

Part III

Administrative, Procedural, and Miscellaneous

26 CFR 601.204: Changes in accounting periods and in methods of accounting.
(Also Part 1, §§ 162, 263, 446, 461, 481; 1.167(a)-3(b), 1.263(a)-4, 1.263(a)-5, 1.446-1, 1.461-4, 1.461-5, 1.481-1)

Rev. Proc. 2004-23

SECTION 1. PURPOSE

This revenue procedure provides the exclusive administrative procedures under which a taxpayer described in section 3 of this revenue procedure may obtain automatic consent for the taxpayer's first taxable year ending on or after December 31, 2003, to change to a method of accounting provided in §§ 1.263(a)-4, 1.263(a)-5, and 1.167(a)-3(b) of the Income Tax Regulations (the "final regulations").

SECTION 2. BACKGROUND

.01 On January 24, 2002, the Internal Revenue Service and Treasury Department published an advance notice of proposed rulemaking (ANPRM) in the Federal Register (REG-125638-01; 67 FR 3461) announcing an intention to provide guidance on the extent to which § 263(a) of the Internal Revenue Code requires taxpayers to capitalize amounts paid to acquire, create, or enhance intangible assets. On December 19, 2002, the Service and Treasury Department published a notice of proposed rulemaking proposing regulations under § 263(a) relating to the capitalization requirements. On January 5, 2004, the Service and Treasury Department published

final regulations in the Federal Register (TD 9107; 69 FR 436). Section 1.263(a)-4 prescribes the extent to which taxpayers must capitalize amounts paid or incurred to acquire or create (or to facilitate the acquisition or creation of) intangibles. Section 1.263(a)-5 prescribes the extent to which taxpayers must capitalize amounts paid or incurred to facilitate an acquisition of a trade or business, a change in the capital structure of a business entity, and certain other transactions. Section 1.167(a)-3(b) provides a safe harbor useful life for certain intangible assets. The final regulations under §§ 1.263(a)-4 and 1.263(a)-5 are effective for amounts paid or incurred on or after December 31, 2003. The final regulations under § 1.167(a)-3(b) are effective for intangible assets created on or after December 31, 2003.

.02 Sections 1.263(a)-4(p) and 1.263(a)-5(n) provide that a taxpayer seeking to change to a method of accounting provided in the final regulations must secure the consent of the Commissioner in accordance with the requirements of § 1.446-1(e). In addition, §§ 1.263(a)-4(p) and 1.263(a)-5(n) provide that, for the taxpayer's first taxable year ending on or after December 31, 2003, the taxpayer is granted the consent of the Commissioner to change to a method of accounting provided in the final regulations, provided the taxpayer follows the administrative procedures issued under § 1.446-1(e)(3)(ii) for obtaining the Commissioner's automatic consent to a change in accounting method (for further guidance, for example, see 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, 2002-2 C.B. 432). The final regulations further provide that any applicable § 481(a) adjustment for a change to a method of accounting

provided in the final regulations for a taxpayer's first taxable year ending on or after December 31, 2003, is determined by taking into account only amounts paid or incurred in taxable years ending on or after January 24, 2002. The preamble to the final regulations states that the Service may issue additional guidance for utilizing the automatic consent procedures to change to a method of accounting provided in the regulations. This revenue procedure constitutes the exclusive guidance for utilizing the automatic consent procedures to change to a method of accounting provided in the final regulations for a taxpayer's first taxable year ending on or after December 31, 2003. For changes in methods of accounting to which this revenue procedure applies, a taxpayer may not file an application for a change in method of accounting under Rev. Proc. 97-27, 1997-21 I.R.B. 10 (as modified and amplified by Rev. Proc. 2002-19, 2002-13 I.R.B. 696, as amplified and clarified by Rev. Proc. 2002-54, 2002-35 I.R.B. 432). See section 4.02(1) of Rev. Proc. 97-27.

