



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF
CHIEF COUNSEL

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CAM-21594-94

MEMORANDUM FOR DISTRICT DIRECTOR, OHIO DISTRICT

Attn: Chief, Examination Division

FROM: Chief, Branch 6, Passthroughs & Special Industries
(CC:DOM:P&SI:6)

SUBJECT: Withdrawal of Application for Change in Method of
Accounting

In accordance with section 8.07(2)(a) of Rev. Proc. 99-1, 1999-1 I.R.B. 6, 34, this memorandum advises you that a taxpayer within your district has withdrawn a Form 3115, Application for Change in Accounting Method. This document is not to be cited as precedent.

LEGEND:

Taxpayer =

a =

b =

c =

d =

e =

f =

g =

This memorandum advises you that a Form 3115, filed a, on behalf of Taxpayer, is withdrawn. Taxpayer withdrew its Form 3115 because of the long delay in processing this form.

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Taxpayer filed the Form 3115 to request permission to change its treatment of a portion of the cost of a building constructed in b from nondepreciable property to depreciable property, and to correct the amounts deducted on its federal income tax returns for the part of the roof demolished in c and for the other part of the roof replaced in d, thereby resulting in a net negative adjustment of \$e under § 481(a) of the Internal Revenue Code. These changes would have been effective beginning with the taxable year beginning f.

At the time of the withdrawal, we had not formed a tentative position on Taxpayer's proposed change in its treatment of a portion of the cost of a building from nondepreciable to depreciable property.

However, with respect to Taxpayer's proposed correction of the amounts deducted on its federal income tax returns for the part of the roof demolished in c and for the other part of the roof replaced in d, we had advised Taxpayer's authorized representative by letter dated g, that we had concerns about whether these corrections are a change in method of accounting under § 446(e) and whether the losses on the retirements of the roof in c and d should have been deducted on Taxpayer's federal income tax returns. With respect to the retirement losses, the Joint Committee on Taxation Staff in its explanation relating to gain on disposition and recapture of depreciable property subject to § 168 of the Internal Revenue Code of 1954 stated that "Congress did not intend a retirement of a structural component of the building to be a disposition requiring recognition of gain or loss. Thus, if the roof wears out, no loss is recognized upon retirement and the unadjusted basis of the building is not reduced (i.e., cost recovery continues over the remaining recovery period). If the roof is replaced, the unadjusted basis of the new roof is recovered over a new recovery period beginning in the month it is placed in service." Joint Committee on Taxation Staff, General Explanation of the Economic Recovery Act of 1981, 97th Cong., 1st Sess. (1981). See also § 1.168-6(b) of the proposed Income Tax Regulations. This rule did not change with the enactment of § 168 of the 1986 Code. Accordingly, Taxpayer should not have recognized any losses in c and d with respect to the retirements of the roof.

If you have any questions on this matter, do not hesitate to call (202) 622-3110.

Charles B. Ramsey
CHARLES B. RAMSEY