

Tax Flash

New Federal tax developments
from Grant Thornton's National Tax Office

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IRS publishes revised consolidated revenue procedure for automatic consent accounting method changes

The IRS has published Rev. Proc. 2009-39, which modifies and clarifies both Rev. Proc. 97-27 (relating to non-automatic accounting method change requests) and Rev. Proc. 2008-52 (relating to automatic accounting method change requests).

Rev. Proc. 2009-39 modifies Rev. Proc. 2008-52 by adding several new automatic accounting method changes and by modifying and clarifying certain existing automatic method change procedures. Rev. Proc. 2009-39 modifies certain language relating to the scope limitations applicable to both Rev. Proc. 97-27 and Rev. Proc. 2008-52. Also, Rev. Proc. 2009-39 contains transitional rules that would permit certain taxpayers to elect into or out of the provisions in Rev. Proc. 2009-39.

Automatic accounting method changes

The following method changes are now automatic under Rev. Proc. 2009-39:

- Change to deduct certain repair and maintenance costs under Treas. Reg. Sec. 1.162-4

- Change for retirement costs where the unit of property has changed for a component of a building, Section 1245 property or depreciable land improvements
- Change to the treatment of tenant construction allowances (not subject to Section 110)
- Change for reseller (or reseller-producer) to capitalize costs where the taxpayer is already using a permissible UNICAP method for other costs
- Changes for debt issuance costs to comply with Treas. Reg. Sec. 1.446-5
- Changes to use the ratable accrual method for real property taxes

Rev. Proc. 2009-39 modifies and clarifies certain other automatic accounting method change provisions.

Scope limitation rule modifications

Rev. Proc. 2009-39 modifies and clarifies the “under examination” scope rules for:

- controlled foreign corporations;
- taxpayers that participate in the Compliance Assurance Program; and

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- taxpayers with tax returns before the Joint Committee on Taxation.

The 90-day window and 120-day window consent of the director do not apply to a taxpayer while the taxpayer has a refund or credit under review by the Joint Committee on Taxation.

New notification requirements

Rev. Proc. 2009-39 contains certain additional notification requirements in the case of:

- certain method changes, and
- taxpayers under exam, appeals or Federal Court.

Effective date and transitional rules

Rev. Proc. 2009-39 is effective for forms filed on or after Aug. 27, 2009. Rev. Proc. 2009-39 contains three important transitional rules:

- 1 For tax years ending on or after Dec. 31, 2008, and on or before July 31, 2009, a taxpayer may choose not to apply certain provisions in Rev. Proc. 2009-39.
- 2 Taxpayers may convert a non-automatic accounting method change filed under Rev. Proc. 97-27 (prior to Aug. 27, 2009, for tax years ending on or after Dec. 31, 2009, that is pending with the IRS National Office on Aug. 27, 2009) into an automatic accounting method if the subject method change is covered by Rev. Proc. 2009-39.
- 3 If a taxpayer that has properly filed an automatic application under Rev. Proc. 2008-52 prior to Aug. 27, 2009 (for a year of change that is the taxpayer's

first taxable year ending on or after Dec. 31, 2008), then a taxpayer is permitted to file an amended application to reflect changes made by Rev. Proc. 2009-39 within six months from the due date of the federal income tax return for the year of change (excluding any extension) if the taxpayer follows certain procedures.

Next steps

Taxpayers should familiarize themselves with the new rules to properly identify opportunities to file automatic accounting method changes. Specifically, taxpayers that plan to file non-automatic accounting method changes for the current tax year should review Rev. Proc. 2009-39 to determine whether there is now an opportunity to file an automatic accounting method change request. Additionally, those taxpayers with pending non-automatic accounting method changes should review the revenue procedure to determine whether an opportunity exists to convert a pending non-automatic change to an automatic method change.

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