

IRS**News Release****Media Relations Office****Washington, D.C.****Tel. 202.622.4000****For Release: 07/10/02****Release No: IR-2002-89****IRS SELECTS ISSUES FOR INDUSTRY ISSUE RESOLUTION PROGRAM**

WASHINGTON – The Internal Revenue Service and the Treasury Department today announced the selection of issues for the 2002 Industry Issue Resolution (IIR) Program.

The IIR program provides guidance on frequently disputed or burdensome tax issues. Benefits of the program include reduced costs and burden, and eliminating uncertainty regarding proper tax treatment, for both taxpayers and IRS. The program was successfully piloted in 2001 and made permanent this year.

"The response to the IIR program has been excellent. We thank the business community for the issues they have identified and look forward to their increased participation in the program in the future," said IRS Commissioner Charles O. Rossotti.

The issues selected for the IIR program this year came from 38 issues submitted to IRS from businesses, tax practitioners and associations. Issues were selected based on the criteria set forth in Notice 2002-20. This year's selected issues are:

- depreciation of cable television systems under section 168
- tax treatment of pre-production costs of creative property
- inventory valuation method for cores in the auto remanufacturers business
- recovery period for depreciation of gasoline pump canopies
- substantiation of the amount of expenses for meals furnished by child care providers
- definition of highway tractors subject to the heavy truck tax under section 4051
- deduction and capitalization of costs incurred by utilities for assets used for power generation

Additionally, one issue submitted to IRS, the timing of HMO provider holdback payment recognition, is still being considered for the IIR program.

A resolution team of IRS, Chief Counsel and Treasury personnel will be assembled for each issue. The teams will gather and analyze the relevant facts from industry groups and taxpayers for each issue and develop new guidance.

Notice 2002-20 provides more information on the IIR program and is available on the IRS Web site at www.irs.gov.

(more)

The issues selected are included in the IRS 2002 Priority Guidance Plan, which will also be available on the IRS web site.

Attached is detailed information regarding the issues submitted for this year's IIR program.

X X X

ISSUES SELECTED FOR 2002 IIR PROGRAM

Communications Industry

Submitter's Issue Description: Recovery Period for Depreciation of Cable Systems

Whether cable systems owned and operated by cable TV companies should be depreciated over a fifteen-year recovery period or a seven-year recovery period.

Selected with Modification: Guidance expanded to include determining when cable systems are placed in service.

Contact:

John Petrella
Director, Field Operations, Communications, Technology & Media, Large and Mid-Size Business Division
Telephone: 401-826-4775 or 401-826-4774 E-mail: John.Petrella@IRS.gov

Submitted by
PriceWaterhouseCoopers

Entertainment Industry

Submitter's Issue Description: Tax Treatment of Pre-Production Costs of Creative Property

Guidance is needed on the proper tax treatment of the costs incurred for acquiring and developing certain creative properties prior to the time at which a decision is made to produce and exploit the property. AICPA SOP 00-2 provides acceptable financial statement treatment that reflects the economic realities specific to the filmed entertainment industry, and addresses the need for specialized accounting practices. There is no comparable guidance for tax purposes. Accordingly, IIR guidance is sought.

Contact:

JoAnn Bank
Director, Field Operations, Communications, Technology & Media, Large and Mid-Size Business Division
Telephone: 510-637-2570 E-mail: JoAnn.G.Bank@IRS.gov

Submitted by
PriceWaterhouseCoopers on behalf of
Motion Picture Association of America

Manufacturing Industry

Submitter's Issue Description: Inventory Valuation Method for Cores in the Auto Remanufacturers Business

Determination of an inventory valuation method for cores in the auto remanufacturers business. Members of the Automobile Parts Rebuilders Association are engaged in the business of remanufacturing motor vehicle parts. The distributor or retailer, upon sale of the rebuilt part, accepts the old part, or "core," as a trade-in from the customer giving the customer a credit or rebate. The cores are then returned to the remanufacturer who credits the account of the distributor or retailer.

