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Department of the Treasury  
Washington, DC 20224

Third Party Communication: None  
Date of Communication: Not Applicable

Person To Contact: \_\_\_\_\_, ID No. \_\_\_\_\_  
Telephone Number: \_\_\_\_\_

Refer Reply To:  
CC:CORP:B02  
PLR-148902-07  
Date:  
January 29, 2008

### Legend

Taxpayer =

State A =

Business B =

Dear \_\_\_\_\_ :

This responds to your authorized representative's private letter ruling request dated October 31, 2007. Specifically, Taxpayer requests a ruling that it does not need to make any adjustment in computing its earnings and profits under Internal Revenue Code § 312 for advance payments properly deferred under Rev. Proc. 2004-34, 2004-1 C.B. 991. The material information provided in that letter and in subsequent correspondence is summarized in PLR-148904-07, and is incorporated herein by reference.

## SUMMARY OF FACTS

Taxpayer is a State A corporation engaged in Business B that files its federal income tax return on an accrual basis and a calendar year. The facts are the same as those set forth in PLR-148904-07. We understand that in PLR-148904-07, the Service ruled that Taxpayer may use the deferral method of accounting prescribed in Rev. Proc. 2004-34, 2004-1 C.B. 991, with respect to certain advance payments received by Taxpayer.

## ANALYSIS

Pursuant to Treas. Reg. § 1.312-6(a), the determination of the amount of a corporation's earnings and profits under § 312 will be dependent upon the method of accounting properly employed in computing the corporation's taxable income. Treas. Reg. § 1.446-1(a)(1) provides that the term "method of accounting" includes not only the overall method of accounting of the taxpayer but also the accounting treatment of any item. Section 5.02(1)(a) of Rev. Proc. 2004-34 provides that a taxpayer within the scope of that revenue procedure that chooses to use the "Deferral Method" set forth in the revenue procedure is using a proper method of accounting under Treas. Reg. § 451-1. Section 8 of Rev. Proc. 2004-34 details how a taxpayer may adopt or change to the deferral method for advance payments.

## RULINGS

Based solely on the information submitted and representations made, we rule:

Taxpayer need not make any adjustment in computing its earnings and profits under § 312 of the Code for advance payments properly deferred under Rev. Proc. 2004-34, 2004-1 C.B. 991. Treas. Reg. § 1.312-6(a); see Rev. Rul. 79-68, 1979-1 C.B. 133.

## CAVEATS AND PROCEDURAL STATEMENTS

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. Specifically, we express no opinion as to whether any of the advance payments mentioned above are properly deferred under Rev. Proc. 2004-34.

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

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

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Alison Burns  
Chief, Branch 2  
Office of Associate Chief Counsel (Corporate)

cc: