



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

OFFICE OF  
CHIEF COUNSEL

September 25, 2001

Number: **200152016**  
Release Date: 12/28/2001  
UIL: 446.04-17

CC:PSI:6  
CAM-54374-95  
CAM-50810-95  
CAM-80243-95

MEMORANDUM FOR Industry Director, Retailers, Food & Pharmaceuticals (LM:RFP)

FROM: Senior Technician Reviewer, Branch 6,  
Office of Associate Chief Counsel  
(Passthroughs & Special Industries) (CC:PSI:6)

SUBJECT: Withdrawal of Application for Change in Method of  
Accounting

In accordance with section 8.07(2)(a) of Rev. Proc. 2001-1, 2001-1 I.R.B. 1, 32, this memorandum advises you that a Form 3115, Application for Change in Accounting Method, submitted on behalf of  
is withdrawn.

The Form 3115 requests permission for the taxpayer to change its method of accounting for certain removal costs for the taxable year beginning . Specifically, the taxpayers have requested permission to change their method of accounting for labor costs incurred with respect to the removal of certain property in conjunction with the renovation of owned and leased buildings. Under the taxpayers' present method of accounting, the taxpayers allocate the labor costs for removal of property to new property placed in service and recover such costs through depreciation over the recovery period of the new property. According to the taxpayers, these amounts have primarily been capitalized into leasehold improvements categorized as real property and depreciated over a newly-established MACRS period. In their application to change their accounting method, the taxpayers proposed to deduct the removal costs when they are incurred.

On the National Office informed the taxpayers' representatives that it was adverse to their request. Specifically, the National Office was not persuaded that the removal costs incurred by the taxpayer may be currently deducted under § 162 or § 165 of the Internal Revenue Code because they appear to have been incurred as part of a general plan of rehabilitation. In general, if costs are incurred as part of a general plan of rehabilitation, modernization, or improvement of property, the expenditure must be capitalized, even though,

standing alone, the item may be classified as a repair or maintenance cost. United States v. Wehrli, 400 F.2d 686, 689 (10<sup>th</sup> Cir. 1968).

After being notified that the National Office was adverse to their request, on the taxpayers withdrew their Application for Change in Accounting Method (Form 3115) from consideration.

If you have any questions on this matter, do not hesitate to call

Peter C. Friedman

cc: