

Part III - Administrative, Procedural, and Miscellaneous

Simplified Service Cost Method; Simplified Production Method

Notice 2003-36

PURPOSE

The Treasury Department and the Internal Revenue Service have become aware that uncertainty exists as to what types of property constitute "eligible property" under §§ 1.263A-1(h)(2)(i)(D) and 1.263A-2(b)(2)(i)(D) of the Income Tax Regulations for purposes of qualifying taxpayers to use the simplified service cost and the simplified production methods. These sections provide that self-constructed assets produced by the taxpayer on a routine and repetitive basis in the ordinary course of the taxpayer's trade or business are "eligible property." There is uncertainty about the proper interpretation and application of the term "routine and repetitive." Accordingly, the Treasury Department and the Service plan to publish guidance that will clarify the types of property that qualify as eligible property under §§ 1.263A-1(h)(2)(i)(D) and 1.263A-2(b)(2)(i)(D) and, in particular, that will address the interpretation and application of the term "routine and repetitive." This notice requests comments in connection with the guidance and informs taxpayers of the procedures that the Service will follow in the interim with respect to applications for consent to change to the simplified service cost or simplified production methods for self-constructed assets under §§ 1.263A-1(h)(2)(i)(D) and 1.263A-1(b)(2)(i)(D).

BACKGROUND

Rev. Proc. 2002-9, 2002-1 C.B. 327, as modified and clarified by Announcement 2002-17, 2002-1 C.B. 561, modified and amplified by Rev. Proc. 2002-19, 2002-1 C.B. 696, and amplified, clarified, and modified by Rev. Proc. 2002-54, 2002-35 I.R.B. 432, provides procedures by which taxpayers may obtain automatic consent to change to the methods of accounting described in the Appendix of the revenue procedure. Section 4.01(1)(a)(vi) of the Appendix of Rev. Proc. 2002-9 permits certain resellers to use the automatic consent procedures to change from a non-UNICAP method to a UNICAP method specifically described in the regulations. Section 4.02 of the Appendix of Rev. Proc. 2002-9 permits producers of real or tangible personal property to use the automatic consent procedures to change to a UNICAP method specifically described in the regulations. For this purpose, the simplified production method and the simplified service cost method are UNICAP methods specifically described in the regulations. See sections 4.01(2)(g) and 4.02(3) of the Appendix of Rev. Proc. 2002-9.

INTERIM PROCEDURES FOR ACCOUNTING METHOD CHANGE APPLICATIONS

Pending the issuance of further guidance, the following procedures will apply to Forms 3115, *Application for Change in Accounting Method*, filed under either the automatic consent procedures of Rev. Proc. 2002-9 or the advance consent procedures of Rev. Proc. 97-27, 1997-1 C.B. 680, as modified and amplified by Rev. Proc. 2002-19, that request consent to change to either the simplified service cost method or the simplified production method for self-constructed assets under §§ 1.263A-1(h)(2)(i)(D) and 1.263A-2(b)(2)(i)(D).

A. Pending Applications. The national office will continue to process pending applications. However, due to the uncertainty surrounding the types of property that qualify as eligible property under §§ 1.263A-1(h)(2)(i)(D) and 1.263A-2(b)(2)(i)(D), the national office expects that it will require additional time to process applications filed under the advance consent procedures, and that resolution of these applications will be delayed. Further, the national office may review copies of applications filed with the national office under Rev. Proc. 2002-9 (the automatic consent procedures that are generally effective for taxable years ending on or after December 31, 2001) on or before May 8, 2003, to determine whether the taxpayer's proposed change to the simplified service cost method or the simplified production method is appropriate. If an application filed under the automatic consent procedures is reviewed by the national office, the taxpayer will be notified by the national office of the outcome of the review.

B. Future Applications. After May 8, 2003, the Service will not accept applications filed under the automatic consent procedures of Rev. Proc. 2002-9 that request consent to change to either the simplified service cost method or the simplified production method for self-constructed assets under §§ 1.263A-1(h)(2)(i)(D) and 1.263A-2(b)(2)(i)(D). Instead, taxpayers will be required to file applications to make these changes under the advanced consent procedures of Rev. Proc. 97-27. Notwithstanding section 6.02(3) of Rev. Proc. 2002-9, if the taxpayer has filed a copy of the Form 3115 with the national office on or before May 8, 2003, but has not yet attached the original of the Form 3115 to its timely filed (including extensions) federal income tax return, for purposes of this notice the taxpayer will be deemed to have a

pending application provided, however, that pursuant to section 6.02(3) of Rev. Proc. 2002-9, the taxpayer files the original Form 3115 with its timely filed (including extensions) federal income tax return.

EFFECT ON OTHER DOCUMENTS

Rev. Proc. 2002-9 is suspended in part.

REQUEST FOR COMMENTS

The Service requests comments on issues relating to the qualifications for eligible property under §§ 1.263A-1(h)(2)(i)(D) and 1.263A-2(b)(2)(i)(D). In addition, the Service requests comments on the simplified service cost method in general. For example, the Service requests comments on the ability of small taxpayers to use the simplified service cost method given that small taxpayers may not have costs separated into departments or functions. Comments should be submitted by July 7, 2003, to:

Internal Revenue Service
P. O. Box 7604
Ben Franklin Station
Washington, DC 20044
Attn: CC:PA:T:CRU(ITA)
Room 5529

or electronically via the Service internet site at:

Notice.Comments@irs.counsel.treas.gov (the Service comments e-mail address). All comments will be available for public inspection and copying.

DRAFTING INFORMATION

The principal author of this notice is Scott Rabinowitz of the Office of the Associate Chief Counsel (Income Tax And Accounting). For further information regarding this notice contact Mr. Rabinowitz on (202) 622-4970 (not a toll-free call).