

De Filipp's

LIFO LOOKOUT

A Quarterly Update of LIFO - News, Views and Ideas

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LIFO UPDATE

If you had called me personally to ask "What's happening lately with LIFO that I need to know about?"...Here's what I'd say:

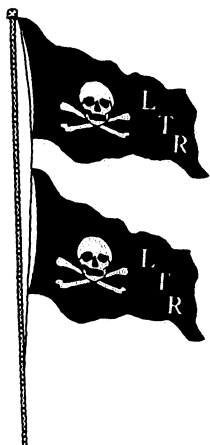
#1. YEAR-END FINANCIAL STATEMENT LIFO CONFORMITY REQUIREMENT. Recent *Lookouts* have been warning auto dealers about this all along. The **good** news is that there's not much on it in this issue. The **bad** news is that soon we will be analyzing **adverse** Technical Advice/Letter Rulings the IRS is now issuing throwing out dealer LIFO elections.

The IRS Deputy Assistant Chief Counsel recently told an ABA meeting that in light of recent LIFO conformity violations, he anticipates the IRS to provide Technical Advice before the end of the year which will emphasize what is permitted and what is not. He also said he expects the National Office - as opposed to Revenue Agents in the field - to use its discretionary powers to make determinations as to whether LIFO elections should be terminated for conformity violations.

PRACTICE IMPLICATIONS. You don't need to be reminded about the importance of sorting out fact patterns and different theories the IRS uses to justify the result it wants. **Expect the worst** from these Letter Rulings soon to be disclosed under the Freedom of Information Act.

Also, expect auto dealers to be confused and angry when conformity generalizations are carelessly tossed around in "press releases" short on space and concern for technical accuracy... Or by competitors trying to woo your dealer client away from you.

To get ready, review the conformity discussions in recent *Lookout* issues. After that, schedule a meeting with your partners to discuss



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the implications and consider contacting your insurance carrier. And, if you haven't already, start calling your dealers to prepare them for this bad news. Better for them to hear it from you sooner, than from some other unfriendly source later.

This is really coming, and it's really ugly.

#2. JAPANESE TARIFF: LIFO IMPLICATIONS. Lately, we've read a lot about tariffs and import sanctions facing some of the dealer body. Dealers and models to be affected: **ACURA** (Legend, 3.2 TL)...**LEXUS** (SC400, SC300, GS300, ES300 and LS400)...**MITSUBISHI** (Diamante)...**MAZDA** (929, Millenia)...**INFINITI** (Q45, J30 and I30).

LOOKING FOR ADDITIONAL SERVICES FOR DEALER CLIENTS?

Look no further... These *Lookout* Update items provide golden consulting opportunities and activities to help dealer clients - and, in the process, to help yourself.

see **LIFO UPDATE**, page 24

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PROCEDURES FOR CHANGING LIFO METHODS

WHY BOTHER TO "VOLUNTARILY" CHANGE?

...6 REASONS TO CONSIDER

REV. PROC.
92-20

In reviewing LIFO procedures already in place for a new client, the new CPA should recognize that he or she cannot arbitrarily or unilaterally "fix things" on their own...even though some immediate changes in LIFO methods might obviously be prudent. It is important for the new CPA to resist the impulse to shoot from the hip, to try to "clean up the reserves" or to otherwise act unilaterally: Changing LIFO methods usually involves a laborious, time-consuming change request process that involves filing Form 3115...and waiting.

Another impulse to resist is the temptation to simply ignore sub-par or improper LIFO sub-elections that may be dangerously out of hand or that are really limiting the benefits that could be derived from LIFO. You may know that the client is using more pools than necessary, using a double extension method instead of a link-chain, index method, or using computational methodologies that, in your judgment, you know you would never have started and can never be comfortable with or hope to justify to the IRS. Chronic LIFO problems like these usually do not go away with the passage of time; they usually only get bigger as time goes by, according to Murphy's law.

On top of all this, the IRS recognizes no statute of limitations preventing it from going back to any prior year. Go back and reread the consent a taxpayer makes in electing the LIFO method when it files Form 970. You may be shocked to learn that bad LIFO accounting methods are genetic defects that a taxpayer can never overcome—except by the securing of IRS consent to change the methods.

Revenue Procedure 92-20 contains the rules and procedures by which the IRS intends to encourage taxpayers to voluntarily request permission to change from impermissible accounting methods before they are contacted by an IRS agent for an audit. These procedures were designed to encourage prompt compliance with proper tax accounting principles and to discourage taxpayers from delaying the filing of change applications.

The key word here is impermissible. In many instances, there is a significant difference between an impermissible method and a method that is simply one out of several acceptable alternative methods.

GRADATION OF INCENTIVES

Revenue Procedure 92-20 provides a "gradation of incentives" to encourage prompt voluntary compliance. Under this approach, a taxpayer generally receives better terms and conditions for any change in accounting method if the taxpayer voluntarily files its request to change methods before it is contacted for examination by the IRS. Upon contact by an IRS agent for examination, the Revenue Procedure allows taxpayers a limited 90-day window period during which the taxpayer coming under IRS audit may file a Form 3115 request to change an accounting method without first obtaining the approval of the District Director.

The "gradation of incentives" is accomplished by the following approach: A taxpayer receives terms and conditions during this 90-day window period that are less favorable than those available for method changes voluntarily requested prior to audit contact by the IRS, but those terms under the 90-day window are comparatively more favorable than the change adjustments required by the District Director/examining agent as part of the IRS audit examination report. See page 5 and 8 summaries.

IRS CONSIDERATION CRITERIA

- Whether the method of accounting requested is consistent with the Code, regulations, revenue rulings, revenue procedures and decisions of the U.S. Supreme Court;
- Whether the present method of accounting clearly reflects income;
- Whether the use of the new method will clearly reflect income;
- The taxpayer's reason(s) for the change;
- The tax effect of the net Section 481(a) adjustment;
- Whether the taxpayer's books, records and financial statements will conform with the proposed method of accounting; and
- The need for consistency in the accounting area.

Although many LIFO situations are covered in the context of Revenue Procedure 92-20, this procedure was broadly written with no one particular type of accounting method, taxpayer issue or audit situation in mind.

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TERMS AND CONDITIONS

The terms and conditions surrounding an accounting method change involve:

1. The year of change,
2. The computation of the Section 481(a) adjustment and/or the applicability of the cut-off method, and
3. The length of the adjustment period over which the Section 481(a) adjustment is reported in income.

Each of these three "terms and conditions" has several different possibilities. This means there are several possible combinations of "terms and conditions" that may affect an accounting change request depending on:

1. Whether or not the request for change is being made voluntarily (i.e., at a time when the taxpayer is not under audit by the IRS/before an IRS audit starts).
2. Whether or not the method of accounting being changed is a Category A or a Category B method of accounting. (There are also special rules for **Designated** Category A and/or **Designated** Category B methods of accounting.)
3. Whether or not the net Section 481(a) adjustment is positive or negative. In changing methods of accounting for inventories, usually the new method results in a **positive** Section 481(a) adjustment - meaning that the inventories have been understated by the previous method and there is some income that needs to be reported as part of the method change process. Alternatively, it is possible for there to be a **negative** Section 481(a) adjustment - meaning that inventories were valued higher by the old method than they would be by the new method, in which case the taxpayer is entitled to a corresponding reduction of its taxable income as part of the method change process. Revenue Procedure 92-20 provides rules which are often different depending on whether the net Section 481(a) adjustment is positive or negative.
4. A fourth consideration related to whether or not the taxpayer was under audit on March 23, 1992, thus possibly involving special 180-day transition rules which ended on September 18, 1992.

(Continued)

WHY MAKE A "VOLUNTARY" CHANGE?

1 2 3 4 5 6

Why should taxpayers consider making a voluntary change? There are at least six (6) incentives for a taxpayer not currently under IRS audit to consider:

FIRST: Audit Protection The Internal Revenue Service presumably will not go back and audit the computations under the old method in any years prior to the effective year of change. This prevents IRS adjustment for previous use of an erroneous method in prior years. Section 10.12 entitled "**Protection for Years Prior to the Year of Change.**" states that if a taxpayer timely files a Form 3115 under Revenue Procedure 92-20, an examining agent may not propose that the taxpayer change the same method of accounting for a year prior to the year of change.

However, Section 10.12 also provides a number of qualifications under which an enterprising IRS agent might successfully require a change in an earlier year. Accordingly, the intention of this section may be to clarify that just because a taxpayer has filed a request for permission to change one sub-method, that does not necessarily mean that other aspects of the overall LIFO computations or approaches can't be challenged (i.e., just because the IRS previously accepted a taxpayer's pooling arrangement or allowed it to be changed - doesn't necessarily mean that other aspects of the LIFO calculations could not be questioned at the same time or subsequently).

SECOND: Cut-Off Method Revenue Procedure 92-20 clearly offers the opportunity to use the cut-off method in LIFO method change situations as an alternative to the Section 481(a) adjustment. Under the cut-off method, only items arising **on or after** the beginning of the year of change are to be accounted for under the new method of accounting. Any items arising **prior** to the year of change will continue to be accounted for under the taxpayer's former method of accounting.

Therefore, probably the most significant consideration in evaluating the application of Revenue Procedure 92-20 to LIFO situations is the incentive to avoid the requirement to make Section 481(a) recomputations under the new method for LIFO computations back over all the years **the old** method previously was used.

THIRD: More Favorable Spread Periods Where LIFO method changes are not involved, as an incentive for pre-audit change filing, taxpayers may be allowed to spread a positive Section 481(a) adjustment reflecting the omitted income over up to three or six years, depending on whether a Category A or a Category B method of accounting is being changed.

see **WHY BOTHER TO CHANGE?**, page 7

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LIFO METHOD CHANGES

"VOLUNTARY" OR NOT: THE DETAILS

1-2-3
CHOICES

Under Revenue Procedure 92-20, the progression of graded incentives for taxpayer-initiated "voluntary" Form 3115 filings is obvious from the difference between the year of change. Also, after the 90th day, examining agents may require a full Section 481(a) recomputation for all LIFO years, rather than allowing the taxpayer the more limited ten-year look-back computation available only under the 90-day window.