.03 Section 1.446-1(e)(3)(ii) authorizes the Commissioner to prescribe administrative procedures setting forth the limitations, terms, and conditions deemed necessary to permit a taxpayer to obtain consent to change a method of accounting.

.04 Rev. Proc. 2002-9 provides procedures by which a taxpayer may obtain automatic consent to change to a method of accounting described in the Appendix of Rev. Proc. 2002-9.

.05 Rev. Rul. 90-38, 1990-1 C.B. 57, provides that, if a taxpayer uses an erroneous method of accounting for two or more consecutive taxable years, the taxpayer has adopted a method of accounting. The ruling further provides that a taxpayer may not, without the Commissioner's consent, retroactively change from an

erroneous to a permissible method of accounting by filing an amended return.

.06 This revenue procedure applies only for a taxpayer's first taxable year ending on or after December 31, 2003, for changes to methods of accounting provided in the final regulations. The Service intends to issue future guidance for changes in methods of accounting made for subsequent taxable years, including automatic consent procedures for some or all methods of accounting provided in the final regulations. For taxable years subsequent to the first taxable year ending on or after December 31, 2003, as in this revenue procedure, a term and condition of the Commissioner's consent with respect to a change to a method of accounting provided in the final regulations will be that any applicable § 481(a) adjustment will take into account only amounts paid or incurred in taxable years ending on or after January 24, 2002.

.07 As indicated in the preamble to the final regulations, the preamble to the notice of proposed rulemaking advised taxpayers not to seek to change a method of accounting in reliance upon the rules contained in the notice of proposed rulemaking until the rules were published as final regulations. The Service has received numerous Forms 3115 from taxpayers seeking consent to change to a method of accounting described in the notice of proposed rulemaking for taxable years prior to the effective date of the final regulations. For example, the Service has received numerous requests to change to a method of accounting of applying the 12-month rule contained in § 1.263(a)-4(f)(1) of the final regulations. *See also U.S. Freightways Corp. v. Commissioner*, 270 F.3d 1137 (7th Cir. 2001), *rev'g* 113 T.C. 329 (1999). As stated in the preamble to the final regulations, the Service suspended processing of these requests pending publication of the final regulations. The Service will not grant a

request to change to a method of accounting provided in the final regulations for a year of change earlier than the effective date provided by the final regulations. Affected taxpayers will be notified and given the opportunity to withdraw their requests and obtain a refund of the user fee. Any request not withdrawn will be processed in accordance with the procedures under which it was filed (e.g., Rev. Proc. 97-27) on the basis that the national office is adverse to the request.

SECTION 3. SCOPE

.01 This revenue procedure applies to a taxpayer that seeks, for the taxpayer's first taxable year ending on or after December 31, 2003, to change to a method of accounting provided in the final regulations.

.02 This revenue procedure also applies to a taxpayer that, for the taxpayer's first taxable year ending on or after December 31, 2003, in addition to seeking a change to a method of accounting provided in the final regulations, also seeks to change its method of accounting to utilize the 3½ month rule authorized by § 1.461-4(d)(6)(ii) or to utilize the recurring item exception authorized by § 1.461-5.

SECTION 4. APPLICATION

.01 *In general.* A taxpayer within the scope of this revenue procedure is, in accordance with section 6.01 of Rev. Proc. 2002-9, granted the consent of the Commissioner to change to a method of accounting provided in the final regulations (and, if desired, to also utilize the 3½ month rule authorized by § 1.461-4(d)(6)(ii) or the recurring item exception authorized by § 1.461-5) provided that the taxpayer follows the automatic change in method of accounting provisions in Rev. Proc. 2002-9, with the following modifications:

(1) The scope limitations in section 4.02 of Rev. Proc. 2002-9 do not apply;

(2) The taxpayer must prepare and file Form 3115, Application for Change in Accounting Method, in accordance with section 4.02 of this revenue procedure;

