

(b) If the taxpayer is engaged in more than one trade or business in connection with which prepaid dues income is received, a separate election may be made under section 456 with respect to each such trade or business. In addition, a taxpayer may make a separate "within 12 months" election for each separate trade or business for which it has made an election under section 456.

(c) A section 456 election and a "within 12 months" election shall be binding for the first taxable year for which the election is made and for all subsequent taxable years, unless the taxpayer secures the consent of the Commissioner to the revocation of either election. In order to secure the Commissioner's consent to the revocation of the section 456 election or the "within 12 months" election, an application must be filed with the Commissioner in accordance with section 446(e) and the regulations thereunder. However, an application for consent to revoke the section 456 election or the "within 12 months" election in the case of all taxable years which end before November 30, 1967 must be filed on or before February 28, 1968. For purposes of Subtitle A of the Code, the computation of taxable income under an election made under section 456 or under the "within 12 months" election shall be treated as a method of accounting. For adjustments required by changes in method of accounting, see section 481 and the regulations thereunder.

(d) Except as provided in section 456(d) and § 1.456-7, an election made under section 456 shall not apply to any prepaid dues income received before the first taxable year to which the election applies. For example, Corporation X, a membership organization which files its income tax returns on a calendar year basis, customarily sells 3-year memberships, payable in advance. In 1961 it received \$160,000 of prepaid dues income for 3-year memberships beginning during 1961, and in 1962 it received \$185,000 of prepaid dues income for 3-year memberships beginning on January 1, 1962. In March 1962 it elected, with the consent of the Commissioner, to report its prepaid dues income under the provisions of section 456 for the year 1962 and subsequent taxable years. The \$160,000 received in

1961 from prepaid dues must be included in gross income in full in that year, and except as provided in section 456(d) and § 1.456-7, no part of such income shall be allocated to the taxable years 1962, 1963, and 1964 during which X was under a liability to make available its membership privileges. The \$185,000 received in 1962 from prepaid dues income shall be allocated to the years 1962, 1963, and 1964.

(e) No election may be made under section 456 with respect to a trade or business if, in computing taxable income, the cash receipts and disbursements method (or a hybrid thereof) of accounting is used with respect to such trade or business, unless the combination of the section 456 election and the taxpayer's hybrid method of accounting does not result in a material distortion of income.

[T.D. 6937, 32 FR 16394, Nov. 30, 1967; 32 FR 17479, Dec. 6, 1967]

§ 1.456-3 Method of allocation.

(a) Prepaid dues income for which an election has been made under section 456 shall be included in gross income over the period of time during which the liability to render services or make available membership privileges exists. The liability to render the services or make available the membership privileges shall be deemed to exist ratably over the period of time such services are required to be rendered, or such membership privileges are required to be made available. Thus, the prepaid dues income shall be included in gross income ratably over the period of the membership contract. For example, Corporation X, a membership organization, which files its income tax returns on a calendar year basis, elects, for its taxable year beginning January 1, 1961, to report its prepaid dues income in accordance with the provisions of section 456. On March 31, 1961, it sells a 2-year membership for \$48 payable in advance, the membership to extend from May 1, 1961, to April 30, 1963. X shall include in its gross income for the taxable year 1961 $\frac{3}{24}$ of the \$48, or \$16, and for the taxable year 1962 $\frac{12}{24}$ of the \$48, or \$24, and for the taxable year 1963 $\frac{4}{24}$ of the \$48, or \$8.

§ 1.456-4

(b) For purposes of determining the period or periods over which the liability of the taxpayer exists, and for purposes of allocating prepaid dues income to such periods, the taxpayer may aggregate similar transactions during the taxable year in any reasonable manner, provided the method of aggregation and allocation is consistently followed.

[T.D. 6937, 32 FR 16395, Nov. 30, 1967]

§ 1.456-4 Cessation of liability or existence.

(a) If a taxpayer has elected to apply the provisions of section 456 to a trade or business in connection with which prepaid dues income is received, and if the taxpayer's liability to render services or make available membership privileges ends for any reason, as for example, because of the cancellation of a membership then so much of the prepaid dues income attributable to such liability as was not includible in the taxpayer's gross income under section 456 for preceding taxable years shall be included in gross income for the taxable year in which such liability ends. This paragraph shall not apply to amounts includible in gross income under § 1.456-7.

(b) If a taxpayer which has elected to apply the provisions of section 456 ceases to exist, then the prepaid dues income which was not includible in gross income under section 456 for preceding taxable years shall be included in the taxpayer's gross income for the taxable year in which such cessation of existence occurs. This paragraph shall not apply to amounts includible in gross income under § 1.456-7.

(c) If a taxpayer is a party to a transaction to which section 381(a) applies and the taxpayer's method of accounting with respect to prepaid dues income is used by the acquiring corporation under the provisions of section 381(c)(4), then neither the liability nor the existence of the taxpayer shall be deemed to have ended or ceased. In such cases see section 381(c)(4) and the regulations thereunder for the treatment of the portion of prepaid dues income which was not included in gross income under section 456 for preceding taxable years.

[T.D. 6937, 32 FR 16395, Nov. 30, 1967]

26 CFR Ch. I (4-1-04 Edition)

§ 1.456-5 Definitions and other rules.

(a) *Prepaid dues income.* (1) The term "prepaid dues income" means any amount for membership dues includible in gross income which is received by a membership organization in connection with, and is directly attributable to, a liability of the taxpayer to render services or make available membership privileges over a period of time which extends beyond the close of the taxable year in which such amount is received.

(2) For purposes of section 456, prepaid dues income does not include amounts received by a taxpayer in connection with sales of memberships on a prepaid basis where the taxpayer does not have the liability to furnish the services or make available the membership privileges. For example, where a taxpayer has a contract with several membership organizations to sell memberships in such organizations and retains a portion of the amounts received from the sale of such memberships and remits the balance to the membership organizations, the amounts retained by such taxpayer represent commissions and do not constitute prepaid dues income for purposes of section 456.

(b) *Liability.* The term "liability" means a liability of the taxpayer to render services or make available membership privileges over a period of time which does not exceed 36 months. Thus, if during the taxable year a taxpayer sells memberships for more than 36 months and also memberships for 36 months or less, section 456 does not apply to the income from the sale of memberships for more than 36 months. For the purpose of determining the duration of a liability, a bona fide renewal of a membership shall not be considered to be a part of the existing membership.

(c) *Membership organization.* (1) The term "membership organization" means a corporation, association, federation, or other similar organization meeting the following requirements:

(i) It is organized without capital stock of any kind.

(ii) Its charter, bylaws, or other written agreement or contract expressly prohibits the distribution of any part of the net earnings directly or indirectly, in money, property, or services, to any member, and