I. VOLUNTARY FILING

Where LIFO inventory methods are involved, the terms and conditions for method changes again sub-divide depending on the circumstances. Where the taxpayer has initiated the Form 3115 filing (for either a Category A or a Category B LIFO method) prior to any IRS audit contact, the year of change will be the current year for which the Form 3115 is considered to be timely filed.

If the inventory accounting method change involves a *Hamilton Industries* type of bulk bargain purchase LIFO situation, a Section 481(a) adjustment must be computed for all prior years and taken into income over six (6) year spread period. Section 9.01 of Revenue Procedure 92-20 provides for this result by referring to IRS Announcement 91-173.

In all other situations, unless the Service has published guidance requiring a Section 481(a) adjustment, voluntary changes involving (Category A or Category B) LIFO methods can be made using the cut-off method thereby completely avoiding any prior year recomputations.

The allowance of the use of the cut-off method which avoids having to go back and recalculate all prior years' inventory valuations can provide a significant benefit. Voluntary changes within the LIFO method should not necessitate Section 481(a) recomputations, except as indicated above.

II. 90-DAY WINDOW FILING

If the LIFO taxpayer is under audit by the Internal Revenue Service and has not previously filed Form 3115 to request permission to change, there is the opportunity under the 90-day window to file a Form 3115...but the year of change will be the earliest open year (i.e., the first year under audit) and, instead of the cut-off method, a Section 481(a) adjustment must be computed on a modified ten-year look-back basis (which may require reasonable estimates) and the resulting Section 481(a) adjustment will be spread over not more than six (6) years.

The taxpayer benefit in this approach is that if the LIFO election has been in existence for more than ten years, there is a deferral of the repayment of any of the LIFO reserve built up before the tenth preceding year. This modified Section 481(a) computation is not available if the LIFO accounting method involves a *Hamilton* type of bulk bargain purchase...in which case the Section 481(a) adjustment must be recomputed for all years, although the taxpayer should be allowed the six-year spread for the Section 481(a) adjustment amount.

What does "UNDER AUDIT" mean? In Letter Ruling 9316002, the Service held that "contact in any manner" does not require written contact. Accordingly, the Service ruled that a telephone conversation between an IRS agent and the taxpayer's controller was "contact for purpose of scheduling an audit examination." Therefore, the taxpayer was considered to be under audit at the time it filed Form 3115.

III. NO 90-DAY WINDOW FILING

The third alternative—that of not filing a Form 3115 either before an IRS audit starts or during the 90-day window—results in the Revenue Agent making the LIFO inventory adjustment (for non-*Hamilton*-type situations) as part of the audit process, usually treating the first or earliest year under audit as the year of change and allowing no spread period at all for the Section 481(a) adjustment.

A taxpayer may choose to "go for broke" under this alternative because it may hope to be able to negotiate a more favorable resolution with the examining agent or with an Appeals Officer. But, if the taxpayer is unsuccessful, the downside costs and consequences may be prohibitive.

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TO FILE...OR NOT TO FILE? SOONER OR LATER?

Form 5118
Application for Change in Accounting Method
OMB No. 1545-0047
Section 481(a) Adjustment

Type of Change
☐ Voluntary Filing
☐ Taxpayer Not Under Audit
☐ IRS Audit Window Within First 90 Days
☐ Forced Change (Taxpayer can't defend method)

Section 481(a) Adjustment
☐ None: "Cut-off Method" applies.
☐ Yes/Required; but only for last 10 years. Adjustment spread over 6 years.
☐ Yes/Required; covering all prior years on LIFO. 100% adjustment in earliest open year. Penalties—very possible.

GRADED INCENTIVES... AT A GLANCE

Type of Change	Year of Change	Section 481(a) Adjustment
I. Voluntary Filing Taxpayer Not Under Audit	Current Year	None: "Cut-off Method" applies.
II. IRS Audit Window Within First 90 Days	Earliest Open Year	Yes/Required; but only for last 10 years. Adjustment spread over 6 years.
III. Forced Change (Taxpayer can't defend method)	Earliest Open Year	Yes/Required; covering all prior years on LIFO. 100% adjustment in earliest open year. Penalties—very possible.



WHICH LIFO CHANGES REQUIRE ADVANCE APPROVAL FROM THE IRS?

The question of whether a Form 3115 must be filed to accomplish a change involves recognizing that LIFO method changes fall into three categories:

- Some do **NOT** require filing Form 3115,
- Others definitely require filing Form 3115, and
- Others fall into a gray area in between.

CHANGES NOT REQUIRING FORM 3115 FILING

1. The initial election to use LIFO requires filing Form 970 with the first income tax return on which LIFO is being used, along with other filing requirements...but it does not involve or require filing Form 3115.
2. The extension of the LIFO inventory method to additional classes of inventory goods. This is referred to as a "subsequent" election and it involves filing a new Form 970...and not Form 3115.
3. Corrections of mathematical or posting errors are not changes in accounting methods.
4. A change in treatment resulting from a change in underlying **facts** (Regs. Sec. 1.446-1(e)(2)(ii)(b)).
5. A change from the unit (specific goods) LIFO method to the dollar value LIFO method **if** the taxpayer continues to use exactly the same pools as were used under the other LIFO method (Regs. Sec. 1.472-8(f)(1)).

CHANGES DEFINITELY REQUIRING FORM 3115

1. Changing from specific goods (unit) method to the dollar value method...if pooling or other changes are also involved.
2. Decreasing the number of pools...Combining or consolidating pools.
3. Increasing the number of pools (dividing, splitting or separating pools).
4. Changes in method of valuing LIFO layers or increments (Form 970, item 6).
5. Changes in composition of pools and miscellaneous LIFO related changes.
6. Change from double-extension method to index or link-chain, index method.
7. Change from index to link-chain, index.

8. **TERMINATION OF LIFO ELECTION.** The Form 3115 filing procedure for terminating a LIFO election depends upon whether Revenue Procedure 92-20 or Revenue Procedure 88-15 is involved. Revenue Procedure 88-15 is a more specialized procedure that allows certain taxpayers to obtain expeditious consent (which includes waiver of the user fee) to discontinue the use of LIFO. This Revenue Procedure will apply to voluntary termination requests unless the taxpayer is ineligible for its provisions, in which case Revenue Procedure 92-20 will be applicable. Revenue Procedure 92-20 is the more generalized procedure covering all changes in methods of accounting, including terminations of LIFO elections not subject to Rev. Proc. 88-15.

Usually, it is preferable for the LIFO termination to be made under Revenue Procedure 88-15 because it allows the filing of Form 3115 as late as 270 days after the start of the year of termination. Revenue Procedure 88-15 can be used by any taxpayer desiring to discontinue the use of the LIFO method for all of its inventories on LIFO and who will change to a prescribed method.

9. Reelection of LIFO after a recent previous termination of a LIFO election.

LIFO CHANGES THAT MAY OR MAY NOT INVOLVE FORM 3115 FILING (BUT TO BE ON THE SAFE SIDE, RESOLVE DOUBT BY FILING FORM 3115)

Several important aspects relating to LIFO computation changes seem to be without specific guidance on whether the filing of Form 3115 is required before changes are made. To be absolutely safe, Form 3115 should be filed whenever in doubt.

1. **ITEM DEFINITION.** If a taxpayer alters its computational approach in such a way that it involves or is interpreted as involving a change in the definition of the term "item," it would appear that the Regulations and the IRS require Form 3115 to be filed.

In this regard, consider the IRS positions as set forth in *Hamilton Industries, Inc.* (97 TC 120 (1991)) and subsequent pronouncements and various Letter Rulings, including LTR 9445001 in which the IRS held that:

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Which LIFO Changes Require Advance Approval?

- A change in method of defining an item under the LIFO inventory is made using the cut-off method as provided in Section 5.03(3) of Rev. Proc. 92-20.
- Under the cut-off method, the taxpayer may not increase the current-year cost of the opening inventory for the year of change and may not increase the LIFO index.
- The taxpayer may not establish the year of change as a new base year for its LIFO items.

2. CHANGES IN DETAIL COMPUTATIONAL TECHNIQUES AND/OR SAMPLING PROCEDURES.

Under the index and link-chain, index approaches, professional judgment needs to be exercised in determining the manner in which indexes are computed and in other qualitative analyses as to whether or not a "representative portion" of the inventory is being repriced and whether the overall results are reasonable and "clearly reflect income." This judgment (in theory) needs to be reevaluated every year taking into consideration changes in the inventory levels, inventory mix and other factors.

The IRS position might be that under the Regulations these approaches or procedures, sampling techniques and judgments each in the narrowest sense involve "methods of accounting" requiring the filing of

(Continued)

Form 3115 to obtain IRS permission to change. However, the Regulations are not 100% clear on this point and the accounting profession seems to have produced no authoritative literature, guidance or even published "suggestions" bearing on every day LIFO sampling and related judgment issues to help answer this question.

3. CHANGES IN SAMPLING APPROACHES. In Letter Ruling 8403009, the IRS held that a change in sampling procedure was an unauthorized change in accounting method. The taxpayer in that case had repriced only certain types of raw materials instead of repricing its entire inventory. Subsequently, as a result of what the taxpayer considered to be a change in facts, it computed its indexes by repricing the entire inventory. The IRS held that this change, even though intended by the taxpayer to produce a more accurate overall result, was to be treated as a change in sampling procedure made without IRS advance approval.

4. CORRECTION OF BASE YEAR COMPUTATIONS.

In Letter Ruling 9211019, the IRS ruled that correcting the base-year computation was a change of accounting method. The IRS further ruled that a new parent corporation could not retroactively change from an erroneous accounting method to a permissible accounting method by filing an amended return. Instead, the Service ruled that the new parent would have to file a Form 3115 to first obtain permission to change.

