

Office of Chief Counsel  
Internal Revenue Service  
**Memorandum**

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Third Party Communication: None  
Date of Communication: Not Applicable

UILC: 446.04-17

date: August 19, 2008

to: Industry Director, Heavy Manufacturing & Transportation  
(LM:HMT)

from: Chief, Branch 7, Office of Associate Chief Counsel (Income Tax and Accounting)  
(CC:ITA:7)

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subject: Denial of Request for Change in Method of Accounting

In accordance with § 9.12(2) of Rev. Proc. 2008-1, 2008-1 I.R.B. 1, 40, this Chief Counsel Advice advises you that a taxpayer within your operating division has been denied its request to change its method of accounting. This Advice may not be used or cited as precedent.

LEGEND

A =

B =

C =

D =

E =

F =

G =

This memorandum advises you that a request for change in method of accounting (Form 3115) that was filed C, on behalf of A and B, has been denied. Hereinafter, A and B are collectively referred to as "Taxpayer." Taxpayer requested permission to change its method of determining the placed-in-service date of its special tools, for the taxable year beginning D and ending E.

The items of depreciable property subject to Taxpayer's Form 3115 are special tools. Special tools are manufacturing aids, such as, fixtures, dies, molds, gauges, and machine heads that are attached to or used in conjunction with manufacturing facilities for the purpose of manufacturing specific products or models of F. Taxpayer maintains two categories of special tools: vendor tools and assembly tools. Vendor tools are tools owned by Taxpayer but in the custody of an outside supplier. Assembly tools are tools located at Taxpayer's assembly and production facilities.

Under Taxpayer's present method of accounting, Taxpayer determines the placed-in-service dates of its special tools based on when the tools are considered "ready to perform the assigned function." With respect to vendor tools, this event generally occurs upon certification by both the vendor and Taxpayer's engineers that the tools are ready. With respect to assembly tools, they are treated as placed in service at the start of the model year of the F for which the tools are designed. Taxpayer represents that a model year begins on G.

Under Taxpayer's proposed method of accounting, Taxpayer will treat the vendor tools and assembly tools as being placed in service at the start of production of the product or model of F to which the tools relate.

Section 446(e) of the Internal Revenue Code provides that a taxpayer who changes the method of accounting on the basis of which the taxpayer regularly computes its income in keeping its books shall, before computing its taxable income under the new method, secure the consent of the Secretary. See also § 1.446-1(e)(2)(i) of the Income Tax Regulations.

Section 1.446-1(e)(2)(ii)(d) provides the rules under § 446(e) with respect to changes in depreciation or amortization for property subject to, among other things, §§ 167 and 168. Section 1.446-1(e)(2)(ii)(d)(2) lists the changes in depreciation or amortization that are a change in method of accounting. Conversely, § 1.446-1(e)(2)(ii)(d)(3) lists the changes in depreciation or amortization that are not a change in method of accounting.

Section 1.446-1(e)(2)(ii)(d)(3)(v) provides that, except as otherwise expressly provided by the Code, the regulations under the Code, or any other guidance published in the Internal Revenue Bulletin, any change in the placed-in-service date of a depreciable or amortizable asset is not treated as a change in method of accounting.

However, § 1.446-1(e)(2)(ii)(d)(3)(v) provides two exceptions to this general rule. If a taxpayer incorrectly determines that a depreciable or amortizable asset is nondepreciable property and later changes the treatment of the asset to depreciable property, § 1.446-1(e)(2)(ii)(d)(3)(v) provides that such a change is not a change in the placed-in-service date of the asset and, therefore, is a change in method of accounting under § 1.446-1(e)(2)(ii)(d)(2). Section 1.446-1(e)(2)(ii)(d)(3)(v) further provides that a change in the convention of a depreciable or amortizable asset is not a change in the

placed-in-service date of the asset and, therefore, is a change in method of accounting under § 1.446-1(e)(2)(ii)(d)(2).

In the present case, Taxpayer proposes to change its method of determining the placed-in-service dates of its vendor tools and assembly tools from the dates on which the tools are “ready to perform the assigned function” to the dates on which the production of the product or E model to which the tools relate starts. This change is a change in the placed-in-service date of the tools. This change is not a change in the treatment of the tools from nondepreciable to depreciable and is not a change in the convention of the tools and, consequently, the two exceptions provided in § 1.446-1(e)(2)(ii)(d)(3)(v) do not apply to Taxpayer’s requested change. Further, no other express exception to § 1.446-1(e)(2)(ii)(d)(3)(v) that relates to Taxpayer’s case is provided in the Code, the regulations under the Code, or any other guidance published in the Internal Revenue Bulletin. Therefore, Taxpayer’s requested change in the placed-in-service date of its vendor tools and assembly tools is not a change in method of accounting and, consequently, cannot be made through a request under § 446(e) to change Taxpayer’s method of accounting. Accordingly, we denied Taxpayer’s request.

This writing may contain privileged information. Any unauthorized disclosure of this writing may undermine our ability to protect the privileged information. If disclosure is determined to be necessary, please contact this office for our views.

Please call (202) 622-4930 if you have any further questions.

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