

MSCPA FEDERAL TAX COMMITTEE
FEDERAL TAX FORUM
TAX ACCOUNTING By Lorraine A. Travers

- I. **Final, Temporary and Proposed Regulations Issued Defining “Routine and Repetitive” for Simplified Service Cost and Simplified Production Methods—Code Section 263A. [T.D. 9217, 70 Fed. Reg. 44467 (8/3/05); REG-1215-05, 70 Fed. Reg. 44535 (8/3/05)]**

Taxpayer’s production of property is “routine and repetitive” only if the property is mass-produced and has a high degree of turnover.

- II. **Rev. Proc. 2005-78 Standard Mileage Rate for 2006—Business - .445/mi.; Medical - .18; Charity - .14.**

- III. **Importer Must Include Refunds of Antidumping and Countervailing Duties in Gross Income.**

Taxpayer using FIFO method of inventory accounting paid antidumping fees and countervailing duties imposed under the Tariff Act of 1930 and included these costs in inventory costs. Several years later, taxpayer received refunds of the duties paid and National Office advised that refunds must be included in gross income in the year of receipt.

- IV. **Taxpayer’s Attempt to Deduct Costs Previously Amortized Constitutes Change in Accounting Method. (TAM 2005-48022)**

Taxpayer’s attempt to deduct pre-acquisition costs after having first amortized them as start-up expenditures is a change in method of accounting requiring the consent of the IRS.

- V. **Rev. Proc. 2006-14—Allows Replacement Cost Method for Heavy Equipment Dealer Inventory**

Safe harbor for heavy equipment dealers selling heavy equipment parts at retail—use of replacement cost method.

- VI. **Items Within Same Inventory Pools Must Be valued and Accounted for in Same Manner—TAM 200603027**

Taxpayer’s method of accounting for inventory does not clearly reflect income when taxpayer uses different methods of valuing and accounting for items that fall within the same inventory pools.

MSCPA FEDERAL TAX COMMITTEE
FEDERAL TAX FORUM
TAX ACCOUNTING By Lorraine A. Travers

VII. C Corporation that Provided Valuation Opinions is not a Qualified Personal Service Corporation – PLR200606020

Corporation provided valuation opinions for closely held interests but did not satisfy the “function test” for qualified personal service corporations.

VIII. State Payments Includible in Gross Income – CCA 200616031

Payments made from surplus state funds to a certain type of resident rather than to a narrow class of residents were not income tax refunds and not intended as gifts and were includible in income.

IX. Advance Trade Discounts not Includible in Gross Income When Received—West-Pacific Food v. Commr., No. 02-71041 (9th Cir. 6/21/06).

Grocery store chains organized partnership to purchase and warehouse inventory. Cash was received in advance but taxpayer was obligated to buy a minimum quantity of merchandise or else pay back the cash advance pro rata. Ninth Circuit held cash advances not income when received.

X. Tool Allowances Includible in Income and Subject to Withholding

Expenses reimbursed under a non-accountable plan are taxable—Rev. Rul. 2005-52.

XI. Payment to Husband by Wife’s Lover Includible in Income – Peebles v. Commr., T. C. Summary 2006-61 (4/19/06).

Payment by doctor was deemed not a gift but an effort to avoid public embarrassment and potential lawsuit.

XII. Divorce-related Payment Deemed Non-deductible Property Settlement – Tulay v. Commr., T. C. Summary 2006-70 (4/26/06).

Spouse was to receive a 50% interest in Husband’s retirement accounts plus \$35,000. Husband had taken hand-written notes at the attorneys’ meeting which the spouse initialed. He had designated the \$35,000 as “rehab alimony”. Court found the payment was for property settlement and not alimony.

XIII. Taxation of Relocation Assistance—Rev. Rul. 2005-74.

Three examples in the Rev. Rul. of which two represent two separate sales of property—one from the employee to company and from company to third party buyer and in 3rd example ruled that ownership stayed with employee and the sale was between employee and third-party buyer. In example 3, employee has compensation and employer business expense deduction.