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...Why Bother to Change? 6 Reasons to Consider

(Continued from page 3)

FOURTH: No Interest By being able to make the current year the year of change, a taxpayer avoids any interest on the deficiency that would have been due if the adjustment(s) arising from the change in accounting methods were made in an earlier year.

FIFTH: NOLs Can Be Used Previous rules for method changes limited or prevented entirely the use of net operating loss and tax credit carryovers as offsets against the Section 481(a) adjustment increasing income in the year of change. The limitation on the use of net operating loss and income tax credit carryovers to offset a net section 481(a) adjustment has been eliminated by Revenue Procedure 92-20 which now provides that net operating losses and tax credit carryovers expiring in the year of change may be used to offset a net positive Section 481(a) adjustment, except where it appears to the IRS that

the utilization of the expiring loss or tax credit is a principal purpose for the taxpayer's making the change in accounting method.

SIXTH: Penalties Avoided Taxpayer penalties (under Section 6662) and tax return preparer penalties (under Section 6694) will not be imposed when voluntary method changes are made. Revenue Procedure 92-20 provides that any otherwise applicable penalty for the failure of a taxpayer to change its method of accounting (such as the accuracy-related penalty under section 6662 of the Code or the fraud penalty under section 6663) may be imposed if the taxpayer does not timely file a request to change an accounting method. Additionally, the taxpayer's return preparer may also be subject to the preparer penalty under section 6694.

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SUMMARY OF TERMS AND CONDITIONS FOR ACCOUNTING METHOD CHANGES

	Section 481(a) Adjustment +/-	Year of Change	Section 481 Adjustment Period
CATEGORY A METHODS			
Treated as Not Under Examination*	Positive Negative	Current Year Current Year	Maximum of 3 years 1 Year (Year of Change)
90-Day Window (Taxpayer Under Examination)	Positive Negative**	Earliest Open Year Current Year	Maximum of 3 Years 1 Year (Year of Change)

CATEGORY B METHODS

Treated as Not Under Examination*	Positive Negative	Current Year Current Year	Maximum of 6 Years Maximum of 6 Years
90-Day Window (Taxpayer Under Examination)	Positive Negative**	Current Year Current Year	1 Year (Year of Change) Maximum of 6 Years

CHANGES WITHIN THE LIFO METHOD

Treated as Not Under Examination*	Positive Negative	Current Year Current Year	Not applicable, except as otherwise published. Not applicable, except as otherwise published.
90-Day Window (Taxpayer Under Examination)	Positive Negative**	Earliest Open Year Current Year	Maximum of 6 Years*** Not applicable, except as otherwise published.

This summary...does not reflect the transition rules discussed in Section 14.02 for taxpayers under audit on March 23, 1992 and it does not reflect the rules applicable to Hamilton Industries bulk bargain purchase LIFO situations.

* This includes taxpayers not under examination, as well as taxpayers filing under the 120-day window described in subsection 6.03, the 30-day window described in subsection 6.04, or the 90-day post-affiliation window described in subsection 6.05, and taxpayers that receive the consent of the district director to file under subsection 6.06.

** The taxpayer is treated as not under examination because it is not appropriate to provide terms and conditions more favorable than if the taxpayer had not been contacted for examination.

*** Generally, a modified section 481(a) adjustment is computed using only the prior ten (10) taxable years. See paragraph 6.02(4) of Revenue Procedure 92-20.



TIMELY FILING AND LATE FILING

A Form 3115 must be filed within 180 days after the beginning of the year of change. This 180-day period begins on the first day of any taxable year. If the taxable year is a short period, the Form 3115 must be filed no later than 180 days after the beginning of the short taxable year, or if earlier, no later than the last day of the short taxable year.

When the date for filing falls on a weekend or holiday, the filing of Form 3115 will be considered timely if it is filed on the next succeeding business day.

The 180-day rule is supposed to provide the IRS with adequate time to process the applications it receives prior to the original due date of taxpayers' returns. A Form 3115 that is not filed within the first 180 days may nevertheless be considered as timely filed upon the showing of good cause and a showing to the satisfaction of the Commissioner that granting an extension of time to file the Form 3115 will not jeopardize the interests of the Government. This necessitates additional paperwork (see "Running Out of Time?" on page 12). Applications filed beyond 90 days after the due date of the Form 3115 generally will be denied.

EARLY APPLICATION

An otherwise qualified Form 3115 application for a change in method of accounting filed after the 180-day period for a taxable year and before the beginning of the succeeding taxable year, will, under the following circumstances, be considered a timely filed application for the **succeeding** taxable year. To qualify, the current Form 3115 must be completed in all respects except for:

- The amount of the net Section 481(a) adjustment as of the beginning of the year of change, and
- The gross receipts and taxable income amounts for the year immediately preceding the year of change.

This information must be furnished to the Service within the first 90 days after the beginning of the year of change. If the application is not perfected within the first 90 days, the Service will notify the taxpayer and if the application is not perfected within the first 120 days after the beginning of the year of change, the Service will close the case and will not otherwise process that Form 3115.

YEAR OF CHANGE

The year of change for a taxpayer that is not under examination is the taxable year for which a Form 3115 is considered timely filed.

STATEMENTS TO INCLUDE

- All relevant facts, including detailed descriptions of present and proposed (LIFO) methods must be submitted. Obviously, the most recent version of Form 3115 should always be used.
- Taxpayers must also state the reason(s) they believe approval to make the requested (LIFO) changes should be granted.
- **CUT-OFF METHOD REQUEST:** In most instances involving LIFO changes from the unit or the double extension methods to a link-chain or to a link-chain, index method, it would be advantageous to request the application of the "cut-off" method, wherever possible, in order to avoid having to make a Section 481(a) computation. **SAMPLE WORDING** appears on page 17.

In many situations, prior years' purchase invoices, cost records and other information may not exist or may have not been saved and it is often impossible to compute the Section 481(a) adjustment of what the inventory valuation at cost would have been if the method desired actually had been used from the start of the LIFO election. The IRS National Office tends to be reasonable about this request and use of the cut-off method is specifically provided for in Section 9.01 of Revenue Procedure 92-20.

see **FORM 3115**, page 17



TEN SUGGESTIONS FOR FORM 3115 FILINGS

1. Consider a written engagement letter before embarking on the change request process. Once initiated, the Form 3115 filing process may involve considerably more time and expense than originally anticipated...especially if the IRS requires additional information... or computations...or raises unexpected or novel reasons opposing your request. It may be desirable to have a written understanding up front with your client reflecting these contingencies along with your own estimate of how much time might be involved in accumulating information for the ruling request, actually drafting it, discussing it with the IRS and implementing the transitional computations and adjustments if the IRS grants permission to change.

Another practical problem created by the amount of time some accounting request changes take is that the taxpayer may change CPA accounting firms before the National Office completes its review and acts on the Form 3115. This may create significant problems between predecessor/successor CPA firms...especially if additional information is requested by the IRS after the original Form 3115 submission has been filed. This reinforces the importance of having a written engagement letter describing the responsibility for the accumulation of information, the computation of the transitional adjustments and the representation services before the IRS.

2. Don't necessarily assume that if you request permission to change LIFO methods, the IRS will automatically audit prior or current income tax returns...regardless of the nature of the reasons for your request.

3. Also, don't necessarily assume that just because a similar change request might have been approved without "too much trouble" a few years ago, that the current request will go through as quickly or readily as in the past. Policies and IRS personnel attitudes towards specific technical issues differ, individuals gain more experience over time dealing with technical matters, issues are litigated and decided (like *Hamilton Industries*) and what seem to be relatively simple change requests may now require more background information or evaluation.

4. If the IRS approves the change requested, don't necessarily assume that you are required to make that change. Part of the overall process gives taxpayers 45 days in which to notify the IRS as to whether or not it will actually make the approved change.

5. It is usually advisable to request that a conference be held in the National Office if the IRS believes that it will be unable to approve the change request.

6. If you do not have complete prior year information relative to the index computations or methodology, provide as much background information as possible relative to the LIFO computations and the inventory size and mix so that the IRS has some overall frame of reference for considering the change request.

7. Be careful to avoid disparaging or incriminating language in describing the reason(s) for requesting the change. Downplay—or at least don't elaborate on—the possible unfavorable impact of assumptions, judgments, shortcuts or other inaccuracies that may be inherent in the prior computational methods. For example, if a change from the unit or double extension methods to the link-chain, index method is being requested, justification for the request can be worded to emphasize the taxpayer's desire to have a new computational methodology that is believed to be more likely to clearly reflect income than the previous method (without going into details over the shortcomings of that previous method).

On the other hand, if there is some clear cut authority or decision in support of your request—such as a Revenue Ruling or Revenue Procedure—simply cite that authority, tax case, or decision... and say no more.

8. If you cannot find authoritative, written support for your change request (in the Code, Regulations, or decided tax cases), say so...and mention (1) the absence of any discussion on the issue (if the Code and Regulations are silent) and (2) the lack of any specific prohibition against the change you are requesting. In some instances, the National Office requests taxpayers to cite "authority" in the Code or Regulations for a requested change when, in fact, there is no formal guidance on the matter anywhere.

9. If you have a strong feeling or belief that the change you are requesting should more clearly reflect sound accounting practices, then **say so**...even though you may not be able to document it with any authoritative literature on what constitutes present LIFO practices. (In some cases, there simply isn't any!) Even if your own practical experience is all you have to rely on, don't underestimate your own professional judgment as to what constitutes a reasonable effort at compliance with the "clear reflection of income" standard.

see TEN SUGGESTIONS FOR FORM 3115 FILINGS, page 17



DURING THE WAIT: WHAT IF TAX RETURNS ARE DUE?

One of the practical problems with Form 3115 filings is that the request process may take so long in the IRS National Office that the taxpayer will have to file a tax return for the year of change before it knows whether or not permission to change will be granted.

Technically, and according to the statute, until the taxpayer receives official permission from the IRS to change methods, it cannot unilaterally change from its current method.

