

## Part III

### Administrative, Procedural, and Miscellaneous

26 CFR 1.263-1: Uniform Capitalization of Costs  
(Also: 446; 1.263A-2, 1.263A-3, 1.446-1)

Rev. Proc. 2010-44

#### SECTION 1. PURPOSE

This revenue procedure provides that certain motor vehicle dealerships may use either or both of the safe harbor methods of accounting provided by this revenue procedure to (1) treat certain sales facilities as retail sales facilities for purposes of § 263A of the Internal Revenue Code, and (2) be treated as resellers without production activities for purposes of § 263A. This revenue procedure also provides procedures for obtaining automatic consent to make accounting method changes to use the safe harbor methods.

#### SECTION 2. BACKGROUND

.01 Sections 263A(a) and 1.263A-1(a)(3)(i) of the Income Tax Regulations require a taxpayer subject to § 263A to include in inventory costs direct costs and indirect costs properly allocable to the taxpayer's produced and acquired inventory property.

.02 Section 1.263A-3(c)(1) requires a taxpayer that acquires property for resale (reseller) to capitalize the acquisition cost of, and the indirect costs that are properly allocable to, property acquired for resale. The indirect costs most often incurred by resellers are purchasing, handling, and storage costs. However, a reseller is not required to capitalize handling and storage costs incurred at a retail sales facility. §§ 1.263A-3(c)(4)(i) and (c)(5).

.03 Handling costs include the costs of processing, assembling, repackaging, transporting, and other similar activities that do not come within the meaning of the term produce as defined in § 1.263A-2(a)(1). § 1.263A-3(c)(4).

.04 Section 1.263A-3(c)(5)(ii)(B) defines a retail sales facility as a facility where a taxpayer sells merchandise exclusively to retail customers in on-site sales. For purposes of § 1.263A-3(c)(5)(ii)(B), a retail sales facility includes those portions of any specific retail site (i) that are customarily associated with and are an integral part of the operations of that retail site; (ii) that are generally open each business day exclusively to retail customers; (iii) on or in which retail customers normally and routinely shop to select specific items of merchandise; and (iv) that are adjacent to or in immediate proximity to other portions of the specific retail site.

.05 As explained in the example in § 1.263A-3(c)(5)(ii)(B)(2), two lots of an automobile dealership physically separated by an alley or an access road are generally considered one retail sales facility, provided customers routinely shop on both of the lots to select the specific automobiles that they wish to acquire.

.06 Section 1.263A-3(c)(5)(ii)(E) defines a retail customer as the final purchaser of the merchandise.

.07 Section 263A(i) provides that the Treasury Department will prescribe regulations as may be necessary or appropriate to carry out the purposes of § 263A, including providing for simplified procedures for the application of § 263A to property acquired for resale.

.08 Section 1.263A-3(d) provides a simplified resale method for determining the additional § 263A costs (within the meaning of § 1.263A-1(d)(3)) properly allocable to property acquired for resale and other eligible property on hand at the end of the taxable year.

.09 In the Conference Report accompanying the Tax Reform Act of 1986, Public Law No. 99-514 (100 Stat. 2085 (1986)), the conferees directed the Treasury Department to create a simplified method for applying the uniform capitalization rules of § 263A to resellers (resulting in the simplified resale method in § 1.263A-3(d)) and authorized the Treasury Department to modify the simplified method or permit the use of other methods by rules or regulations for property acquired for resale. H.R. Rep. No. 99-841 (Conf. Rep.), 99th Cong., 2d Sess. II-308 (1986).

.10 Sections 446(e) and 1.446-1(e)(2) state that, except as otherwise provided, a taxpayer must secure the consent of the Commissioner before changing a method of accounting for federal income tax purposes.