(3) The copy of Form 3115 must be sent to the following special address (note the special post office box number): Commissioner of Internal Revenue, Attention: CC:ITA (Automatic Rulings Branch, Rev. Proc. 2004-23 Filing) P.O. Box 7616, Benjamin Franklin Station, Washington, D.C. 20044 (or in the case of a private delivery service or hand delivery to the courier's desk: Commissioner of Internal Revenue, Attention: CC:ITA (Automatic Rulings Branch, Rev. Proc. 2004-23 Filing), 1111 Constitution Avenue, N.W., Washington, D.C. 20224);

(4) The taxpayer must compute any applicable § 481(a) adjustment and take such adjustment into account in accordance with section 5 of this revenue procedure; and

(5) A taxpayer described in section 4.03(2) of this revenue procedure must file one or more amended federal income tax returns (amended returns) in accordance with section 4.03(3), (4), or (5), as applicable, of this revenue procedure.

.02 *Form 3115*. In preparing the Form 3115 referred to in section 4.01 of this revenue procedure, a taxpayer must comply with the following procedures:

(1) The taxpayer must use the current version of Form 3115 (Revised December 2003);

(2) The taxpayer may use one Form 3115 for all changes in method of accounting made pursuant to the final regulations;

(3) The taxpayer is required to complete only the following information on Form 3115:

(a) The identification section of Page 1 (above Part I);

(b) The signature section at the bottom of Page 1;

(c) Part I, Line 1(a). The designated automatic accounting method change number for changes in method of accounting made pursuant to this revenue procedure is No. "78";

(d) Part II, Lines 4(a) (and, if applicable, lines 4(f) and 4(g)), 5(a), 5(b), 9, 10, 12 (see section 5.02(2) of this revenue procedure if the taxpayer is making more than one change in method of accounting), and 16;

(e) Part IV, in accordance with section 5 of this revenue procedure;

and

(f) Schedule E, if applicable;

(4) In addition to the other information required on line 12 of Form 3115, the taxpayer must include the citation to the paragraph of the final regulations that provides for the proposed method of accounting for each item (e.g., § 1.263(a)-4(d)(6) or § 1.263(a)-4(f)), and, if applicable, whether the taxpayer is also proposing to change to a method that uses the 3½ month rule authorized by § 1.461-4(d)(6)(ii) or the recurring item exception authorized by § 1.461-5 with respect to the item;

(5) In addition to the other information required on Schedule E of Form 3115 (if applicable), the taxpayer must include a statement as to whether the useful life is the safe harbor useful life prescribed by § 1.167(a)-3(b)(1) or § 1.167(a)-3(b)(1)(iv) and, if the useful life is the safe harbor useful life prescribed by § 1.167(a)-3(b)(1), a

statement explaining why the intangible asset does not have a useful life the length of which can be estimated with reasonable accuracy; and

(6) A taxpayer that must file one or more amended returns as provided in section 4.03 of this revenue procedure to be eligible to use the automatic consent procedures of this revenue procedure must attach to the Form 3115 a written statement signed under penalties of perjury confirming that the taxpayer has filed the amended returns pursuant to section 4.03 of this revenue procedure.

.03 Unauthorized change in a preceding year.

(1) A taxpayer may change a method of accounting only with the consent of the Commissioner. § 1.446-1(e)(2). A taxpayer that changes a method of accounting without the consent of the Commissioner has made an unauthorized change in method of accounting. If a taxpayer makes an unauthorized change in method of accounting, the Service may adjust the taxpayer's taxable income during the examination of the taxpayer's income tax return for the taxable year the unauthorized change was made and for all affected subsequent years. As discussed above, the preamble to the notice of proposed rulemaking advised taxpayers not to seek to change a method of accounting in reliance on rules contained in the notice of proposed rulemaking until the rules were published as final regulations. The Service and Treasury Department are aware that some taxpayers, prior to the effective date of the final regulations, made an unauthorized change in method of accounting for an item the treatment of which is provided for in the final regulations. The Service and Treasury Department have determined that it is not appropriate for taxpayers that have made an unauthorized change in method of accounting for an item the treatment of which is provided for in the

final regulations to obtain automatic consent under this revenue procedure without correcting such unauthorized change. Therefore, a taxpayer that made an unauthorized change in method of accounting for an item the treatment of which is provided for in the final regulations is eligible to use the automatic consent procedures provided in this revenue procedure only if the taxpayer amends prior federal income tax returns to correct the unauthorized change in method of accounting. However, as a matter of administrative grace, the Service and Treasury Department have limited the application of this section 4.03 to certain taxpayers described in section 4.03(2) of this revenue procedure.