Contact:

Jack Schroeder
Director, Field Operations, Heavy Manufacturing and Transportation, Large and Mid-Size Business Division
Telephone: 313-628-3660 E-mail: Jack.L.Schroeder@IRS.gov

Submitted by
PriceWaterhouseCoopers on behalf of
Automobile Parts Rebuilders
Association

Petroleum Industry & Retail Industry	
<p>Submitter's Issue Description: Recovery Period for Depreciation of Gasoline Pump Canopies</p> <p>Whether gasoline pump canopies should be depreciable over 5 years or 15 years. The Service's position is that canopies that are personal property should be depreciated over 5 years and canopies that are land improvements should be depreciated over 15 years. The submitter believes that most canopies in use are of the personal property nature, and that canopies of the inherently permanent nature (land development) are exceptions.</p> <p>Contact: Paul Cordova Director, Field Operations, Natural Resources and Construction, Large and Mid-Size Business Division 713-209-3705 E-mail Paul.Cordova@IRS.gov</p>	<p>Submitted by National Association of Convenience Stores</p>
Service Industry	
<p>Submitter's Issue Description: Substantiation of the Amount of Expenses for Meals Furnished by Child Care Providers</p> <p>The burden of keeping track of business food expenses can be extremely time-consuming for family child care providers, particularly when the food purchases must be allocated between business use and personal consumption. To reduce burden, consideration should be given to establishing a standard meal allowance rate and allowing the taxpayer to choose between the standard allowance or the actual expense methods for claiming food expenses.</p> <p>Contact: Michael R. Chesman Director, Office of Taxpayer Burden Reduction, Small Business/Self Employed Division E-mail: Michael.R.Chesman@IRS.gov</p>	<p>Submitted by Redleaf National Institute</p>
Transportation Industry	
<p>Submitter's Issue Description: Definition of Highway Tractors Subject to the Highway Truck Tax Under Section 4051</p> <p>Guidance is needed to define the types of vehicles that are subject to the Federal Excise Tax on highway tractors as set forth in IRC § 4051.</p> <p>Contact: Karen Ammons Director, Field Operations, Heavy Manufacturing and Transportation, Large and Mid-Size Business Division Telephone: 732-452-8103 E-mail: Karen.S.Ammons@IRS.gov</p>	<p>Submitted by National Automobile Dealers Association</p>

Utility Industry	
<p>Submitter's Issue Description: Deduction and Capitalization of Costs Incurred by Utilities for Assets Used for Power Generation</p> <p>Whether cost are expenditures to maintain assets or capital improvements.</p> <p>Contact: Walter Harris Director, Field Operations, Natural Resources and Construction, Large and Mid-Size Business Division Telephone: 212-298-2099 E-mail: Walter.Harris@IRS.gov</p>	<p>Submitted by Miller & Chevalier on behalf of Edison Electric Institute</p>

ISSUE STILL UNDER CONSIDERATION FOR 2002 IIR PROGRAM	
Insurance Industry	
<p>Submitter's Issue Description: Timing of HMO Provider Holdback Payment Recognition</p> <p>HMOs pay their physicians under a plan designed to give the physicians an incentive to hold costs down. Under this plan, a portion of the physician's fees is held back and paid after the end of the year. For statutory accounting purposes, the "provider holdbacks" are reflected in the HMOs' incurred but not paid (IBNP) reserve. The submitter proposes that the "provider holdbacks" be deductible as part of the IBNP reserve in accordance with industry practice.</p>	<p>Submitted by: Blue Cross Blue Shield Association, and Health Plans Industry Tax Group</p>

ISSUES NOT SELECTED FOR 2002 IIR PROGRAM

Agriculture Industry

Submitter's Issue Description: Plant Material Considered "Under Further Cultivation and Development" for Purposes of IRC § 263A

Submitted by
American Nursery & Landscape Association

Guidance is needed for determining what plant material would be considered as "under further cultivation and development" for purposes of § 263A and Reg. § 1.162.12.

Banking Industry

Submitter's Issue Description: Method for Determining When an Accrual Basis Financial Services Company Should Stop Accruing Interest on Nonperforming Loans

Submitted by
American Bankers Association

Accrual of interest income with respect to delinquent debt is a determination that must be made based on the facts and circumstances of each individual loan. Uniform, administrable rules are needed for the accrual of interest that are consistent with financial and regulatory accounting methods.