MSCPA FEDERAL TAX COMMITTEE
FEDERAL TAX FORUM
TAX ACCOUNTING By Lorraine A. Travers

XIV. Cash or Rebates for Hybrid Vehicles are Taxable Income—IR-2006-112 (7/13/06)

Employers must include incentive amounts in compensation, included on W-2s and subject to income tax withholdings and employment tax.

XV. Election to Treat Dividend Income as Investment Income Can be Revoked – PLR 200626026.

Election initially made based on erroneous information from a partnership K-1 allowed to be revoked.

XVI. 50% Meals Limit Does not Apply to Driver Leasing Company—Transport Labor Contract/Leasing, Inc. v. Commr., No. 05-3827 [8th Cir. 8/26/06)].

Driver leasing company hired drivers as employees and leased the drivers to independent trucking companies and paid per diem meal expenses was excepted from the 50% meals deduction limit.

XVII. IRS Issues Proposed Regs on Capitalization of Tangible Asset Costs—REG 168745-03, 71 Fed. Reg. 48590 (8/21/06).

To reduce the amount of controversy between the IRS and taxpayers, proposed regs would provide exclusive factors for determining whether amounts paid to restore property to its former working condition must be capitalized, etc.

XVIII. Final Regs Issued on Nonaccrual-Experience Method of Accounting—T.D. 9285, 71 Fed. Reg. 52430 (9/6/06).

Final regs apply to taxable years ending on or after 8/31/06—a 5th safe harbor was added in final regs.

MSCPA FEDERAL TAX COMMITTEE
FEDERAL TAX FORUM
TAX ACCOUNTING By: Lorraine A. Travers

I. “Routine and Repetitive” for Simplified Service Cost and Simplified Production Methods Defined in Final, Temporary and Proposed Regs—T.D. 9217, 70 Fed. Reg. 44467 (8/3/05); REG--1215-06, 70 Fed. Reg. 44535 (8/3/05).

A taxpayer’s production of property is “routine and repetitive” for purposes of the simplified service cost and simplified production methods if the property is mass-produced and has a high degree of turnover. The temporary regs provide that self-constructed property is considered produced on a routine and repetitive basis for purposes of the simplification service cost method and the simplified production method only if: (1) numerous substantially identical units of tangible personal property are produced within a taxable year using standardized designs and assembly line techniques and (2) the applicable §168(c) recovery period of the assets is not longer than 3 years.

Temp. regs also provide that, for a first taxable year ending after 8/1/05, taxpayers are granted the commissioner’s consent to change its method of accounting to comply with the temporary regs, provided that the automatic consent procedures are followed in Rev. Rul. 2002-9 as amended. For second and subsequent taxable years ending after 8/1/05, consent must be made under the advance consent guidance (Rev. Proc. 97-27 as amended).

II. Standard Mileage Rates for 2006—Rev. Proc. 2005-78—business (.44 1/2); charitable (.14); medical (.18).

III. Importer Must Include Refunds of Antidumping and Countervailing Duties in Gross Income—TAM 200543050.

Taxpayer(T) uses the FIFO method of accounting for inventory imported into the U.S. T often pays antidumping and countervailing duties imposed under the Tariff Act of 1930. These duties are included in inventory costs and recovered through cost of goods sold. Several years later T received refunds of the duties paid. The National Office advised T that the refunds must be included in income in the year of receipt. T wanted to capitalize the refunds under 263A and net against current duties paid through his cost of goods sold process. Because T used the FIFO inventory method, T received a tax benefit for the entire amount in earlier years and could not use the exception under §111.

IV. Deducting Costs Previously Amortized Constitutes Change in Accounting Method—TAM 200548022.

Taxpayer elected §195 treatment for a percentage of fees paid for financial advice and assistance in acquiring two companies as well as other costs incurred. During the IRS’ examination of the year of election, taxpayer filed an informal refund claim, contending that the entire amount was currently deductible under §162. The National Office advised that this constituted a change in accounting method and, therefore, a retroactive change cannot be made without the consent of the IRS.