(2) This section 4.03 applies to a taxpayer that –

(a) in a taxable year for which the due date of the federal income tax return (including extensions, regardless of whether such extension is automatic and whether or not actually requested) is after January 24, 2002 (the date of publication of the ANPRM) --

(i) made any unauthorized change in method of accounting for an item the treatment of which is provided for in the final regulations; or

(ii) changed the treatment of an item that is provided for in the final regulations in the taxable year immediately preceding the taxpayer's first taxable year ending on or after December 31, 2003, but has only used such treatment on one federal income tax return; or

(b) made an unauthorized change in method of accounting to a method of accounting that is provided in the final regulations in a taxable year for which the due date of the federal income tax return (including extensions,

regardless of whether such extension is automatic and whether or not actually requested) is on or before January 24, 2002, and for which the statute of limitations has not yet expired, if the taxpayer wishes to use the automatic consent procedures to obtain the Commissioner's consent to change to the same method of accounting to which the taxpayer previously made the unauthorized change.

(3) A taxpayer described in section 4.03(2)(a)(i) of this revenue procedure is eligible to use the automatic consent procedures to obtain the Commissioner's consent to change to a method of accounting provided in the final regulations only if the taxpayer changes back to the prior method of accounting (*i.e.*, the method of accounting used for an item prior to making the unauthorized change for the item) for each item referred to in section 4.03(2)(a) of this revenue procedure by amending its federal income tax returns for all of the preceding taxable years in which the unauthorized method (or methods) was used.

(4) A taxpayer described in section 4.03(2)(a)(ii) of this revenue procedure is eligible to use the automatic consent procedures to obtain the Commissioner's consent to change to a method of accounting provided in the final regulations only if the taxpayer amends its federal income tax return for the preceding taxable year in which the unauthorized treatment was used to change the treatment of each item referred to in section 4.03(2)(a) of this revenue procedure to a treatment consistent with the taxpayer's historic method of accounting (*i.e.*, the method of accounting used for an item prior to changing the treatment of the item).

(5) A taxpayer described in section 4.03(2)(b) of this revenue procedure is

eligible to use the automatic consent procedures to obtain the Commissioner's consent to change to the same method of accounting provided in the final regulations to which the taxpayer previously made the unauthorized change only if the taxpayer changes back to its prior method of accounting for the item (*i.e.*, the method of accounting used for the item prior to making the unauthorized change for the item) by amending its federal income tax returns for all of the preceding taxable years in which the unauthorized method was used.

(6) A taxpayer filing one or more amended returns pursuant to section 4.03(3), (4), or (5) of this revenue procedure must file the amended returns before, or at the same time as, the taxpayer files a Form 3115 under this revenue procedure (including the copy of Form 3115 filed with the national office under section 4.01(3) of this revenue procedure) for the taxpayer's first taxable year ending on or after December 31, 2003. For this purpose, a taxpayer under examination will be considered to have filed an amended return by providing the amended return to the examining agent.

(7) In accordance with § 1.446-1(e)(3)(ii) and Rev. Rul. 90-38, consent is hereby granted for a taxpayer described in section 3.01 of this revenue procedure that also is described in section 4.03(2)(a)(i) or (b) of this revenue procedure to file the amended returns referred to in section 4.03(3) or (5) of this revenue procedure to retroactively change its method of accounting. This consent is granted for the taxable year for which the taxpayer made the unauthorized change and for any subsequent taxable year affected by the unauthorized change.

