of this section) and meets the following requirements:

(i) The sale must be of the type which the terms and conditions of the plan contemplate will be paid for in two or more installments. If the aggregate of sales charged during a billing-month to an account under a revolving credit plan exceeds the required monthly payment, then all sales during such billing-month shall be considered to be of the type which the terms and conditions of such plan contemplate will be paid for in two or more installments. The required monthly payment shall be the amount of the payment which the terms and conditions of the revolving credit contract require the customer to make with respect to a billing-month. If the amount of such payment is not fixed at the date the contract is entered into, but is dependent upon the balance of the account, then such amount shall be the amount that the customer is required to pay (but not including any past-due payments) as shown on the statement either:

(A) For the last billing-month ending within the taxpayer's taxable year or

(B) For the billing-month of sale, whichever method the taxpayer adopts for all accounts. A taxpayer shall not change such method of determining the required monthly payment based upon

the balance of the account without obtaining the consent of the district director. In any case where the required monthly payment is not set in accordance with a consistent method used during the entire taxable year, the district director may determine the required monthly payment in accordance with the method used during the major portion of such taxable year if the use of such method is necessary in order to reflect properly the income from sales under a revolving credit plan. The requirements stated in this paragraph (c)(3)(i) may be illustrated by the following examples:

*Example (1).* Under the terms of a revolving credit plan the required monthly payment to be made by customer A is \$20. During the billing-month ending in December, sales aggregating \$80 are charged to customer A's account, and during the next billing-month, ending in January, sales aggregating \$19.95 and finance charges of \$.60 are charged to A's account. Since the aggregate of sales charged to customer A's account during the billing-month ending in December (\$80) exceeds the required monthly payment (\$20), the terms and conditions of the plan contemplate that the sales charged during such billing-month are of the type which will be paid for in two or more installments. Since the aggregate of sales charged to customer A's account during the billing-month ending in January (\$19.95) does not exceed the required monthly payment, the sales making up the aggregate of sales in such billing-month are not of the type which the terms and conditions of the plan contemplate will be paid for in two or more installments.

*Example (2).* The terms of a revolving credit plan require a payment of 20 percent of the balance of the customer's account as of the end of the billing-month for which the statement is rendered. A customer makes purchases aggregating \$25 in the customer's next to the last billing-month ending within the taxpayer's taxable year, and the balance at the end of that month is \$150. At the end of the customer's last billing-month ending within the taxpayer's taxable year, the balance of the account has decreased to \$110. If the taxpayer determines the required monthly payment by reference to the payment required on the statement for the last billing-month ending within the taxable year and applies such method consistently to all accounts, then the sales making up the \$25 aggregate of sales are of the type which the terms and conditions of the plan contemplate will be paid for in two or more installments. Although such aggregate was less than the \$30 payment (20%×\$150) required on the statement rendered for the billing-

month of sales. It was more than the \$22 (20%×\$110) that the customer was required to pay on the statement rendered for his last billing-month ending within the taxable year, and thus meets the requirements of this paragraph (c)(3)(i). If, however, the taxpayer determines the required monthly payment by reference to the payment required on the statement for the billing-month of sale, then the sales making up the aggregate of sales during such billing-month do not meet the requirements of this paragraph (c)(3)(i) because such aggregate was less than the \$30 payment required on the statement rendered for such month.

(ii) The sale must be charged to an account on which the first payment after the billing-month of sale indicates that the sale is being paid in installments. The first payment after the billing-month of sale indicates that the sale is being paid in installments if, and only if, such payment is an amount which is less than the balance of the account as of the close of the billing-month of sale. For purposes of this paragraph (c)(3)(ii), such balance shall be reduced by any return or allowance credited to the account after the close of the billing-month of sale and before the close of the billing-month within which the first payment after the billing-month of sale is credited to the account, unless the taxpayer demonstrates that the return or allowance was attributable to a charge made in a month subsequent to the billing-month of sale. The requirements stated in this paragraph (c)(3)(ii) may be illustrated by the following examples, in which it is assumed that the taxpayer's annual accounting period ends on January 31.