.11 Rev. Proc. 2008-52, 2008-2 C.B. 587 (as amplified, clarified, and modified by Rev. Proc. 2009-39, 2009-2 C.B. 371), provides procedures for a taxpayer to obtain automatic consent of the Commissioner to change to a method of accounting described in the APPENDIX of Rev. Proc. 2008-52. Rev. Proc. 97-27, 1997-1 C.B. 680 (as modified and amplified by Rev. Proc. 2002-19, 2002-1 C.B. 696, as amplified and clarified by Rev. Proc. 2002-54, 2002-2 C.B. 432, as modified by Rev. Proc. 2007-67, 2007-2 C.B. 1072, and as clarified and modified by Rev. Proc. 2009-39), provides procedures for a taxpayer to request non-automatic consent to change a method of accounting.

### SECTION 3. SCOPE

.01 Except as provided in section 3.02, any motor vehicle dealership, as defined in section 4 of this revenue procedure, may use either or both of the safe harbor methods described in section 5 of this revenue procedure.

.02 A motor vehicle dealership that removes § 471 costs from ending inventory by treating them as negative amounts in the numerator of either the simplified resale method formula or the simplified production method formula, may not use either safe harbor method of accounting described in section 5 of this revenue procedure. If a motor vehicle dealership currently removes § 471 costs from ending inventory in that

manner, it must change from that method of accounting in accordance with section 7 of this revenue procedure in order to use the safe harbor methods.

#### SECTION 4. MOTOR VEHICLE DEALERSHIP

.01 For purposes of this revenue procedure, a motor vehicle dealership is a dealership that primarily purchases and resells to retail customers, one or more of the following categories of new or used motor vehicles:

- (a) automobiles;
- (b) light-duty trucks;
- (c) medium-duty trucks;
- (d) heavy-duty trucks;
- (e) recreational vehicles;
- (f) motorcycles;
- (g) boats;
- (h) farm machinery and equipment; or
- (i) construction machinery and equipment.

#### SECTION 5. SAFE HARBOR METHODS

.01 Retail sales facility safe harbor method. A motor vehicle dealership may treat its entire sales facility from which it normally and routinely conducts on-site sales to retail customers, including any vehicle lot that is an integral part of its sales facility and that is routinely visited by retail customers, as a retail sales facility under § 1.263A-3(c)(5)(ii)(B). A motor vehicle dealership using this retail sales facility safe harbor

method is not required to capitalize handling and storage costs incurred at its retail sales facility.

.02 Reseller without production activities safe harbor method. A motor vehicle dealership may treat itself as a reseller without production activities for purposes of § 1.263A-3. For purposes of this revenue procedure, activities that a motor vehicle dealership, or a contractor, perform on dealership-owned vehicles and customer-owned vehicles are handling activities under §1.263A-3(c)(4), but the costs of these handling activities, other than the cost of vehicle parts, are not required to be capitalized to the extent incurred at the motor vehicle dealership's retail sales facility. A motor vehicle dealership must capitalize the cost of vehicle parts used on dealership-owned vehicles as an acquisition cost of its vehicles, whether the vehicle parts are acquired directly by the dealership or indirectly through a contractor. See §§ 1.471-3 and 1.263A-3(c)(1). A motor vehicle dealership using the reseller without production activities safe harbor method may use the simplified resale method under § 1.263A-3(d) for its vehicles and other eligible property.

## SECTION 6. CHANGE IN METHOD OF ACCOUNTING

A motor vehicle dealership that wants to change its method of accounting under § 263A to either or both of the safe harbor methods described in section 5 of this revenue procedure must use the automatic change in method of accounting provisions in Rev. Proc. 2008-52, as further modified by this revenue procedure, if the dealership is within the scope of Rev. Proc. 2008-52. Otherwise, a motor vehicle dealership may

request to change its method of accounting using the non-automatic provisions of Rev. Proc. 97-27, if the dealership is within the scope of Rev. Proc. 97-27.

## SECTION 7. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 2008-52 is modified to add new section 11.07 to the APPENDIX, to read as follows:

.07 Safe harbor methods under § 263A for certain dealerships of motor vehicles.