Submitter's Issue Description: Interest Deduction under Treas. Reg. § 1.882-5 for Non-U.S. Banks

Submitted by
Institute of International Bankers

Under § 1.882-5, non-U.S. Banks must determine deductible interest expense under a three-step formula. Guidance on the three-step formula is needed in regard to (1) computation of the "actual ratio" of worldwide liabilities to worldwide assets, (2) circumstances in which financial instruments should be netted and (3) easing the burden of determining an interest rate on excess U.S. -connected liabilities.

Submitter's Issue Description: Deductibility of Bad Debt Reserves Established by International Banks

Submitted by
Institute of International Bankers

Whether specific bad debt reserves recorded on the books of U.S. branches of international banks should be treated as charge-offs under IRC § 166, and whether similar treatment should be given to such reserves identified on the worldwide balance sheet for purposes of computing the "actual ratio" under Reg. § 1.882-5.

Submitter's Issue Description: Application of IRC § 382 to U.S. Branches of Acquired International Banks

Submitted by
Institute of International Bankers

Guidance is needed on how to value the U.S. Branch operations of international banks for purposes of IRC § 382, limitation on net operating loss carryforwards, including (1) how to identify and value the goodwill of the U.S. operations and (2) how to determine whether, and to what extent, any goodwill premium paid for the shares of the bank is attributable to U.S. operations.

Construction Industry

Submitter's Issue Description: Exemption from Look-back Method for Contracts Lasting Less than 2 years

Submitted by
The Associated General Contractors of America

Modify IRC § 460 to exempt construction contracts that are 24 months or less in duration from the look-back method filing requirement.

Submitter's Issue Description: Per Diem Allowance Rules for Construction General Contractors

Submitted by
The Associated General Contractors of America

Tax treatment of per diem allowance paid to construction workers. Submitter suggests construction workers' per diems could be excluded from provisions of IRC § 274(n) provided the per diem paid is equal to or less than the federal per diem rate, or alternatively, the rules could be revised to address "lodging only" per diems.

Construction Industry (Cont'd)	
<p>Submitter's Issue Description: Increasing Temporary Work Assignments from 12 Months to 24 Months</p> <p>Change the definition of "temporary work assignment" for construction workers from 12 to 24 months. Ordinary and necessary living expenses paid on behalf of or reimbursed to an employee when working away from home on temporary assignments are not subject to taxation to the employee and are deductible business expenses.</p>	<p>Submitted by The Associated General Contractors of America</p>
<p>Submitter's Issue Description: Parity Between Completed Contracts and Percentage Completion Methods on Disputed Contracts</p> <p>Tax treatment of disputed contract revenue under IRC § 460 using the percentage of completion method for long-term contracts. Submitter suggests that Reg. § 1.460-4(d) provisions for reporting disputed contract items for contracts reported on the completed contract method should apply to all contracts, including those reported on the percentage of completion method.</p>	<p>Submitted by The Associated General Contractors of America</p>
<p>Submitter's Issue Description: Increasing Exemption Threshold for IRC § 460 - Percentage Completion Method</p> <p>Increase the exemption under IRC § 460 from using the percentage completion method for long-term contracts from \$10,000,000 to \$25,000,000.</p>	<p>Submitted by The Associated General Contractors of America</p>
Financial Industry	
<p>Submitter's Issue Description: Acceptance of Mark-to-Market Valuation Methodologies for IRC § 475 Purposes</p> <p>Section 475 mandates the use of mark-to-market (MTM) accounting for dealers in securities. Taxpayers use MTM reporting for financial, regulatory and management reporting purposes. IRS has questioned whether MTM methodologies employed by certain taxpayers satisfy "clear reflection of income" principles. One submitter suggests that IRS should accept MTM valuation methodologies. The other submitter recommends that procedures be developed to verify whether a taxpayer is employing the same MTM valuation methodology consistently for tax, accounting, management reporting and risk management purposes.</p>	<p>Submitted by 1. Institute of International Bankers 2. Securities Industry Association</p>
Gaming Industry	
<p>Submitter's Issue Description: Federal Excise Tax on On-Line or Server Based Electronic Games</p> <p>Whether on-line or server based electronic game machines are included in the "coin operated" game machine exemption from Federal Excise Tax. If they are not exempt, would the tax apply only to bets placed within the United States or would it apply to all wagers taken in the U.S.?</p>	<p>Submitted by Interactive Gaming Task Force</p>
<p>Submitter's Issue Description: Increase Threshold on Gambling Wins Withholding and Reporting</p> <p>Change the Form W-2G reporting requirement of jackpot wins in excess of \$1,200 to allow summation of play during a session with a Form W-2 G filed at the end of a session instead of requiring that a Form W-2 G be filled out each time the player wins.</p>	<p>Submitted by Interactive Gaming Task Force</p>