SECTION 5. COMPUTATION OF SECTION 481(a) ADJUSTMENT

.01 *In general.* A taxpayer changing a method of accounting under this revenue procedure is required to take into account any applicable § 481(a) adjustment as provided in §§ 1.263(a)-4(p)(3) and 1.263(a)-5(n)(3). As provided in the regulations, the § 481(a) adjustment is computed by taking into account only amounts paid or incurred in taxable years ending on or after January 24, 2002. Thus, the § 481(a) adjustment is computed by taking into account only amounts paid or incurred in the period beginning with the first day of the taxable year that includes January 24, 2002, and ending with December 30, 2003. As a matter of administrative convenience, a taxpayer may report amounts paid or incurred on December 31, 2003, as part of the § 481(a) adjustment. The amount of the § 481(a) adjustment must include (i) as a reduction of taxable income, any amounts paid or incurred in the period beginning with the first day of the taxable year that includes January 24, 2002, and ending with December 30, 2003, that were capitalized under the taxpayer's present method of accounting and are currently deductible under the taxpayer's proposed method of accounting, reduced by the amount of such capitalized costs recovered through amortization or depreciation under the taxpayer's present method of accounting, (ii) as an increase to taxable income, any amounts paid or incurred in the period beginning with the first day of the taxable year that includes January 24, 2002, and ending with December 30, 2003, that were currently deducted under the taxpayer's present method of accounting and are capitalized under the taxpayer's proposed method of accounting, reduced by the amount of capitalized costs that would have been recovered through amortization or depreciation if the taxpayer's proposed method of accounting had been applied in taxable years ending on or after January 24, 2002, and (iii) as an increase or a

reduction to taxable income, as appropriate, any other adjustments required as a result of the change in method of accounting. If under its present method of accounting a taxpayer capitalized costs incurred prior to the first taxable year that includes January 24, 2002, the taxpayer must continue to treat amortization or depreciation deductions attributable to those costs in accordance with the taxpayer's present method of accounting. Thus, for example, a taxpayer that files returns on a calendar year basis continues to amortize or depreciate in 2004 an intangible created in 2001, even though the taxpayer has changed to a method of accounting provided in the final regulations under which the entire cost of the intangible would be currently deductible if incurred in 2004.

.02 Reporting the section 481(a) adjustment on Form 3115.

(1) *Netting.* For purposes of determining the adjustment period under section 2.05(2) of Rev. Proc. 2002-9, the § 481(a) adjustment is determined separately for each change in method of accounting being made under this revenue procedure. Thus, a positive adjustment attributable to a change in one method may not be netted against a negative adjustment attributable to a change in another method. However, in determining the adjustment attributable to a change in method, a taxpayer must net positive § 481(a) adjustments and negative § 481(a) adjustments resulting from that change in method (*e.g.*, if a taxpayer changes to a method of applying the 12-month rule to prepaid amounts, the taxpayer must net the resulting negative § 481(a) adjustment with the positive § 481(a) adjustment that results from including those amounts in inventory pursuant to the taxpayer's existing § 263A method of accounting for inventory).

(2) *Itemized listing on Form 3115.* The taxpayer must include on Form 3115, Part IV, line 25, the total § 481(a) adjustment for all changes in methods of accounting being made. If the taxpayer is making more than one change in method of accounting under the final regulations, the taxpayer must include on an attachment to Form 3115 –

(a) the information required by Part IV, line 25 for each change in method of accounting (including the amount of the § 481(a) adjustment for each change in method of accounting);

(b) the information required by Part II, line 12 of Form 3115 that is associated with each change; and

(c) the citation to the paragraph of the final regulations that provides for each proposed method of accounting (*e.g.*, § 1.263(a)-4(d)(6) or § 1.263(a)-4(f)).