(1) Description of change. This change applies to a motor vehicle dealership, as defined in section 4 of Rev. Proc. 2010-44 that is within the scope of section 3 of Rev. Proc. 2010-44 and wants to change its method of accounting to (1) treat its sales facility as a retail sales facility or (2) be treated as a reseller without production activities, as described in section 5 of Rev. Proc. 2010-44. A motor vehicle dealership that wants to make an automatic change in method of accounting to use one or both safe harbor methods described in section 5 of Rev. Proc. 2010-44 may make any corresponding changes in the identification of costs subject to § 263A that will be accounted for using the new method (for example, to remove internal profit from inventory costs) or to no longer include negative amounts as additional § 263A costs in the numerator of the simplified resale method formula or the simplified production method formula. However, except as provided in the preceding sentence, a change under this section does not include a change for purposes of recharacterizing “§ 471 costs” as “additional § 263A costs” (or vice versa) under the simplified resale method or the simplified production method.

(2) Certain scope limitations temporarily inapplicable. The scope limitations in sections 4.02(1) through (4) and (7) of Rev. Proc. 2008-52, as modified and clarified by Rev. Proc. 2009-39, do not apply to a motor vehicle dealership that changes to one or both of the safe harbor methods in section 5 of Rev. Proc. 2010-44 for its first or second taxable year ending after November 9, 2010.

(3) Concurrent automatic changes. A motor vehicle dealership making an automatic change in method of accounting to one or both safe harbor methods described in section 5 of Rev. Proc. 2010-44 and another automatic change in method of accounting under § 263A for the same taxable year may file one Form 3115 to make both changes, provided the dealership enters the designated automatic change numbers for all such changes in Part I on that Form 3115, and complies with the ordering rules of § 1.263A-7(b)(2).

(4) Multiple adjustments. In the event that a motor vehicle dealership is taking into account a § 481(a) adjustment from another accounting method change in addition to the § 481(a) adjustment required by a change to a safe harbor method described in section 5 of Rev. Proc. 2010-44, the § 481(a) adjustments must be taken into account separately. For example, a motor vehicle dealership that changed to comply with § 263A in 2009 and was required to take its § 481(a) adjustment into account over four years must continue to take into account that adjustment over the remainder of that four year § 481(a) adjustment period even though the dealership changed to a safe harbor method described in section 5 of Rev. Proc. 2010-44 in 2010 and has an additional § 481(a) adjustment required by that change.



(5) Designated automatic accounting method change numbers. The designated automatic accounting method change number for a change to treat certain sales facilities as retail sales facilities as described in section 5.01 of Rev. Proc. 2010-44 is “150.” The designated automatic accounting method change number for a change to be treated as a reseller without production activities as described in section 5.02 of Rev. Proc. 2010-44 is “151.”

(6) Contact information. For further information regarding a change under this section, contact Kari Fisher at (202) 622-4970.

## SECTION 8. EXPANDED AUDIT PROTECTION

A motor vehicle dealership that changes its method of accounting under either the automatic provisions of Rev. Proc. 2008-52 or the non-automatic provisions of Rev. Proc. 97-27 to use a method of accounting consistent with the safe harbor methods described in section 5 of this revenue procedure receives the audit protection described in section 7 of Rev. Proc. 2008-52 or section 9 of Rev. Proc. 97-27, as applicable.

Alternatively, if a motor vehicle dealership uses a method of accounting consistent with the safe harbor methods described in section 5 of this revenue procedure on a federal income tax return filed before November 10, 2010, the Service will not assert that these methods are not proper methods of accounting for such taxable year(s).

## SECTION 9. EFFECTIVE DATE

This revenue procedure is effective November 9, 2010.

## SECTION 10. DRAFTING INFORMATION

The principal author of this revenue procedure is Kari Fisher of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information regarding this revenue procedure contact Kari Fisher at (202) 622-4970 (not a toll free call).