From this it follows that the taxpayer should file its tax return for the year of change using the old method(s) and then, when or if permission to change is eventually received, it should file an amended tax return using the new method.

Note the practical difficulty this presents where there are (many) state income tax returns or personal property tax returns dependent on Federal return figures. Also note the problems where the taxpayer is an S corporation or a partnership: All tax returns for individual shareholders or partners (Federal and state) will need to be filed using the old method and then (years?) later amended to reflect the new method if permission to change is granted.

Obviously, this creates significant practical problems for taxpayers who will have to decide whether to file the tax return (for the year of change) using the "old" or previous method or to file the tax return using the "new" computation method(s) being requested.

One alternative is fairly common. Either at the suggestion of the National Tax Office or because the review process takes so long, the taxpayer is sometimes allowed to defer the year of change from the year originally specified on Form 3115 to the next following year.

As a practical matter, and notwithstanding the foregoing, many taxpayers file the tax return for the year of change (when they can hold off its filing no longer) employing the "new" computational methods and:

1. Disclose in a statement attached to the tax return being filed that a change request is pending in the National Office from the "old method" to the "new method" employed in the LIFO computations in the return, and
2. State in the attachment that if permission to make the change is not granted, an amended return for the year will be filed reflecting the former method, and
3. Further state that if permission to change is received, a copy of that permission letter from the IRS National Tax Office will be associated with the current year return being filed for the year of change by filing a copy of it as part of an amended return: Form 1120-X, and
4. Answer all questions on Form 1120 or 1120-S (Section A) to indicate that a change has been made. The boxes in the Cost of Goods Sold/Inventories section on page 2 of Form 1120 should also be checked indicating that a change has been made so that the IRS has obvious notice on the face of the tax return as to what is going on in computing the valuation of the ending inventory.

This may raise questions as to how Form 8275-R, the Regulation Disclosure Statement, is supposed to tie in with the disclosure of items or positions that are contrary to Treasury regulations in situations involving LIFO inventories. See March, 1993 *LIFO Lookout*, Vol. 3, No. 1, page 3.



Form 3115 Due - June 1995						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	



Form 3115 Due - June 1996						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

Running out of time for filing Form 3115..?
See page 12



RUNNING OUT OF TIME? FILE LATE AND ATTACH EXPLANATION ...OR FILE FOR AN EXTENSION?



The due date for filing Form 3115 is the 180th day of the tax year in which it is desired to make the change. In other words, a LIFO change to take effect for calendar year 1995 must be requested by filing Form 3115 with the Internal Revenue Service by June 29, 1995. The IRS is very strict about timely filing of Form 3115.

LATE FILING WITH EXPLANATION

An application on Form 3115, filed after the 180-day period but within 9 months after the beginning of the tax year for which the change is requested, can be treated as filed on time if you show reasonable cause for filing it late.

If you file your application on Form 3115 after the 180-day period and the IRS does not grant you an extension of time to secure consent, you can treat your application as a timely application for the next tax year. To make this choice, you must notify the IRS of your intention within 30 days after being denied the extension by filing a current Form 3115 for the subsequent tax year and to qualify as a timely application for the next tax year, you must also meet certain other requirements.

Watch the user fee. If you are filing Form 3115 after the 180th day, you must submit a \$275 fee along with your letter of explanation telling the IRS why you could not file on time and asking them to excuse the late filing and to proceed with evaluating your request for change. If the IRS accepts your reason for late filing, it will then require payment of the standard \$900 user fee. In other words, a late filing will result in user fees totalling \$1,175 (\$275 plus \$900) if the IRS accepts your reasons for late filing and processes your Form 3115 as if it had been filed timely.

APPLYING FOR AN EXTENSION OF TIME TO FILE FORM 3115

Typically, the late filing with explanation scenario occurs when someone discovers after it's too late that the 180-day period is over. In other situations, the taxpayer may be aware of the 180-day requirement but it may be unable to file on time. In this instance, consideration should be given to requesting an extension of time to file Form 3115.

If you have good reasons, the IRS may grant an extension of time to file Form 3115. The Commissioner has discretionary authority to grant extensions of time for making an election or application for relief. Each request for an extension under Regulation

Section 1.9100-1 is considered on its own specific facts and circumstances and these extensions may be difficult to justify and obtain.

Applications received within 90 days after the due date may qualify for an automatic extension. However, if you file your request later than 9 months after the beginning of your tax year, the reasons must be unusual and compelling.

Instructions to Form 3115 refer to Revenue Procedure 92-85 (1992 CB 490) in connection with filing a request for an extension of time. Section 9 of this Procedure states that its provisions apply to applications for change in accounting method received within 90 days after the time required for filing Form 3115. Section 5 states that extension requests will be granted when the taxpayer provides evidence (including affidavits) relative to reliance on professionals for assistance to establish that (1) the taxpayer acted reasonably and in good faith, and (2) granting relief would not prejudice the interests of the Government.

Watch the user fee. A user fee of \$900 is required to be paid in connection with the submission for a request for an extension of time to file Form 3115. If the extension request is granted, an additional user fee will be required in connection with the processing of the Form 3115 application when it is filed.

RUNNING OUT OF TIME?

So if you're running out of time - **and you know it** - your choice is between (1) simply filing Form 3115 "late" and attaching an explanation...or...(2) formally requesting an extension of time to file Form 3115 under Regulation Section 1.9100-1. In either instance, the IRS will collect **additional** user fees!

IRS Publication 538 appears to sanction an informal submission under Revenue Procedure 92-85 as part of a late Form 3115 filing, and the Form 3115 instructions also refer to Revenue Procedure 92-85. It appears that the National Office simply "blends" a late filing explanation into a Rev. Proc. 92-85 submission.

In either case, these explanations can be tricky and the IRS may be difficult to satisfy. Each year numerous extension requests are denied; while many others are granted. Hopefully, yours will be one of the latter. *



SAMPLE TRANSMITTAL LETTER FOR FORM 3115 FILING UNDER REV. PROC. 92-20
(To be Typed on Taxpayer Letterhead)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Date _____

Commissioner of Internal Revenue Service
Attention: CC:CORP:T

or Associate Chief Counsel (Domestic)
Attention: CC:Corp

P. O. Box 7604
Benjamin Franklin Station
Washington, D.C. 20044

re: Name
Address
EI#

Form 3115 Application for Change in Accounting Method
With Respect to Calendar Year 19__

Dear Sir or Madam:

Enclosed is Form 3115 filed under Revenue Procedure 92-20 (1992-1 CB 685) requesting permission to make changes effective for the calendar year ____ with respect to (various accounting method changes) or (certain dollar value LIFO (Last-In, First-Out) inventory accounting methods).

Alternative Paragraph for Auto Dealers Changing to Alternative LIFO Method: Enclosed is Form 3115 which reflects the dealership's request for permission to change to the Alternative LIFO Method provided by Revenue Procedure 92-79 in connection with its use of the Last-In, First-Out (LIFO) method for new automobile and new light-duty truck inventories effective for calendar year _____. The Alternative LIFO Method for Automobile Dealers is set forth in Revenue Procedure 92-79 (I.R.B. 1992-39, September 8, 1992) and this request for permission to change is filed under the provisions of Revenue Procedure 92-20 (1992-1 CB 685).

On the date this Form 3115 is being filed, taxpayer is not under audit examination, as defined in Section 3.02 of Revenue Procedure 92-20, and it has no Federal income tax return(s) under consideration by any IRS Appeals Officer or by any Federal Court.

Pursuant to Section 10.05 of Revenue Procedure 92-20, taxpayer agrees to all of the conditions of Revenue Procedure 92-20 and proposes to (complete, as appropriate):

___ Take the net Section 481(a) adjustment into account over (state the Section 481(a) adjustment period required by Section 5, 6, 7, or 8 of Revenue Procedure 92-20).

___ **Alternative wording:** Taxpayer will not be required to compute any Section 481(a) adjustment because of the availability of the cut-off method under Section 9.01.

If the changes requested by this Form 3115 cannot be approved or should a denial of permission be contemplated, we request a conference in the National Office at a mutually convenient time.

A copy of Form 2848 is enclosed authorizing contact with our representatives, if necessary. Finally, enclosed is a check for the User fee (\$_____) related to this filing.

Respectfully submitted,

TAXPAYER NAME

(Authorized Officer), President



You just cannot be too careful in working with LIFO these days. This is evident from Letter Ruling 9515001 in which the IRS held that an automobile dealer had to forfeit its new truck LIFO reserves because the Form 970 election filed in 1987 was not made with the proper specificity. Before you get too excited about this, be aware that the loss of the LIFO election could have been avoided simply by carefully following all of the very obvious requirements in the regulations and the instructions to the Form 970. What happened here was simply a failure to coordinate all the required attachments and descriptions with each other. The lessons from this ruling underscore the importance of using caution in handling all Form 970 LIFO elections.

LIFO ELIGIBILITY REQUIREMENTS

In order to elect LIFO, a taxpayer must comply with three eligibility requirements:

- **COST**: The beginning inventory of the goods going into LIFO in the year of election must be valued (or restated) at cost.
- **CONFORMITY**: All reports covering the full taxable year, whether annual reports to shareholders or reports for any other purpose, must reflect LIFO in their primary presentation of income (i. e., in the income statement.)
- **CONSENT**: The taxpayer must file, with its tax return for the year of election, Form 970 (or a schedule with the same information) and attachments containing complete information on the taxpayer's inventories for three (3) year-ends.

The problem involved in Letter Ruling 9515001 involved the Consent requirement and the Form 970 filing. This brings to mind another older technical advice memorandum, LTR 8138005, in which the taxpayer's issue involved "a reasonable and objective interpretation of its LIFO election statement."

TAXPAYER'S FORM 970 AND ATTACHMENTS

- It would use the LIFO inventory method with respect to the following goods: "new car inventory."
- It would not use the LIFO inventory method for the following goods subject to inventory: "used vehicles, parts and dealer operating vehicles."
- The contents of each dollar-value LIFO pool would include: "new cars."