Gaming Industry (Cont'd)	
<p>Submitter's Issue Description: Occupational Tax on Wagering Applicable for On-Line Operators</p> <p>Guidance is needed on whether the Occupational Tax would apply to on-line operators and which individuals would the tax apply to.</p>	<p>Submitted by Interactive Gaming Task Force</p>
<p>Submitter's Issue Description: Clarify Withholding and Reporting on Foreign Players for On-Line Sessions</p> <p>For on-line sessions, the submitter proposes that the requirement to withhold 30% of all wins for foreign players be changed to require withholding only on jackpot wins currently needing Form W-2 G reporting and incidental play would be ignored unless the jackpot threshold is met.</p>	<p>Submitted by Interactive Gaming Task Force</p>
Insurance Industry	
<p>Submitter's Issue Description: Reporting Certain Funds Retained by Title Insurance Agents under Reg. §1.6041-3(h)</p> <p>Guidance is needed on the applicability of IRC § 6041(a) and Treas. Reg. § 1.6041-3(h) to certain funds retained by title insurance agents.</p>	<p>Submitted by PriceWaterhouseCoopers on behalf of American Land Title Association</p>
Retail Industry	
<p>Submitter's Issue Description: Tenant Allowance</p> <p>A retail store operator receives cash from the landlord to be used for converting leased retail space into business producing property. Should the payment be included in gross income per IRC § 61?</p>	<p>Submitted by National Retail Federation</p>
<p>Submitter's Issue Description: Accrual vs. Cash for "Buy Here-Pay Here" Installment Sales</p> <p>IRS allows certain small business taxpayers to use cash rather than accrual method of accounting. But there are exceptions - motor vehicle dealerships that enter into and collect retail installment sales agreements. Approximately 50% of used car dealers are independent "buy here - pay here" operators who self-finance the sales of used vehicles. At least 25% of these dealers have annual sales of less than \$1,000,000. These dealers sell vehicles to sub-prime customers who are unable to obtain traditional financing from banks. Sub-prime finance contracts from credit impaired customers have a high probability of default. Therefore, it seems unfair that "buy here - pay here" dealers are being taxed on money they may never received. The submitters of the issue believe that used motor vehicle dealerships that offer "buy here - pay here" financing to customers should receive similar consideration like those small business taxpayers that are allowed to use the cash method.</p>	<p>Submitted by</p> <ol style="list-style-type: none"> 1. Whann & Associates on behalf of National Independent Automobile Dealers Association 2. National Association of Buy Here - Pay Here Dealers 3. Leedom and Associates
<p>Submitter's Issue Description: Used Vehicle Alternative LIFO Method</p> <p>Revise Rev. Proc. 2001-23 (the Used Vehicle Alternative LIFO Method) to determine the cost of a vehicle acquired via trade-in based on an appraisal rather than by reference to the wholesale price listing.</p>	<p>Submitted by George B. Jones & Co.</p>
<p>Submitter's Issue Description: § 1245/1250 Classification on Restaurant Remodeling</p> <p>Each year thousands of restaurants are remodeled or initially constructed. Businesses are receiving inconsistent answers regarding classification of assets for depreciation purposes.</p>	<p>Submitted by Power & Power</p>