.03 *Examples.* The following examples illustrate the computation of the § 481(a) adjustment under this revenue procedure:

Example 1: Y, a calendar year taxpayer that uses the accrual method of accounting, is a service provider not required to maintain inventories. Y incurred and capitalized \$100x in taxable year 2001, \$200x in taxable year 2002, and \$250x in taxable year 2003. No portion of the \$250x was incurred on December 31, 2003. The \$100x, \$200x, and \$250x capitalized and depreciated by Y in 2001, 2002, and 2003 all relate to the same method of accounting and would be currently deductible under the final regulations if the amounts had been incurred on or after December 31, 2003. Y claimed a depreciation deduction of \$10x in each of the taxable years 2001, 2002, and 2003 with respect to the \$100x incurred and capitalized in 2001, a depreciation

deduction of \$20x in each of the taxable years 2002 and 2003 with respect to the \$200x incurred and capitalized in 2002, and a depreciation deduction of \$25x in taxable year 2003 with respect to the \$250x incurred and capitalized in 2003. For taxable year 2003, Y may apply for an automatic change in method of accounting with respect to the method under which the amounts had been capitalized. Y's section 481(a) adjustment is a decrease in income of \$385x (\$160x relating to amounts capitalized in 2002 (\$200x - \$40 (\$20 for 2002 and \$20 for 2003)) + \$225x relating to amounts capitalized in 2003 (\$250x - \$25x)). Y must continue to use its present method of accounting for the amount capitalized in 2001.

Example 2: The same facts as Example 1, except Y also incurs \$25x of expenses on December 31, 2003, that were previously required to be capitalized but may now be currently deducted under the final regulations. Y may deduct the \$25x currently on its federal tax return for 2003 or add it to the \$385x calculated as its § 481(a) adjustment. Y's year of change is still 2003.

SECTION 6. TRANSITION RULES

.01 *General rule for previously filed applications.* If a taxpayer within the scope of this revenue procedure has filed a Form 3115 (including a copy of Form 3115 filed with the national office in advance of filing the taxpayer's federal income tax return) to change to a method of accounting provided in the final regulations for its first taxable year ending on or after December 31, 2003, and the Form 3115 does not comply with the provisions of this revenue procedure, the taxpayer will not be considered to have filed the Form 3115 pursuant to the automatic change in method of accounting procedures referred to in §§ 1.263(a)-4(p) and 1.263(a)-5(n) of the final regulations.

The taxpayer may file a new Form 3115 that does comply with this revenue procedure, provided the new Form 3115 is filed within the timely filing requirements of section 6.02(3)(a) of Rev. Proc. 2002-9, including the period described in section 6.02(3)(b)(i) of Rev. Proc. 2002-9. This new Form 3115 must be labeled at the top: "Corrected Form 3115 Filed Under Rev. Proc. 2004-23".

.02 Limited relief for certain previously filed applications. Notwithstanding section 6.01 of this revenue procedure, if a taxpayer within the scope of this revenue procedure has filed a Form 3115 prior to April 26, 2004, to change to a method of accounting provided in the final regulations for the taxpayer's first taxable year ending on or after December 31, 2003, the taxpayer is not required to file a new Form 3115 under section 6.01 of this revenue procedure for the same change in method of accounting included in the Form 3115 filed prior to April 26, 2004, if the taxpayer:

(1) prepares a written statement signed under penalties of perjury that includes all of the information necessary to comply with this revenue procedure for the same change in method of accounting included in the Form 3115 filed prior to April 26, 2004, (without regard to section 4.02(1) of this revenue procedure) that was not included in the original filing;

(2) submits the written statement, with an attached copy of page 1 of the original Form 3115 filed by the taxpayer, to the national office at the special address provided in section 4.01(3) of this revenue procedure, within the timely filing requirements of section 6.02(3)(a) of Rev. Proc. 2002-9, including the period described in section 6.02(3)(b)(i) of Rev. Proc. 2002-9;

(3) attaches the written statement and a copy of the original Form 3115 to

the taxpayer's federal income tax return for the taxpayer's—

(i) first taxable year ending on or after December 31, 2003, or

(ii) second taxable year ending on or after December 31, 2003, if

the taxpayer prior to April 26, 2004, has filed the taxpayer's federal income tax return for the taxpayer's first taxable year ending on or after December 31, 2003, that includes a Form 3115, a copy of which also has been filed with the national office, and the § 481(a) adjustment included on that return was computed correctly as described in section 5 of this revenue procedure;

and

(4) except as provided in subsections (1), (2), and (3) of this section 6.02, complies with all other provisions of this revenue procedure.