Attached to the Form 970 filed with the taxpayer/auto dealer's 1987 Federal income tax return was a statement providing additional information. In relevant part, this attachment provided:

"...taxpayer elects and will use a link-chain index method. This approach has been selected for both pools described below because of anticipated future technological changes in the stock of inventory, the extensive variety of items, and the changes in the items which are combined into and make up the vehicles and the parts and accessories sold by the taxpayer at retail...

POOL #1: VEHICLES: Taxpayer has elected LIFO treatment for a single pool consisting of all new and demonstrator vehicles...

COST DETERMINATIONS: Vehicle inventories are valued at cost determined by reference to the specific identification of the purchase invoices.

Pursuant to accepted industry-wide practice, cost of parts and accessories inventories is determined at year-end by reference to manufacturer current price lists in effect at year-end. As a result, the ending parts and accessories inventory is valued at higher replacement costs. This practice results in an overall valuation for parts and accessories inventories that closely approximates, but usually is in excess of, cost.

The non-LIFO inventories include (1) used vehicles, (2) company cars and rental cars and (3) other miscellaneous items such as gas, oil, grease, and repair labor in process..."

→



"RIFE" INCONSISTENCIES NOTICED BY THE IRS

In reaching its adverse holding, the IRS observed that "the attachment is so rife with Inconsistencies that it cannot be used to ascertain the scope of the taxpayer's LIFO election." In other words, only what was stated on the Form 970 was taken into account.

- Although the attachment used the term "Pool #1," it did not make a specific reference to a second pool anywhere else.
- Nowhere on the Form 970 or the attachment was there an analysis as of the beginning and end of 1987 and as of the beginning of 1986 of the taxpayer's inventory.
- Neither the Form 970 nor the attachment referred to the taxpayer's new trucks.
- On the taxpayer's Federal income tax return for the LIFO election year - 1987 - and subsequent years, only new cars and new trucks were included in its LIFO computations and the taxpayer computed the value of its LIFO inventory using the two pools: one pool for new cars and a separate pool for new trucks.
- The attachment suggests that the LIFO method is being elected for parts and accessories, even though the Form 970 itself specifically indicates that parts and accessories are excluded from the scope of the LIFO election.
- The attachment referred to "both pools" even though the Form 970 and a later description on the attachment indicates that the taxpayer would be using a single pool.
- Finally, the attachment states that the LIFO inventory method is not being elected for "(1) used vehicles, (2) company cars and rental cars and (3) other miscellaneous items such as gas, oil, grease, and repair labor in process" - while the face of the Form 970 describes these excluded items as consisting of "used vehicles, parts and dealer operating vehicles."

Although the taxpayer consistently applied LIFO to its new truck inventories, the IRS indicated that (1) there was no clear expression on the Form 970 that it was electing the LIFO inventory method for new trucks, (2) the term "new trucks" was not used anywhere on the Form 970 or on its attachment, and (3) the attachment to the Form 970 is "inconsistent with the statement on the Form 970 that the taxpayer is electing the LIFO Inventory Method for its 'New Car Inventory.'"

It should be noted that the National Office even reviewed the 1987 Federal income tax return that was filed in its entirety which was provided to it by the examining agent in order to determine or see if anywhere on it there was "specified with particularity" any indication that the taxpayer was electing LIFO for its new trucks. After its review, the National Office concluded that the taxpayer's purported election to apply LIFO to new trucks "is not evidenced anywhere else on its 1987 Federal income tax return."

TAXPAYER'S ARGUMENTS (NOT ACCEPTED BY THE IRS)

- New trucks were not specifically listed as being excluded from the scope of its LIFO election.
- The term "new car inventory" includes new trucks.
- The consistent use of the LIFO inventory method for its new trucks provides the necessary evidence of its election.

In addition to pointing out the "rife" inconsistencies above, the IRS pointed out that the taxpayer's own practices were similarly flawed. For example, when the taxpayer computed its LIFO inventory, it included the trucks in a separate dollar value LIFO inventory pool. If the taxpayer's practices had been consistent with its own argument that the term "cars" include "trucks," then the taxpayer would have combined all vehicles into a single pool instead of pooling trucks separate from cars. In addition, on the dealer financial statements provided to the manufacturer, the taxpayer maintained separate categories for new cars and for new trucks.

As for the taxpayer's argument that its consistent use of LIFO for new trucks provided the necessary evidence of its election, the National Office indicated that if the taxpayer's "practice were to dictate the answer here, then the completion at filing of a Form 970 would be rendered meaningless. The requirement for Form 970 is not an abstract technicality." In this regard, the Letter Ruling cites *Fischer Industries, Inc. v. Commissioner*, (87 T. C. 116, 124 (1986), affirmed (88-1 USTC 9240) for the proposition that the mere use of the LIFO inventory

see **FORM 970: HOW NOT TO ELECT LIFO**, page 16



method to compute the value of inventory does not constitute a proper statement of the taxpayer's election. In quoting from *Fischer Industries*, the National Office pointed out that "The correct use of the LIFO method on the return, together with making the financial statements and workpapers available for inspection, without more, does not serve to give (the Commissioner) notice of the change to LIFO."

OTHER WORDS TO THE WISE

The Letter Ruling is easy to summarize: **when filling a Form 970, provide all the details and be consistent.**

- The Regulations require an affirmative statement to elect the LIFO method with respect to particular goods.
- In the present case, the taxpayer never specifically stated it was electing the LIFO method for trucks.
- In addition, because the taxpayer did not provide the detailed analysis of its inventories (clearly required by both the regulations and the instructions to Form 970), there is no numerical information on the Form 970 or attachments demonstrating that the scope of the election actually included new trucks.
- Moreover, the taxpayer's "election" to apply the LIFO inventory method to its new trucks was not evidenced anywhere else on its 1987 Federal income tax return. In this regard, Revenue Procedure 74-2 provides that if the taxpayer includes all of the information required on, or to be filed with, Form 970 on its timely filed Federal income tax return for the taxable year as of the close of which the LIFO method is first to be used, the taxpayer's election to use the LIFO method will be considered acceptable by the Service.
- The National Office did what the Tax Court did in *Fischer Industries*...it reviewed the entire tax return that was filed and it concluded that "in the present case, we are unable to ascertain from reviewing the taxpayer's 1987 Federal income tax return (provided to us in its entirety by the examining agent) that the taxpayer's specified with particularity that it was electing the LIFO inventory method for its new trucks."

The Letter Ruling's conclusion is qualified by the phrase that "under the above circumstances," the taxpayer did not properly elect the right LIFO inventory method for its new truck inventory. As our detailed discussion indicates, the "above circumstances" probably can be readily avoided in most situations by carefully coordinating the wording from Form 970 with more complete descriptions on attachments to the Form 970.

One other interesting aspect is that the taxpayer requested relief under Section 301.9100-1(a) of the Procedure and Administration Regulations and Revenue Procedure 92-85. However, the National Office expressed no opinion as to whether the taxpayer would be entitled to relief under these provisions. See page 12, "Running Out of Time?"

✱



De Filippis' LIFO LOOKOUT

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NAME(S): _____

FIRM NAME: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____ PHONE: (____) _____

"...consistent with Section 9.01 of Revenue Procedure 92-20, taxpayer proposes to make no change in its overall LIFO reserve amount, nor in the overall LIFO value of the opening inventories for the year of change. Accordingly, taxpayer proposes that the "cut-off" method be applied and that the amount of the LIFO reserve balances as of (the last day of the pre-change year) become, and will be used, as its LIFO reserve balances as of _____ (the first day of the year of change)..."

- **ADDITIONAL AFFIRMATIVE STATEMENTS REQUIRED:**
 1. That it (i.e. the taxpayer) agrees to all of the conditions of Rev. Proc. 92-20, and
 2. That it proposes to take the net section 481(a) adjustment into account over (state the section 481(a) adjustment period required by section 5, 6, 7, or 8 of Revenue Procedure 92-20).
- **CONFERENCE REQUEST:** The taxpayer should indicate whether it wants a conference in the National Office if the Service considers an unfavorable response to the change request. If a taxpayer does not specifically request a conference, the IRS presumes that the taxpayer does not want one.
- **USER FEE:** A user fee is required to be paid in all cases except where the requested change is being made pursuant to a published automatic change revenue procedure.
- **CONSOLIDATED GROUPS:** A Form 3115 submitted on behalf of the taxpayer must be signed by an officer of the common parent and submitted for each member of a consolidated group for which a change is requested and a separate user fee may be required in certain situations.

"CLEAN HANDS"

A practical problem associated with LIFO termination Form 3115 filings (under either R.P. 88-15 or R.P. 92-20) involves the "penalties-of-perjury" statement required to be signed and attached affirming that the taxpayer is not aware of the occurrence of any events in an open tax year that could otherwise result in the termination of the LIFO election. If any of the "terminating events" listed in Revenue Procedure 79-23 have occurred in open or other years, those must be disclosed as part of the Form 3115 application. This means that a taxpayer requesting to terminate its LIFO election must come to the IRS with clean hands.

This presents practical problems if financial statements at earlier year-ends have not reflected LIFO, thus resulting in a possible LIFO conformity violation. Similarly...if the inventory has not been carried at cost or there have been some unauthorized write downs in addition to LIFO...or if Form 970 was not originally (or ever) filed to make the LIFO election "official." Also troubling in this regard is the IRS position, expressed in Revenue Procedure 79-23, Section 3.01(d), that failure to maintain adequate books and records and information to support LIFO inventory computations also can be a LIFO election terminating event.

PERMISSION GRANTED!!

Unless otherwise specifically provided, IRS consent to change a particular LIFO method will be set forth in a ruling letter from the National Office. If the taxpayer agrees to the terms and conditions contained in the letter, the taxpayer must sign and date the agreement copy of the ruling letter/Consent Agreement and return it to the National Office within 45 days from the date of the letter.