Retail Industry (Cont'd)	
<p>Submitter's Issue Description: Closed Chain Restaurants</p> <p>In the chain segment of the restaurant industry, a standard operation is the periodic review and evaluation of individual units. This is completed within geographic markets and determines return on investment ratios based on initial capital contributed. Based on this analysis, the corporate headquarters may permanently or temporarily close a unit. Is the loss under IRC § 165 allowed when the restaurant is closed or when assets are sold?</p>	<p>Submitted by Power & Power</p>
<p>Submitter's Issue Description: Treatment of Up-Front Payments Pursuant To Supplier Agreements</p> <p>Members of the restaurant industry enter into agreements with suppliers to purchase products over a period of years. In return for the purchase commitment and other obligations pursuant to the contract, the taxpayers are often paid a bonus up front. Are these up-front payments from vendors income or adjustments to the cost of inventory?</p>	<p>Submitted by Power & Power</p>
Service Industry	
<p>Submitter's Issue Description: Tax Treatment of Sale of Homes Used for Providing Child Care Services</p> <p>Rules on sale of a home used for business affect family childcare providers differently than other home-based businesses. Because family child care providers are not subject to the exclusive use test for home office, unless they close their business for 2 out of the last 5 years of living in the home, they would not met the "use" test for exclusion from capital gains tax. Guidance is requested to address this issue.</p>	<p>Submitted by Red Leaf National Institute</p>
<p>Submitter's Issue Description: Healthcare Providers – Non-Accrual Experience Method of Accounting under IRC § 448(d)(5)</p> <p>Guidance is needed for healthcare providers on using IRC § 448(d)(5) for not accruing amounts to be received for services on the basis that these amounts will not be collected.</p>	<p>Submitted by Sutherland Asbill & Brennan</p>
Telecommunications Industry	
<p>Submitter's Issue Description: Federal Excise Tax Criteria on Sale of Integrated Services Digital Network</p> <p>Guidance is needed on whether Federal Excise Tax is applicable when telecommunications providers sell Integrated Services Digital Networks (ISDN) telecommunications services. What standards should be used to make the determination, and can they be used to determine the applicability of Federal Excise tax to other similar products?</p>	<p>Submitted by Qwest</p>
Utility Industry	
<p>Submitter's Issue Description: Deduction and Capitalization of Costs Incurred by Utilities for Assets Used for power transmission.</p> <p>Whether cost are expenditures to maintain assets or capital improvements.</p>	<p>Submitted by Miller & Chevalier on behalf of Edison Electric Institute</p>
<p>Submitter's Issue Description: Deduction and Capitalization of Costs Incurred by Utilities for Assets Used for Power Distribution.</p> <p>Whether cost are expenditures to maintain assets or capital improvements.</p>	<p>Submitted by Miller & Chevalier on behalf of Edison Electric Institute</p>

Cross Industry Issues	
<p>Submitter's Issue Description: Payroll Reporting</p> <p>Employment tax reporting requirements are burdensome for taxpayers who hired workers who worked only a few hours each year. Consideration should be given to establishing a de minimis exception.</p>	<p>Submitted by Red Leaf National Institute</p>
<p>Submitter's Issue Description: Streamline Forms 1099-MISC & W-9 Process for Payers</p> <p>Businesses are required to have a Form W-9 on file for each of their vendors at the time of payment or they must begin backup withholding. The Internal Revenue Code places the burden on businesses to request and obtain Form W-9 from their vendors in order to file Form 1099-MISC even though most vendors already provide the information contained in Form W-9 (non-corporate status, full name and TIN) on their invoices. Also, corporations are exempt from 1099-MISC reporting, but businesses still would ask corporate vendors to complete Form W-9 and send to all their vendors Form 1099 to eliminate the need to distinguish corporate from non-corporate vendors. This floods IRS with unnecessary corporate 1099s and causes the generation of countless B Notices for corporations. Submitter suggests IRS issue guidance to allow an invoice with pre-printed tax information to be treated as a substitute Form W-9.</p>	<p>Submitted by Forsythe Technology</p>
Non-Business Issue	
<p>Submitter's Issue Description: Deductibility of Childcare Expenses Paid to Child Care Providers Not Operating in Compliance with State Regulations</p> <p>Whether parents should be entitled to claim childcare expenses paid to child care providers not operating in compliance with state regulations.</p>	<p>Submitted by Red Leaf National Institute</p>