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Revenue Procedure 98-46

Rev. Proc. 98-46; 1998-2 C.B. 290; 1998 IRB LEXIS 306; 1998-36 I.R.B. 21

September 8, 1998

[*1]

APPLICABLE SECTIONS:

26 CFR 1.472-2: Requirements incident to adoption and use of UFO inventory method. (Also Part I, § 472; § 1.472-1.)

TEXT:

SECTION 1. PURPOSE

.01 This revenue procedure modifies *Rev. Proc. 97-44, 1997-41 I.R.B. 8*, which provides relief for automobile and light-duty truck dealers that elected the last-in, first-out (LIFO) inventory method and violated the LIFO conformity requirement of § 472 (c) or (e) (2) of the Internal Revenue Code by providing, for credit purposes, an income statement prepared in a format required by the franchisor or on a pre-printed form supplied by the franchisor (an automobile manufacturer), covering any taxable year ended on or before October 14, 1997, that fails to reflect the LIFO inventory method.

.02 *Rev. Proc. 97-44* is modified to extend the relief provided in that revenue procedure to medium-and heavy-duty truck dealers that comply with *Rev. Proc. 97-44* as modified herein. In addition, *Rev. Proc. 97-44* is modified to extend the due dates for medium-and heavy-duty truck dealers to make installment payments of the settlement amount computed in accordance with that revenue procedure.

SECTION 2. MODIFICATIONS

.01 *Section 1* of *Rev. Proc. 97-44* is modified by adding the words [*2] "and truck" after the word "automobile" in the first and third sentences, and by adding the words "or truck" after the word "automobile" in the parenthetical phrase in the first sentence.

.02 *Section 3* of *Rev. Proc. 97-44* is modified by replacing the words "light-duty" with the words "light-, medium-, or heavy-duty" in the first sentence and by adding the words "or truck" after the word "automobile" in the parenthetical phrase in the first sentence.

.03 *Section 5.02 (2)* of *Rev. Proc. 97-44* is modified by replacing the words "light-duty" with the words "light-, medium-, and heavy-duty" in the second sentence.

.04 *Section 5.03 (1)* of *Rev. Proc. 97-44* is modified by replacing the second sentence with the following two sentences:

Except as provided in section 5.03 (2) or (3) of this revenue procedure, the first installment and the memorandum described in section 5.04 of this revenue procedure are due on or before May 31, 1998, in the case of inventory related to the purchase, sale, and service of automobiles or light-duty trucks. Except as provided in section 5.03 (2) or (3) of this revenue procedure, the first installment and the memoran-

dum described in section 5.04 of this revenue procedure [*3] are due on or before January 31, 1999, in the of case inventory related to the purchase, sale, and service of medium-or heavy-duty trucks.

.05 Section 5.03 (2) of *Rev. Proc. 97-44* is modified by replacing section 5.03 (2) with the following paragraph:

(2) *Taxpayers under examination, before appeals, or before a federal court.* If any federal income tax return of a taxpayer is under examination, before an appeals office, or before a federal court on October 14, 1997, the first installment of the settlement amount and the memorandum described in section 5.04 of this revenue procedure with respect to inventory related to the purchase, sale, and service of automobiles and light-duty trucks are due on or before December 1, 1997. Such a taxpayer must notify the examining agent(s), appeals officer, or the counsel for the government, whichever is applicable, in writing on or before December 15, 1997, that it has applied for relief under this revenue procedure. If any federal income tax return of a taxpayer is under examination, before an appeals office, or before a federal court on September 8, 1998, the first installment of the settlement amount and the memorandum described in section 5.04 of [*4] this revenue procedure with respect to inventory related to the purchase, sale, and service of medium-and heavy-duty trucks are due on or before December 1, 1998. Such a taxpayer must notify the examining agent(s), appeals officer, or the counsel for the government, whichever is applicable, in writing on or before December 15, 1998, that it has applied for relief under this revenue procedure. For these purposes, the terms "under examination," "before an appeals office," and "before a federal court" have the same meaning as provided in *Rev. Proc. 97-27, 1997-21 I.R.B. 10*. Evidence that the first installment has been paid and a copy of the memorandum described in section 5.04 of this revenue procedure must be provided as part of this written notification.

.06 Section 5.03 (3) of *Rev. Proc. 97-44* is modified by replacing section 5.03 (3) with the following paragraph:

(3) *Option to pay settlement amount in one installment.* A taxpayer may elect to pay the entire settlement amount in one installment. If a taxpayer makes this election, the entire settlement amount and the original memorandum described in section 5.04 of this revenue procedure with respect to inventory related to the purchase, [*5] sale, and service of automobiles and light-duty trucks are due on or before May 31, 1998, or, if any federal income tax return of such taxpayer is under examination, before an appeals office, or before a federal court, on or before December 1, 1997. The entire settlement amount and the original memorandum described in section 5.04 of this revenue procedure with respect to inventory related to the purchase, sale, and service of medium-and heavy-duty trucks are due on or before January 31, 1999, or, if any federal income tax return of such taxpayer is under examination, before an appeals office, or before a federal court, on or before December 1, 1998.

.07 Section 7.02 of *Rev. Proc. 97-44* is modified by deleting the words "light-duty" in the first sentence.

.08 Section 9 of *Rev. Proc. 97-44* is modified by adding the words "or trucks" after the word "automobiles" in the third sentence of the third paragraph.

DRAFTING INFORMATION

The principal author of this revenue procedure is Jeffery G. Mitchell of the Office of Assistant Chief Counsel (Income Tax & Accounting). For further information regarding this revenue procedure, contact Mr. Mitchell on (202) 622-4970 (not a toll-free call).