*

Ten Suggestions For Form 3115 Filings

(Continued from page 10)

10. Very often, changes in LIFO methods will result in LIFO indexes having to be rebased to 1.000 or the splitting or combinations of LIFO pools. It is not necessary to submit pro forma computations to the National Office as part of your Form 3115 filing. It is advisable to make pro forma computations (in advance - even though you don't submit them) to see if any unanticipated problems or wrinkles may come up in effecting the change.

Many consent letters coming back from the National Office include wording requiring rebasing of indexes which says that in effecting the change to the proposed method, any layers of inventory increments previously determined and the LIFO value of such increments shall be retained. Instead of using the earliest taxable year for which the taxpayer adopted the LIFO method for any items in the inventory pool or pools, the year of change shall be used as the base year in determining the LIFO value of the inventory pool or pools for the year of change and later taxable years (i.e., the cumulative index at the beginning of the year of change shall be 1.000). The base-year costs of layers of increments in the pool or pools at the beginning of the year of change shall be restated in terms of the new base-year costs, using the year of change as the new base year.

A sample letter of transmittal for Form 3115 is included on page 13.

*



THE IRS' UNOFFICIAL NEW ITEM CATEGORIES LIST FOR 1994 CALENDAR YEAR DEALERS

IRS "NEW ITEMS" LIST

The IRS/MSSP recently made available its list of new item categories for 1994 calendar year dealers (see LIFO Update Comment #5). This article analyzes the differences between the IRS/MSSP list and our listing published in the March, 1995 *LIFO Lookout*. Accompanying tables summarize the number of new item categories appearing on both lists and explanations for many of the variances. The task is enormous and often subjective, even for the IRS.

We are not the only ones comparing "lists" with the IRS. Anyone using the Alternative LIFO Method has to decide what is or what is not a new item for every item category in a dealer's inventory. Therefore, thousands of new item lists are created from the same information all over the country each year. Obviously, everyone would benefit from one official or uniform list of new items... especially if it were made available on a timely basis. NADA hopes to achieve this objective by working with the IRS (both MSSP and National Tax Office) in connection with year-end 1995/1996 models.

ARE WE MISSING THE FOREST FOR THE TREES?

Revenue Procedure 92-79 states that "Generally, the manufacturer's base model codes used in defining items and identifying new items...have an average life of approximately five to seven years." It will be interesting to review IRS new item lists over this span of time to see what the real average life of a continuing model is under the determinations now being made. Many item categories are being treated as new items each year!!

Under the Alternative Method, new items must be repriced at 1.000 - thus showing no inflation. This

was one of many trade-offs underlying Revenue Procedure 92-79. If narrow and restrictive interpretations are employed by the IRS in determining new item status, then the average life of continuing items will be far shorter than the five-to-seven years originally assumed. Needless to say, this will be to a dealer's disadvantage.

COMPARISON OF 1995 MODEL LISTS

In our discussions with the IRS, we jointly analyzed the reasons for all differences between our respective new item lists. On an overall basis, our lists are *reasonably* similar: we arrived at 290 new item categories for autos and 82 for light-duty trucks while the IRS arrived at 310 and 85, respectively. Furthermore, many discrepancies are due to minor variations in item category breakdowns (i.e., method of listing automatic and 5-speed item categories with the same base price or the extent of recording regionally specific market or value-priced editions).

- Differences in information available at release dates (the IRS included 1994 models introduced after January 1, 1994, listing them as new items - whereas on our list, we included only 1995 models which in some cases were continuing item categories relative to the 1994 model that had been introduced earlier in the calendar year),
- Interpretation of "new item" definition language in Rev. Proc. 92-79, basically in situations involving only model code changes and/or engine changes, and
- Minor variations in item category breakdown, including numerous situations involving special editions, such as California special values, national marketing and regional marketing packages.

These are differences that anyone using the Alternative LIFO Method will have in agreeing with **ANY** IRS list.

UNCERTAINTY STILL EXISTS

The IRS/MSSP lists seem to narrowly interpret **ANY** change in a vehicle (such as engine upgrade, transmission change, additional air bag, re-skinning), regardless of whether the model code and wheelbase changed, as a new item. For example, certain Audi vehicles changed the fifth digit of their model code with only minor change in the vehicle, yet the IRS treated these vehicles as new items. Additionally, certain models having engine upgrades (but not platform changes) were treated as new items. Similarly, others also having "shared model codes" were treated as new items.

Key differences in our respective new items lists are due to differences in the interpretation of the definition of a new item in Section 4.02(5) of Rev. Proc. 92-79.

→

WHAT IS THE STATUS OF IRS/MSSP NEW ITEM LISTS?

HOW "OFFICIAL" IS AN "UNOFFICIAL" LIST?

The IRS has said that in some instances it might delete items that it originally treated as new. This suggests an evolving status of its new item lists.

Each page of the IRS' list states: "This is not an **Official List** and is not **Service Position**." This is confusing and troublesome. The list was not issued through any formal IRS channels and has not been coordinated with the IRS National Office. Examiners are not required to follow it. Is it some kind of "audit guide?"

At this time, one cannot be sure whether to recompute prior LIFO indexes based on the IRS' "unofficial" lists and file amended returns... or to simply await further guidance from the IRS on what to do next.



The IRS' Unofficial New Items List

NEW ITEM CATEGORY

- Any new or reassigned manufacturer's model code that was caused by a change in an existing vehicle,
- A manufacturer's model code created or reassigned because the classified vehicle did not previously exist, or
- If there is no change in a manufacturer's model code, but there has been a change to the platform (i.e., the piece of metal at the bottom of the chassis that determines the length and width of the vehicle and the structural set-up of the vehicle) that results in a change in track width or wheel base, whether or not the same model name was previously used by the manufacturer, a new item category is created.

What is perplexing is that the concept of "shared model codes" is nowhere to be found in the language of Revenue Procedure 92-79. It would seem that if "shared model codes" were intended to be considered in determining the existence of a "new" item, the IRS is confusing taxpayers at this time by applying an intended standard in arriving at its conclusions. Note that the idea of "shared model codes" may be appropriate in determining additional item categories and that if "shared model codes" existed in the prior year, then they would not necessarily result in new item categories in the following year.

In certain instances where contour/style changes or re-skinning changes occurred - but the underlying wheelbase/platform did not change - the IRS list treats these vehicles as new items by virtue of the overall language in Revenue Procedure 92-79 that refers to any change in the vehicle. Ironically, in some instances where we thought a judgment call was needed and we reached a "new item" status decision (for example, in connection with the Mercedes S Class), to our surprise the IRS concluded that the vehicles were not new items!!! We were caught off guard by the unexplainable inconsistency of the IRS in its determinations.

OTHER COMMENTS & CONCERNS

This year, the IRS obtained more information from many of the manufacturers, and many of its determinations were based on better information. Last year, a principal difference between our lists had been traced to the IRS' use of *Kelley Blue Book* as its **exclusive** source of information in compiling its new items lists (whereas our lists had been prepared primarily from information on actual invoices and factory price and model sheets, with the *Black Book* as a secondary reference).

(Continued)

The accompanying tables reflect the tedious comparisons that are necessary when analyzing make/model information in order to determine whether a vehicle is a continuing model or a new item. Some comparisons involve matching prior year **item** category to current year **item** category; other comparisons require matching prior year **model line** to current year **model line**. For example, a change in platform affects an entire model line; therefore, each item category in the model line would be considered a new item and the situation would not require that each prior year item category be compared with each current year item category. On the other hand, a change in model code for a particular body style would require that each prior year item category be matched with each current year item category because this type of change doesn't necessarily affect the entire model line.

In grouping the differences between our new item lists, the "B" category warrants comment and caution. On the IRS' list, it included 1994 models that were both (1) introduced after January 1, 1994 and (2) that were new items relative to the prior model. On its list, the IRS also included as new items the same 1995 models even though there may have been no change in the vehicle in the 1995 model version. **WARNING:** The IRS' practice of including two identical consecutive model years right next to each other may confuse examining agents into thinking that the 1995 models are, per se, new items by virtue of their being "piggy backed" onto the "1994 Calendar Year Dealers" list when, in many instances, the '95 models are continuing models relative to the '94 models.

In comparing the light-duty trucks, we considered the Ford Explorers as new items and these items did not appear on the IRS' list...but that is only because the Explorers will appear on the next new item list issued by the IRS. On the other hand, we showed only 8 new light-duty Dodge trucks as new items vs. the IRS showing 17...and that was because the IRS included numerous Ram Vans and Wagons with Compressed Natural Gas engines which were not on our list.

This shows how looking only at the total number of new items may fail to emphasize possible differences in the underlying item-by-item analysis. For the detailed explanation relating to the comparison between our respective 1992 and 1993 model year lists, see the June, 1994 *LIFO Lookout*, pages 8-10.

WOULD YOU LIKE A COPY OF IRS' LIST?

