

## INTERNAL REVENUE SERVICE

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Brian Specker (50-06889)

(202) 622-4970

CC:ITA:B07/PLR-106803-00

Attention:

### LEGEND

A =

B =

Date 1 =

Year 1 =

Dear

You have requested that a ruling be issued to A under § 301.9100-1(c) of the Procedure and Administration Regulations. A wishes to revise and supplement the Form 970, Application To Use LIFO Inventory Method, that it had previously filed for the tax year ended Date 1. This ruling request is being made under § 301.9100-3.

Beginning with the tax year ended Date 1, A has used the last-in, first-out (LIFO) inventory method for its new machinery and its new B parts inventory for both federal income tax purposes and financial statement purposes. A prepared the required Form 970 with the assistance of its outside accounting firm. A's Form 970 indicates that A would use the dollar value method to determine the cost of its LIFO inventory and compute the inventory's base-year and current-year costs using the double extension method. However, the Form 970 lists the new machinery as the only item to be identified using the LIFO inventory method; the Form 970 failed to indicate that A would use the LIFO inventory method for its new B parts inventory. During Year 1, A conducted a review of its LIFO inventory methodology and discovered that it had failed to indicate on the Form 970 that the LIFO inventory method would be used for new B parts. However, in response to question 4 on the Form 970, A listed inventory that

would not be accounted for on the LIFO method as “Parts-Other than B.”

Section 472 of the Internal Revenue Code provides that a taxpayer may use the LIFO method in inventorying goods specified in an application to use such method filed at such time and in such manner as the Secretary may prescribe.

Section 1.472-3 of the Income Tax Regulations provides that the LIFO inventory method may be adopted and used only if the taxpayer files with its income tax return for the tax year as of the close of which the method is first to be used, a statement of its election to use such inventory method. The statement shall be made on Form 970 pursuant to the instructions printed with respect thereto and to the requirements of this section, or in such other manner as may be acceptable to the Commissioner.

Under § 301.9100-1(c), the Commissioner has discretion to grant a reasonable extension of the time to make a regulatory election under all subtitles of the Code except subtitles E, G, H, and I, provided that the taxpayer acted reasonably and in good faith and granting relief will not prejudice the interests of the Government. Section 301.9100-1(b) defines a regulatory election as an election whose due date is prescribed by a regulation published in the Federal Register, or a revenue ruling, revenue procedure, notice, or announcement published in the Internal Revenue Bulletin.

Section 301.9100-2 sets forth rules governing automatic extensions for making certain elections. If the provisions of § 301.9100-2 do not apply to a taxpayer's situation, the provisions of § 301.9100-3 may apply.

Section 301.9100-3 sets forth the standards that the Commissioner will use in determining whether to grant an extension of time to make a regulatory election. It also sets forth information and representations that must be furnished by the taxpayer to enable the Internal Revenue Service to determine whether the taxpayer has satisfied these standards. The standards to be applied are whether the taxpayer acted reasonably and in good faith and whether granting relief would prejudice the interests of the Government.

Under § 301.9100-3(b)(1)(i), a taxpayer that applies for relief for failure to make an election before the failure is discovered by the Service ordinarily will be deemed to have acted reasonably and in good faith. However, pursuant to § 301.9100-3(b)(3), a taxpayer will not be considered to have acted reasonably and in good faith if the taxpayer seeks to alter a return position for which an accuracy-related penalty has been or could be imposed under § 6662 at the time the taxpayer requests relief and the new position requires or permits a regulatory election for which relief is requested or if the taxpayer was informed in all material respects of the required election and related tax consequences and chose not to make the election. Furthermore, a taxpayer ordinarily will not be considered to have acted reasonably and in good faith if the taxpayer uses hindsight in requesting relief.

Section 301.9100-3(c)(1)(i) provides that the interests of the Government are prejudiced if granting relief would result in a taxpayer having a lower tax liability in the aggregate for all tax years affected by the regulatory election than the taxpayer would have had if the election had been timely made (taking into account the time value of money). Likewise, if the tax consequences of more than one taxpayer are affected by the election, the Government's interests are prejudiced if extending the time for making the election may result in the affected taxpayers, in the aggregate, having a lower tax liability than if the election had been timely made.

Section 301.9100-3(c)(1)(ii) provides that the interests of the Government are ordinarily prejudiced if the tax year in which the regulatory election should have been made are closed by the period of limitations on assessment before the taxpayer receives the ruling granting relief under § 301.9100-1(c).

The information and representations furnished establish that A has acted reasonably and in good faith in this request. Furthermore, granting an extension will not prejudice the interests of the Government. Accordingly, an extension of time is hereby granted for A to file Form 970 with respect to its new B parts inventory for the tax year ended Date 1. This extension shall be for a period of 30 days from the date of this ruling. Please attach a copy of this ruling to the Form 970 when it is filed.

No opinion is expressed as to the application of any other provisions of the Code or the regulations which may be applicable.

Pursuant to a power of attorney on file in this office, copies of this ruling are being sent to A's authorized representatives.

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

Sincerely yours,

Heather Maloy  
Associate Chief Counsel  
(Income Tax and Accounting)

By \_\_\_\_\_  
James Atkinson  
Acting Deputy Associate Chief Counsel