*Example (1).* Customer A's revolving credit account shows the following sales and payments:

| Month ending      | Aggregate sales in month | Payments | Balance |
|-------------------|--------------------------|----------|---------|
| December 20 ..... | \$150                    | 0        | \$150   |
| January 20 .....  | 75                       | \$30     | 195     |
| February 20 ..... | 0                        | 195      | 0       |

All sales made in the billing-month ending December 20 meet the requirements of this paragraph (c)(3)(ii) because the first payment on the account after such billing-month (\$30) was less than the balance of the account as of the close of such billing-month (\$150); and none of the sales made in the billing-month ending January 20 meets the requirements of

§ 1.453A-2

26 CFR Ch. I (4-1-05 Edition)

this paragraph (c)(3)(ii) because the balance of the account as of the end of such billing-month was liquidated in one payment. By application of the rules of paragraph (c)(6)(v) of this section, the balance in the account as of the last billing-month ending in the taxable year (\$195) consists of \$120 of the \$150 of sales made in the billing-month ending December 20 and all of the \$75 of sales made in the billing-month ending January 20. Therefore, \$120 of the account balance meets the requirements of this paragraph (c)(3)(ii) and \$75 does not.

*Example (2).* Customer B's revolving credit account shows the following sales and payments:

| Month ending      | Aggregate sales in month | Payments | Balance |
|-------------------|--------------------------|----------|---------|
| December 20 ..... | \$ 50                    | 0        | \$ 50   |
| January 20 .....  | 100                      | 0        | 150     |
| February 20 ..... | 0                        | \$50     | 100     |

None of the sales made in the billing-month ending December 20 meets the requirements of this paragraph (c)(3)(ii) because the first payment credited to the account after such billing-month (\$50) is not less than the balance of the account as of the close of such month (\$50). All of the sales made in the billing-month ending January 20 meet the requirements of this paragraph (c)(3)(ii) because the first payment after such billing-month (\$50) is less than the balance of the account as of the close of such month (\$150).

| Month ending      | Aggregate sales in month <sup>1</sup> | Returns and allowances | Payments | Finance charges | Balance |
|-------------------|---------------------------------------|------------------------|----------|-----------------|---------|
| January 20 .....  | \$15.00                               | 0                      | 0        | 0               | \$15.00 |
| February 20 ..... | 0                                     | 0                      | 0        | \$0.15          | 15.15   |

<sup>1</sup> Including sales of personal property and nonpersonal property sales.

For purposes of the segregation provided for in paragraph (c)(2)(i) of this section, customer A's account will be disregarded and not taken into account in the determination of what percentage of charges in the sample is to be treated as sales on the installment plan because no payment was credited to that account after the billing-month of sale and on or before February 20.

*Example (2).* This example is applicable with respect to sales made during taxable years beginning before January 1, 1964. Under the terms of corporation X's revolving credit plan, payments are required in accordance with the following schedule:

| Month ending      | Aggregate sales in month <sup>1</sup> | Returns and allowances | Payments | Finance charges | Balances |
|-------------------|---------------------------------------|------------------------|----------|-----------------|----------|
| October 20 .....  | \$55.00                               | 0                      | 0        | 0               | \$55.00  |
| November 20 ..... | 45.00                                 | 0                      | \$20.00  | \$0.35          | 80.35    |

*Example (3).* Customer C's revolving credit account shows the following purchases and credits:

| Month ending      | Item           | Charges | Credits | Balance |
|-------------------|----------------|---------|---------|---------|
| January 20 .....  | Coat .....     | \$55    | .....   | .....   |
|                   | Dress .....    | 40      | .....   | .....   |
|                   | Shirt .....    | 5       | .....   | \$100   |
| February 20 ..... | Return .....   | .....   | \$5     | .....   |
|                   | Payments ..... | .....   | 95      | 0       |

None of the sales made in the billing-month ending January 20 meets the requirements of this paragraph (c)(3)(ii) because the first payment credited to the account after such billing-month (\$95) was equal to the balance of the account as of the end of such billing-month, \$95. For this purpose, the balance of \$100 is reduced by the \$5 return which was credited to the account after the close of the billing-month of sale and before the close of the billing-month within which the first payment after the billing-month of sale is credited.