To get an idea of what the IRS' list looks like, see page 23. If you'd like the complete IRS list, call and we'll be happy to mail it to you as a complimentary *Lookout* subscriber service. *



COMPARISON OF "UNOFFICIAL" NEW ITEM CATEGORY LISTS
NEW AUTOMOBILES AND LIGHT-DUTY TRUCKS*
INVOLVING THE MODEL YEARS 1995, 1994 AND 1993

LIFO LOOKOUT NEW ITEM CATEGORY**	DIFFERENCE DUE TO:					IRS NEW ITEM CATEGORY***	
	A	B	C	D	E		
1995 MODELS IN 12/31/94 INVENTORY:							
AUTOMOBILES	290	0	62	30	117	0	310
LIGHT-DUTY TRUCKS	82	0	21	10	36	0	85
TOTAL (1995 MODELS)	372	0	83	40	153	0	395
1994 MODELS IN 12/31/93 INVENTORY:							
AUTOMOBILES	178	22	14	7	12	54	231
LIGHT-DUTY TRUCKS	84	62	3	24	3	30	169
TOTAL (1994 MODELS)	262	84	17	31	15	84	400
1993 MODELS IN 12/31/92 INVENTORY:							
AUTOMOBILES	119	13	4	13	4	39	155
LIGHT-DUTY TRUCKS	74	27	2	2	2	2	76
TOTAL (1993 MODELS)	193	40	6	15	6	41	231
TOTAL FOR ALL THREE YEARS	827	124	106	86	174	125	1026

INFORMATION KEY:

MAKE-MODEL, DESCRIPTION	#	X					#
MAKE-MODEL, DESCRIPTION	#		X				#
MAKE-MODEL, DESCRIPTION	#			X			#
MAKE-MODEL, DESCRIPTION	N/A				X		N/A
MAKE-MODEL, DESCRIPTION	N/A					X	N/A
MAKE TOTALS	#						#

EXPLANATIONS:

- (A) Analysis based on different information. IRS used only secondary reference, KELLEY BLUE BOOK. The LIFO LOOKOUT used factory price lists, actual invoices (as required by Rev. Proc. 92-79) and BLACK BOOK.
- (B) Difference in cut-off and release dates. IRS lists compiled continuously throughout model year. The LIFO LOOKOUT lists cut off as of 12/31 for new items.
- (C) Different interpretation of the definition of a new item per Sec. 4.02(5) of Rev. proc. 92-79. IRS treated re-skinning, ANY change in model code, and any change in the vehicle (no matter how minor) as a new item.
- (D) Similar analysis; difference due to information available or breakdown of model. (i.e. 5 speed or Automatic)
- (E) Same analysis; no difference.
- (N/A) Make not included in analysis for current year. (1993 Makes: ACURA, INFINITI, JAGUAR, LAND ROVER, LEXUS, PORSCHE, SATURN, VOLVO. 1994 makes: KIA. 1995 Makes: ROLLS ROYCE.)

* REVENUE PROCEDURE 92-79: ALTERNATIVE LIFO METHOD FOR AUTOMOBILE DEALERS

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COMPARISON OF "UNOFFICIAL" NEW ITEM CATEGORY LISTS

POOL #1: NEW AUTOMOBILES*
INVOLVING THE MODEL YEARS 1995, 1994 AND 1993

MAKE AUTOMOBILES	1995							1994							1993						
	LL**	DIFFERENCE DUE TO:					IRS***	LL**	DIFFERENCE DUE TO:					IRS***	LL**	DIFFERENCE DUE TO:					IRS***
1) ACURA	6	0	0	0	0	0	6	12	0	0	0	0	2	12	N/A	0	0	0	0	0	6
2) AUDI	11	0	0	3	2	0	10	2	0	0	0	0	2	2	5	1	0	1	1	0	9
3) BMW	3	0	2	0	0	0	5	4	0	3	0	0	4	7	2	0	0	1	0	1	3
4) BUICK	21	0	5	0	6	0	29	8	2	1	0	4	2	20	4	0	0	0	0	3	4
5) CADILLAC	NO NEW MODELS FOR 1995							3	1	0	0	0	3	4	2	1	0	0	0	1	1
6) CHEVROLET	17	0	9	1	5	0	28	11	1	0	1	4	2	21	2	2	0	0	0	1	8
7) CHRYSLER	1	0	0	0	0	0	1	3	1	0	0	0	2	2	2	0	0	0	0	2	2
8) DODGE	11	0	0	1	2	0	10	0	0	1	1	0	0	5	6	0	0	0	0	2	6
9) EAGLE	3	0	0	1	1	0	5	2	0	0	1	0	1	3	7	0	0	0	0	3	7
10) FORD	5	0	0	1	7	0	13	8	1	1	0	0	3	11	2	0	0	0	0	1	2
11) GEO	4	0	0	0	0	0	4	NO NEW MODELS FOR 1994							4	1	0	0	0	1	2
12) HONDA	2	0	0	0	0	0	2	30	0	0	0	1	4	33	13	0	1	1	0	4	18
13) HYUNDAI	5	0	0	0	0	0	5	0	0	0	1	0	0	1	1	0	0	0	0	1	1
14) INFINITI	NO NEW MODELS FOR 1995							NO NEW MODELS FOR 1994							N/A	0	0	0	0	0	1
15) JAGUAR	4	0	0	0	0	0	4	4	0	0	0	0	2	4	N/A	0	0	0	0	0	1
16) KIA	0	0	6	0	0	0	6	N/A	0	0	0	0	0	6	NO NEW MODELS FOR 1993						
17) LEXUS	3	0	0	0	0	0	3	3	0	0	1	0	2	4	N/A	0	0	0	0	0	3
18) LINCOLN	1	0	0	0	0	0	1	NO NEW MODELS FOR 1994							1	0	0	0	0	1	1
19) MAZDA	6	0	2	0	8	0	16	2	0	2	0	0	2	10	6	0	0	0	1	2	4
20) MERCEDES-BENZ	7	0	2	6	0	0	3	2	0	0	0	0	1	2	5	0	0	1	0	3	6
21) MERCURY	2	0	0	0	2	0	4	0	0	1	0	0	0	1	NO NEW MODELS FOR 1993						
22) MITSUBISHI	12	0	0	0	8	0	16	6	0	0	0	0	1	6	11	0	0	2	1	1	19
23) NISSAN	9	0	4	0	0	0	13	NO NEW MODELS FOR 1994							14	1	0	2	0	4	17
24) OLDSMOBILE	9	0	10	0	5	0	15	15	0	1	0	1	5	17	3	1	2	1	0	2	8
25) PLYMOUTH	5	0	0	1	0	0	6	1	0	1	0	0	1	4	4	0	0	0	0	1	4
26) PONTIAC	14	0	6	0	12	0	10	5	2	0	1	1	3	9	6	0	0	0	0	1	6
27) PORSCHE	6	0	0	0	0	0	6	NO NEW MODELS FOR 1994							N/A	0	0	0	0	0	6
28) ROLLS ROYCE	4	0	0	0	0	0	N/A	NOT ANALYZED							NOT ANALYZED						
29) SAAB	23	0	1	3	16	0	11	16	2	0	0	1	0	6	3	0	0	0	0	1	3
30) SATURN	NO NEW MODELS FOR 1995							NO NEW MODELS FOR 1994							N/A	0	0	0	0	0	6
31) SUBARU	62	0	9	0	38	0	32	19	10	1	0	0	7	19	3	4	1	4	0	2	14
32) SUZUKI	4	0	0	0	0	0	4	NOT ANALYZED							NOT ANALYZED						
33) TOYOTA	12	0	0	0	0	0	12	13	0	0	1	0	2	20	9	1	0	0	0	1	7
34) VOLKSWAGEN	14	0	6	8	5	0	23	2	1	1	0	0	0	1	4	1	0	0	1	0	3
35) VOLVO	8	0	0	5	0	0	7	7	1	1	0	0	3	7	N/A	0	0	0	0	0	8
SUBTOTALS	294						310	178						237	119						186
LESS: MAKES N/A	(4)						0	0						(6)	0						(31)
TOTALS	290	0	62	30	117	0	310	178	22	14	7	12	54	231	119	13	4	13	4	39	155

* REVENUE PROCEDURE 92-79: ALTERNATIVE LIFO METHOD FOR AUTOMOBILE DEALERS

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PAGE 2 OF 3



COMPARISON OF "UNOFFICIAL" NEW ITEM CATEGORY LISTS

POOL #2: NEW LIGHT-DUTY TRUCKS*
INVOLVING THE MODEL YEARS 1995, 1994 AND 1993

MAKE LIGHT-DUTY TRUCKS	1995							1994							1993								
	LL**	DIFFERENCE DUE TO:							LL**	DIFFERENCE DUE TO:							LL**	DIFFERENCE DUE TO:					
1) CHEVROLET	11	0	1	4	4	0	10		9	3	0	14	0	8	24		9	7	0	0	0	2	2
2) DODGE	8	0	0	1	8	0	17		24	0	0	0	1	7	23	NO NEW MODELS FOR 1993							
3) FORD	20	0	13	0	1	0	7		7	36	1	0	0	5	43	21	2	2	2	1	0	25	
4) GMC TRUCK	12	0	0	3	6	0	8		7	15	0	9	0	5	27	5	7	0	0	0	0	2	
5) HONDA	3	0	0	0	0	0	3		0	0	1	0	0	0	7	NO NEW MODELS FOR 1993							
6) ISUZU	0	0	1	0	1	0	2		0	0	1	0	0	0	2	3	2	0	0	0	2	3	
7) JEEP	4	0	0	0	3	0	3		0	2	0	0	0	0	3	8	2	0	0	1	1	16	
8) LAND ROVER	0	0	1	0	0	0	1	NO NEW MODELS FOR 1994							N/A	0	0	0	0	0	2		
9) MAZDA	5	0	0	0	5	0	8	17	0	0	0	1	0	18	0	1	0	0	0	0	4		
10) MERCURY	0	0	0	0	1	0	1	0	0	0	1	0	0	1	3	0	0	0	0	1	3		
11) MITSUBISHI	0	0	0	2	2	0	4	0	1	0	0	0	0	1	NO NEW MODELS FOR 1993								
12) NISSAN	3	0	0	0	0	0	3	12	1	0	0	1	2	10	10	3	0	0	0	1	4		
13) OLDSMOBILE	0	0	2	0	0	0	2	3	0	0	0	0	2	3	NO NEW MODELS FOR 1993								
14) PONTIAC	1	0	0	0	1	0	0	0	1	0	0	0	0	1	NO NEW MODELS FOR 1993								
15) PLYMOUTH	NO NEW MODELS FOR 1995							NO NEW MODELS FOR 1994							0	1	0	0	0	0	2		
16) RANGE ROVER	1	0	0	0	1	0	0	NOT ANALYZED							NOT ANALYZED								
17) SUZUKI	NO NEW MODELS FOR 1995							5	1	0	0	0	1	4	1	2	0	0	0	0	2		
18) TOYOTA	12	0	3	0	1	0	16	0	2	0	0	0	0	2	8	0	0	0	1	0	10		
19) VOLKSWAGEN	2	0	0	0	2	0	0	NO NEW MODELS FOR 1994							6	0	0	0	1	0	3		
SUBTOTALS	82						85	84						169	74						78		
LESS: MAKES N/A	0						0	0						0	0						(2)		
TOTALS	82	0	21	10	36	0	85	84	62	3	24	3	30	169	74	27	2	2	4	7	76		

