

INTERNAL REVENUE SERVICE
Index No. 174.05-02
Number: **199921010**
Release Date: 5/28/1999

February 17, 1999

CC:DOM:IT&A:09-PLR-119623-98

In re:

X =

Y =

Z =

Dear

This is in reference to a request filed on behalf of X (the taxpayer) for consent to adopt the current expense method of deducting legal expenditures incurred in connection with making and perfecting patent applications relating to the development of Z, pursuant to the provisions of § 174(a)(2)(B) of the Internal Revenue Code, for the 52-53 week tax year beginning December 28, 1997 and ending December 26, 1998 (year of change).

It is represented that the taxpayer has been expensing all research and experimental expenditures under § 174(a) with the exception of the costs described above, which it has been capitalizing and amortizing over a period of 17 years. The change in accounting method will apply only to legal expenditures incurred in connection with making and perfecting patent applications paid or incurred by the taxpayer on or after the first day of the year of change in accordance with § 1.174-4(a)(5) of the Income Tax Regulations. As of the first day of the year of change, the total amount of unamortized research and experimental expenditures was Y. This amount shall continue to be amortized over the remaining months in the amortization period.

Based on the information submitted, permission is hereby granted the taxpayer to adopt the current expense method of deducting legal expenditures incurred in connection with making and perfecting patent applications paid or incurred on or after the first day of the year of change, to the extent that such expenditures qualify under the provisions of § 1.174-2, relating to the development of Z, beginning with the year of change, provided:

- (1) the taxpayer keeps its books and records for the year of change and for subsequent taxable years (provided they are not closed for that year on the date it receives this letter) on the method of accounting granted in this letter. This condition is considered satisfied if the taxpayer reconciles the results obtained under the method used in keeping its books and records and the method used for federal income tax purposes and maintains sufficient records to support such reconciliation;
- (2) that the taxpayer uses the method granted in this letter for the year of change and all later tax years unless the taxpayer secures permission to change to another recognized method;
- (3) that the taxpayer deducts the unamortized balance of research and experimental expenditures in accordance with its present method of amortizing such expenditures; and
- (4) that the taxpayer attaches a copy of this letter to its income tax return for the year of change as evidence of its authority for making the change.

In connection with the consent granted in this letter, it should be understood that the responsibility for making determinations as to whether the expenditures paid or incurred by the taxpayer in connection with the taxpayer's trade or business constitute research or experimental expenditures within the meaning of § 174 of the Code and the regulations thereunder, is a matter to be considered by the district director upon examination of the taxpayer's return.

This ruling is directed only to the taxpayer who requested it. Section 6110(j)(3) provides that this letter may not be used or cited as precedent.

Sincerely yours,

Assistant Chief Counsel
(Income Tax & Accounting)

By _____
J. Charles Strickland
Chief, Branch 9
I.D. # 50-07044