(4) The provisions of paragraphs (c) (2) and (3) of this section may be illustrated by the following examples in which it is assumed that the taxpayer is a dealer whose annual accounting period ends on January 31.

*Example (1).* Customer A's revolving credit ledger account shows the following:

|                         | <i>Required monthly payment</i> |
|-------------------------|---------------------------------|
| Unpaid balance:         |                                 |
| 0 to \$99.99 .....      | \$20                            |
| \$100 to \$199.99 ..... | 40                              |
| \$200 to \$299.99 ..... | 60                              |

Customer B's revolving credit ledger account for the period beginning on September 21, 1963, and ending February 20, 1964, shows the following:

| Month ending      | Aggregate sales in month <sup>1</sup> | Returns and allowances | Payments | Finance charges | Balances |
|-------------------|---------------------------------------|------------------------|----------|-----------------|----------|
| December 20 ..... | 20.00                                 | 0                      | 20.00    | .60             | 80.95    |
| January 20 .....  | 26.00                                 | \$5.00                 | 20.00    | .61             | 82.56    |
| February 20 ..... | 0                                     | 10.00                  | 72.56    | 0               | 0        |

<sup>1</sup> Including sales of personal property and nonpersonal property sales.

The three \$20 payments and the \$5 return or allowance made in the billing-months ending in the taxable year are applied under the rules in paragraph (c)(6)(v) of this section to liquidate the earliest outstanding charges, first to the \$55 aggregate of sales in the billing-month ending October 20 and next to \$10 of the aggregate of sales made in the billing-month ending November 20. Thus, the balance of the account as of the close of the billing-month ending January 20, \$82.56, is made up as follows:

|  |              |
|--|--------------|
| Remainder of sales in billing-month ending Nov. 20 (\$45-\$10) ..... | \$35.00      |
| Finance charges for billing-month ending Nov. 20 .....               | 0.35         |
| Sales for billing-month ending Dec. 20 .....                         | 20.00        |
| Finance charge for billing-month ending Dec. 20 .....                | 0.60         |
| Sales for billing-month ending Jan. 20 .....                         | 26.00        |
| Finance charge for billing-month ending Jan. 20 .....                | 0.61         |
| <b>Total .....</b>   | <b>82.56</b> |

The sales of \$35 remaining from the aggregate of sales for the billing-month ending November 20 meet the requirements of paragraph (c)(3)(i) of this section because the aggregate of sales charged during such billing-month (\$45) exceeds the required monthly payment (\$20), and such sales meet the requirements of paragraph (c)(3)(ii) of this section because the first payment after the billing-month of sale (\$20) is an amount less than the balance of the account as of the close of such month (\$80.35). Therefore, \$35 of sales will be treated as sales on the installment plan. The \$20 aggregate of sales charged during the billing-month ending December 20 does not meet the requirements of paragraph (c)(3)(i) of this section because it is in an amount which does not exceed the required monthly payment (\$20). (The finance charge of \$0.60 added in the billing-month does not enter into the determination of the aggregate of sales for the month because the term "sales" (as defined in paragraph (c)(6)(i) of this section does not include finance charges). The \$26 aggregate of sales for the billing-month ending January 20 does not meet the requirements of paragraph (c)(3)(i) of this section because the first payment after such billing-month (\$72.56) was equal to the balance of the account as of the close of such billing-month (\$72.56). For this

purpose, the balance of \$82.56 is reduced by the \$10 return or allowance which was credited after the billing-month of sale and before February 20. Thus, of the \$82.56 balance of B's account as of the close of the last billing-month ending within corporation X's taxable year, \$35 will be treated as sales on the installment plan for purposes of determining the percentage provided for paragraph (c)(2) of this section.