.03 Special rule regarding amended returns filed pursuant to section 4.03(3), (4), and (5). A taxpayer within the scope of this revenue procedure that files one or more amended returns pursuant to section 4.03(3), (4), or (5) of this revenue procedure must file the amended returns before, or at the same time as, the taxpayer files the written statement described in section 6.02(1) of this revenue procedure.

.04 Automatic extension of time to file late applications. If a taxpayer has filed its federal income tax return for its first taxable year ending on or after December 31, 2003, and has not attached a Form 3115 to change its method of accounting for that taxable year to a method provided in the final regulations, or has not attached a Form 3115 that complies with this revenue procedure to change its method of accounting for that taxable year to a method provided in the final regulations, the taxpayer may, as

provided in section 6.02(3)(b)(i) of Rev. Proc. 2002-9, obtain an automatic extension of 6 months from the due date of its federal income tax return for the year of change (excluding extensions) to obtain the automatic consent provided by this revenue procedure, provided the taxpayer attaches Form 3115 to an amended return for the year of change and otherwise complies with § 6.02(3)(b)(i) of Rev. Proc. 2002-9.

.05 *Example*. The following example illustrates the transition rules of section 6 of this revenue procedure:

Y corporation, a calendar year taxpayer that uses the accrual method of accounting, made, for the taxable year ending December 31, 2001, an unauthorized change in method of accounting to use the "one-year rule" allowed to the taxpayer in *U.S. Freightways Corp. v. Commissioner*. On January 15, 2004, Y filed a Form 3115, for the taxable year ending December 31, 2003, to change to a method of accounting provided in the final regulations. As described in section 4.03(1) of this revenue procedure, Y made an unauthorized change in method of accounting to a method of accounting provided in the final regulations for a taxable year for which the due date of the federal income tax return (including extensions, regardless of whether such extension is automatic and whether or not actually requested) is after January 24, 2002. Y is eligible to use the automatic consent procedures provided in this revenue procedure to obtain the Commissioner's consent to change to a method of accounting provided in the final regulations only if Y changes back to its prior method of accounting for expenses that were deducted under the "one-year rule" by amending its federal income tax returns for its 2001 and 2002 taxable years. In accordance with section 6.01 of this revenue procedure, Y must file by September 15, 2004, a new Form 3115 for the

taxable year ending December 31, 2003, that complies with this revenue procedure, including the requirement under section 4.02(6) of this revenue procedure that Y attach a written statement signed under penalties of perjury confirming that Y has filed amended returns pursuant to section 4.03 of this revenue procedure. Alternatively, in lieu of filing a new Form 3115, Y may comply with the requirements of section 6.02 of this revenue procedure by preparing and filing the written statement described in section 6.02 of this revenue procedure that includes all of the information necessary to comply with this revenue procedure for the same change in method of accounting included in the Form 3115 that was not included in the original filing (including the requirement that Y include a written statement signed under penalties of perjury that Y has filed amended returns pursuant to section 4.03 of this revenue procedure).

SECTION 7. EFFECT ON OTHER DOCUMENTS

.01 Rev. Proc. 2002-9 is modified and amplified to include these automatic changes in method of accounting in section 3 of the APPENDIX.

.02 Announcement 93-60, 1993-16 I.R.B. 9, is obsoleted.

SECTION 8. EFFECTIVE DATE

This revenue procedure is effective for a taxpayer's first taxable year ending on or after December 31, 2003.

SECTION 9. DRAFTING INFORMATION

The principal author of this revenue procedure is Grace Matuszeski of the Associate Chief Counsel (Income Tax and Accounting). For further information regarding this revenue procedure call Ms. Matuszeski at (202) 622-7900 (not a toll free call).