*Example (3).* This example is applicable with respect to sales made during taxable years beginning after December 31, 1963. Assume the facts in example (2), except that Customer B's revolving credit ledger account is for the period beginning on September 21, 1964 and ending February 20, 1965. Since payments received are first used to liquidate any outstanding finance charges under the rule in paragraph (c)(6)(v) of this section, the \$20 payment in December liquidated the \$0.35 finance charge accrued at the end of the November billing-month and the \$20 payment in January liquidated the \$0.60 finance charge accrued at the end of the December billing-month. The balance of the three \$20 payments (\$59.05) and the \$5 return or allowance are applied (under the rules in paragraph (c)(6)(v) of this section) to liquidate the earliest outstanding sales, first to the \$55 aggregate of sales in the billing-month ending October 20 and next to \$9.05 of the aggregate of sales made in the billing-month ending November 20. Thus, the balance of the account as of the close of the billing-month ending January 20, \$82.56, is made up as follows:

|  |              |
|--|--------------|
| Remainder of sales in billing-month ending Nov. 20 (\$45-\$9.05) ..... | \$35.95      |
| Sales for billing-month ending Dec. 20 .....                           | 20.00        |
| Sales for billing-month ending Jan. 20 .....                           | 26.00        |
| Finance charge for billing-month ending Jan. 20 .....                  | 0.61         |
| <b>Total .....</b>   | <b>82.56</b> |

The sales of \$35.95 remaining from the aggregate of sales for the billing-month ending November 20 meet the requirements of paragraph (c)(3)(i) of this section because the aggregate of sales charged during such billing-month (\$45) exceeds the required monthly payment (\$20), and such sales meet the requirements of paragraph (c)(3)(ii) of this section because the first payment after the billing-month of sale (\$20) is an amount less than the balance of the account as of the

close of such month (\$80.35). Therefore, \$35.95 of sales will be treated as sales on the installment plan. The \$20 aggregate of sales charged during the billing-month ending December 20 does not meet the requirements of paragraph (c)(3)(i) of this section because it is in an amount which does not exceed the required monthly payment (\$20). The \$26 aggregate of sales for the billing-month ending January 20 does not meet the requirements of paragraph (c)(3)(ii) of this section because the first payment after such billing-month (\$72.56) was equal to the balance of the account as of the close of such billing-month (\$72.56). For this purpose, the balance of \$82.56 is reduced by the \$10 return or allowance which was credited after the billing-month of sale and before February 20. Thus, of the \$82.56 balance of B's account as of the close of the last billing-month ending within corporation X's taxable year \$35.95 will be treated as sales on the installment plan for purposes of determining the percentage provided for in paragraph (c)(2) of this section.

(5) Sales under a revolving credit plan which are nonpersonal property sales (as defined in paragraph (c)(6)(iv) of this section) do not constitute sales on the installment plan. Therefore, the charges under a revolving credit plan must be reduced by the nonpersonal property sales, if any, under such plan, before application of the sample percentage as provided for in paragraph (c)(2)(i) of this section. The taxpayer may treat as the nonpersonal property sales under the plan for the taxable year an amount which bears the same ratio to the total sales under the revolving credit plan made in the taxable year as the total nonpersonal property sales made in such year bears to the total sales made in such year.

(6) For purposes of this paragraph (c)—

(i) The term "sales" includes sales of services, such as a charge for watch repair, as well as sales of property, but does not include finance or service charges.

(ii) The term "charges" includes sales of services and property as well as finance or service charges.

(iii) A billing-month is that period of time for which a periodic statement of charges and credits is rendered to a customer.

(iv) The term "nonpersonal property sales" means all sales which are not sales of personal property made by the taxpayer. Thus, sales of a department

leased by the taxpayer to another are nonpersonal property sales. Likewise, charges for services rendered by the taxpayer are nonpersonal property sales unless such services are incidental to and rendered contemporaneously with the sale of personal property, in which case such charges shall be considered as constituting part of the selling price of such property.

(v) Except as otherwise provided in this paragraph (c)(6)(v), each payment received from a customer under a revolving credit plan before the close of the last billing-month ending in the taxable year shall be applied to liquidate the earliest outstanding charges under such plan, notwithstanding any rule of law or contract provision to the contrary. For purposes of determining which charges remain in the balance of an account at the end of the last billing-month ending in the taxable year, the taxpayer may apply returns and allowances which are credited before the close of the last billing-month ending in the taxable year either (A) to liquidate or reduce the charge for the specific item so returned or for which an allowance is permitted, or (B) to liquidate or reduce the earliest outstanding charges. The method so selected for applying returns and allowances shall be followed on a consistent basis from year to year unless the district director consents to a change. Additionally, finance or service charges which are computed on the basis of the balance of the account at the end of the previous billing-month (usually reduced by payments during the current billing-month) are accrued at the end of the current billing-month and are therefore considered, for purposes of determining the earliest outstanding charges, as charged to the account after any sales made during the current billing month. However, for purposes of determining which charges remain in the balance of an account at the end of the last billing-month ending in a taxable year which began after December 31, 1963, payments received during such year shall be applied first against any finance or service charges which were outstanding at the time such payment was received. The preceding sentence shall not apply with

respect to a computation made for purposes of applying the rule described in paragraph (c)(2)(ii) of this section.

(vi) The taxpayer shall allocate those sales under a revolving credit plan which are treated as sales on the installment plan to the proper year of sale in order to apply the appropriate gross profit percentage as provided for in § 1.453A-1(e). This allocation shall be made on the basis of the percentages of charges treated as sales on the installment plan which are attributable to each taxable year as determined in the sample of accounts described in paragraph (c)(2) of this section. However, if the taxpayer demonstrates to the satisfaction of the district director that income from sales on the installment plan is clearly reflected, all sales may be considered as being made in the taxable year for purposes of applying the gross profit percentage.

(7) The provisions of this paragraph (c) may be illustrated by the following example:

*Example.* Corporation X is a dealer and has elected to report on the installment method those sales under its revolving credit plan which may be treated as sales on the installment plan. Corporation X's taxable year ends on January 31, and the total balance of all its revolving credit accounts as of January 31, 1964, is \$2,000,000. The total sales made in the taxable year are \$10,000,000 of which \$500,000 are nonpersonal property sales. The gross profit percentage realized or to be realized on all sales made in the taxable year is 40 percent. The amount of the gross profit contained in the year-end balance of \$2,000,000 which may be deferred to succeeding years is computed as follows:

(i) In order to reduce the charges appearing in the year-end balance of revolving credit accounts receivable by the nonpersonal property sales contained therein, corporation X determines the amount of such nonpersonal property sales under the method permitted in paragraph (c)(5) of this section. Corporation X first determines the ratio which total nonpersonal property sales made during the year (\$500,000) bears to total sales made during the year (\$10,000,000), and then applies the percentage (5 percent) thus obtained to the year-end balance of revolving credit accounts receivable (\$2,000,000). The nonpersonal property sales thus determined (\$100,000) is subtracted from such year-end balance to obtain the charges under the revolving credit plan appearing in the year-end balance (\$1,900,000) to which the sample percentage is to be applied.

(ii) In accordance with generally accepted sampling techniques, the taxpayer selects a probability sample of all revolving credit accounts having balances for billing-months ending in January 1964. The technique employed results in a random selection of accounts with total balances of \$100,000.

(iii) Analysis of these sample accounts discloses that of the \$100,000 of balances, \$10,000 of balances are in accounts on which no payment was credited after a billing-month of sale and on or before the end of the first billing-month ending in the taxable year beginning February 1, 1964. These balances are, therefore, disregarded and not taken into account in the determination of what percentage of sales in the sample is to be treated as sales on the installment plan. Of the remaining \$90,000 of balances, the taxpayer determines, by analyzing the ledger cards in the sample, that \$63,000 of balances are composed of sales which meet the requirements of paragraphs (c)(3) (i) and (ii) of this section and are thus treated as sales on the installment plan. The remaining \$27,000 of balances either did not meet the requirements of paragraphs (c)(3) (i) and (ii) of this section or were not sales (as defined in paragraph (c)(6)(i) of this section). The percentage of charges in the sample treated as sales on the installment plan is, therefore, 70 percent ( $\$63,000 \div \$90,000$ ).

(iv) The charges in the year-end balance which are to be treated as sales on the installment plan, \$1,330,000, are computed by multiplying the charges to which the sample percentage is applied (\$1,900,000) by the sample percentage (70 percent).

(v) The deferred gross profit attributable to sales under the revolving credit plan for the taxable year, \$532,000, is determined by multiplying the amount treated as sales on the installment plan (\$1,330,000), by the gross profit percentage (40 percent). (Corporation X will be able to demonstrate to the satisfaction of the district director that (A) since the gross profit percentage for all sales does not vary materially from the gross profit percentage for all sales made under the revolving credit plan, (B) since only an insubstantial amount of sales included in year-end account balances was made prior to the taxable year, and (C) since the prior year's gross profit percentage does not vary materially from the gross profit percentage for the taxable year, income from sales on the installment plan will be clearly reflected by applying the current year's gross profit percentage for all sales under the revolving credit plan treated as sales on the installment plan.)

(d) *Effective date.* This section applies for taxable years beginning after December 31, 1953, and ending after August 16, 1954, but does not apply for any taxable year beginning after December

31, 1986. For taxable years beginning after December 31, 1986, sales under a revolving credit plan shall not be treated as sales on the installment plan.

[T.D. 8269, 54 FR 46375, Nov. 3, 1989]

**§ 1.453A-3 Requirements for adoption of or change to installment method by dealers in personal property.**

(a) *In general.* A dealer (within the meaning of § 1.453A-1(c)(1)) may adopt or change to the installment method for a type or types of sales on the installment plan (within the meaning of § 1.453A-1(c)(3) and (d)) in the manner prescribed in this section. This section applies only to dealers and only with respect to their sales on the installment plan.

(b) *Time and manner of electing installment method reporting—(1) Time for election.* An election to adopt or change to the installment method for a type or types of sales must be made on an income tax return for the taxable year of the election, filed on or before the time specified (including extensions thereof) for filing such return.

(2) *Adoption of installment method.* A taxpayer who adopts the installment method for the first taxable year in which sales are made on an installment plan of any kind must indicate in the income tax return for that taxable year that the installment method of accounting is being adopted and specify the type or types of sales included within the election. If a taxpayer in the year of the initial election made only one type of sale on the installment plan, but during a subsequent taxable year makes another type of sale on the installment plan and adopts the installment method for that other type of sale, the taxpayer must indicate in the income tax return for the subsequent year that an election is being made to adopt the installment method of accounting for the additional type of sale.

(3) *Change to installment method.* A taxpayer who changes to the installment method for a particular type or types of sales on the installment plan in accordance with this section must, for each type of sale on the installment plan for which the installment method is to be used, attach a separate statement to the income tax return for the

taxable year with respect to which the change is made. Each statement must show the method of accounting used in computing taxable income before the change and the type of sale on the installment plan for which the installment method is being elected.

(4) *Deemed elections.* A dealer (including a person who is a dealer as a result of the recharacterization of transactions as sales) is deemed to have elected the installment method if the dealer treats a sale on the installment plan as a transaction other than a sale and fails to report the full amount of gain in the year of the sale. For example, if a transaction treated by a dealer as a lease is recharacterized by the Internal Revenue Service as a sale on the installment plan, the dealer will be deemed to have elected the installment method assuming the dealer failed to report the full amount of gain in the year of the transaction.

(c) *Consent.* A dealer may adopt or change to the installment method for sales on the installment plan without the consent of the Commissioner. However, a dealer may not change from the installment method to the accrual method of accounting or to any other method of accounting without the consent of the Commissioner.

(d) *Cut-off method for amounts previously accrued.* An election to change to the installment method for a type of sale applies only with respect to sales made on or after the first day of the taxable year of change. Thus, payments received in the taxable year of the change, or in subsequent years, in respect of an installment obligation which arose in a taxable year prior to the taxable year of change are not taken into account on the installment method, but rather must be accounted for under the taxpayer's method of accounting in use in the prior year.

(e) *Effective date.* This section applies to sales by dealers in taxable years ending after October 19, 1980, but generally does not apply to sales made after December 31, 1987. For sales made after December 31, 1987, sales by a dealer in personal or real property shall not be treated as sales on the installment plan. (However, see section 453(1)(2) for certain exceptions to this rule.) For rules relating to sales by