ALL VEHICLES	1995							1994							1993						
	LL**	A	B	C	D	E	IRS***	LL**	A	B	C	D	E	IRS***	LL**	A	B	C	D	E	IRS***
AUTO TOTALS	290	0	62	30	117	0	310	178	22	14	7	12	54	231	119	13	4	13	4	39	155
TRUCK TOTALS	82	0	21	10	36	0	85	84	62	3	24	3	30	169	74	27	2	2	4	7	76
TOTAL TRUCKS & AUTOS	372	0	83	40	153	0	395	262	84	17	31	15	84	400	193	40	6	15	8	46	231

* REVENUE PROCEDURE 92-79: ALTERNATIVE LIFO METHOD FOR AUTOMOBILE DEALERS

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MOTOR VEHICLE INDUSTRY SPECIALIST
CARS - NEW ITEM CATEGORIES UNDER REVENUE PROCEDURE 92-79
1994 CALENDAR YEAR DEALERS

ACURA Integra Special Edition- 4-CYL. 112 CID FI (1.8 Liter)
DB756S Sedan 4D (5-Spd.)
DB766S Sedan 4D (Auto)
DC436S Sport Coupe 3D (5-Spd.)
DC446S Sport Coupe 3D (Auto)
Integra GS-R- 4-CYL. 110 CID 16V FI VTEC (1.8 Liter)
DB859S Sedan 4D (5-Spd.) (w/Leather Interior)
DC239S Sport Coupe 3D (5-Spd.) (w/Leather Interior)

AUDI 90- V6 169 CID SFI (2.8L)
8C24U4 4 Door Sedan (5-Spd.)
8C24U5 4 Door Sedan (5-Spd. Quattro)
90 Sport- V6 169 CID SFI (2.8L)
8C26U4 4 Door Sedan (5-Spd.)
8C26U5 4 Door Sedan (5-Spd. Quattro)
Cabriolet- V6 169 CID SFI (2.8L)
8G74U8 2 Door Convertible
A6- V6 169 CID SFI (2.8L)
4A23X4 4 Door Sedan (OBD2) (5-Spd.)
4A23U8 4 Door Sedan (Auto)
4A23U5 4 Door Sedan (5-Spd. Quattro)
4A53U8 4 Door Wagon (Auto)
4A53U6 4 Door Wagon (Auto Quattro)

BMW 318i- 4-CYL. 110 CID 16V EFI (1.8L)
9541 Convertible 2D (5-Spd.)
9546 Convertible 2D (Auto)
540i- V8 243 CID (4.0L)
9553 Sedan 4D (6-Spd.)
M3- 6-CYL. 182 CID 24V EFI (3.0 Liter)
9521 Sedan 2D (5-Spd.)
740i- V8 243 CID 32V EFI (4.0L)
Sedan 4D

BUICK Skylark Custom Natl Select Series- 4-CYL 138 CID QUAD 4 MFI 2.3L
V37 Coupe 2D (Req's Luxury Pkg.-1SJ)
V69 Sedan 4D (Req's Luxury Pkg.-1SJ)
Skylark Custom Natl Select Series- 4-CYL 138 CID QUAD 4 MFI 2.3L
V37 Coupe 2D (Req's Limited Pkg.-1SK)
V69 Sedan 4D (Req's Limited Pkg.-1SK)
Skylark Custom Natl Select Series- V6 191 CID SFI (3.1L)
V37 Coupe 2D
V69 Sedan 4D
Skylark Custom California Select Series- V6 191 CID SFI (3.1L)
V37 Coupe 2D (Req's Gran Sport Pkg.-1SL)
V69 Sedan 4D (Req's Gran Sport Pkg.-1SL)
Century Special California Select Series- 4-CYL 133 CID MFI 2.2L
G69 Sedan 4D
Century Special California Select Series- V6 191 CID SFI (3.1L)
G35 Wagon 4D

This is not an "Official List" and is not "Service Position."

MOTOR VEHICLE INDUSTRY SPECIALIST
TRUCKS - NEW ITEM CATEGORIES UNDER REVENUE PROCEDURE 92-79
1994 CALENDAR YEAR DEALERS

CHEVROLET Blazer 2WD- V6 262 CID CPI (4.3L)
CS10516 Sport Utility 2D
CS10506 Sport Utility 4D
Blazer 4WD- V6 262 CID CPI (4.3L)
CT10516 Sport Utility 2D
CT10506 Sport Utility 4D
Astro Cargo Van- V6 262 CID CPI (4.3L)
CM11005 Cargo Van (w/o Upfitter Pkg.-YF7)
Astro Cargo AWD- V6 262 CID CPI (4.3L)
CL11005 Cargo Van (w/o Upfitter Pkg.-YF7)
C30 H.D. 146" W.B.- V8 350 CID EFI (5.7L)
CG31603/C7A Commercial Cutaway Van
S10 Extended Cab 2WD Calif Value Model- 4-CYL 134 CID MFI (2.2L)
CS10653 LS Fleetside 6ft
3500 H.D. Reg Cab & Chassis 2WD 135.5"WB- V8 454 CID EFI (7.4L)
CC31003 Cheyenne Cab & Chassis
3500 H.D. Reg Cab & Chassis 2WD 159.5"WB- V8 454 CID EFI (7.4L)
CC31403 Cheyenne Cab & Chassis

DODGE 2500 Ram Wagon 127"W.B.- V8 CNG SFI (5.2L)
AB2L52 Non-Maxi Wagon
AB2L53 Maxi Wagon
3500 Ram Wagon 127"W.B.- V8 CNG SFI (5.2L)
AB3L52 Non-Maxi Wagon
AB3L53 Maxi Wagon
2500 Ram Van 127"W.B.- V8 CNG SFI (5.2L)
AB2L12 Non-Maxi Van
AB2L13 Maxi Van
3500 Ram Van 127"W.B.- V8 CNG SFI (5.2L)
AB3L12 Non-Maxi Van
AB3L13 Maxi Van
Grand Caravan AWD- V6 202 CID MFI (3.3L)
ASKP53 ES Wagon
BR1500 Ram Club Cab 2WD 139"W.B.- V8 318 CID MFI (5.2L)
BR1L31 ST Sweptline 6 1/2ft
BR1500 Ram Club Cab 2WD 155"W.B.- V8 318 CID MFI (5.2L)
BR1L32 ST Sweptline 8ft
BR1500 Ram Club Cab 4WD 139"W.B.- V8 318 CID MFI (5.2L)
BR6L31 ST Sweptline 6 1/2ft
BR1500 Ram Club Cab 4WD 155"W.B.- V8 318 CID MFI (5.2L)
BR6L32 ST Sweptline 8ft
BR2500 Ram Club Cab 2WD 155"W.B.- V8 360 CID MFI (5.9L)
BR2L32 ST Sweptline 8ft
BR2500 Ram Club Cab 4WD 155"W.B.- V8 360 CID MFI (5.9L)
BR7L32 Sweptline 8ft
BR3500 Ram Club Cab 2WD 155"W.B.- V8 360 CID MFI (5.9L)
BR3L32 ST Sweptline 8ft
BR3500 Ram Club Cab 4WD 155"W.B.- V8 360 CID MFI (5.9L)
BR8L32 ST Sweptline 8ft

This is not an "Official List" and is not "Service Position."

Some dealers with mid-summer fiscal year ends will be hit sooner than others. Tariff-hit dealers with calendar year ends—if they are still in business—will also be affected. One consequence is that dealers may have lower overall inventory levels because customers rushed to buy cars before the tariff hit.

Some CPAs think tariff-hit models are going to result in tremendous LIFO inflation indexes for this year. If you think so, think again! LIFO inflation indexes are allowed to reflect only inflation, and not factors other than inflation.

Expect the IRS to take technical positions that treat tariff'd vehicles as "new items" ...or, as having no LIFO-related inflation attributable to the tariff. Under variations of the *Hamilton Industries* and/or *Amity Leather* doctrines, inflation indexes reflecting tariffs may be interpreted as including "factors other than inflation" which must be eliminated in order to "clearly reflect income."

#3. CHANGES IN LIFO ACCOUNTING METHODS.

Many CPAs are busy right now (especially before June 29th) preparing Forms 3115 requesting permission to change various LIFO accounting methods. If you aren't, should you be?

In this issue, we've included coverage on this subject bringing together various technical and practical application considerations. Any feedback you care to provide is always appreciated.

#4. HOW NOT TO ELECT LIFO. Recent Letter Ruling 9515001 is a good example of the maxim that you can never be too careful in choosing your words when dealing with the IRS.

This ruling involves a Form 970 filed for a year before the Alternative LIFO Method which automatically requires separate pools for new autos and for new trucks. The Form 970 intended to elect LIFO for all new vehicles (i.e., automobiles and light-duty trucks). However, in the 970 the word "cars" was used and the attachments to the Form 970 were "rife with inconsistencies."

Result: No LIFO election for new trucks. But, take heart, this could have been avoided by paying more attention to details.

#5. NEW ITEM CATEGORIES FOR 1994 CALENDAR YEAR DEALERS: THE IRS' LIST.

In the March, 1995 *Lookout*, we published our "unofficial" listing of new item categories for 1994-1995 new models in year-end inventories. The IRS/MSSP recently released its own "unofficial" list for 1994 calendar year dealers based on its interpretation of Revenue Procedure 92-79. Last year, we compared lists for 1993 and 1994 models, and in this issue we have added our comparison of 1995 new item lists.

Copies were made available to numerous auto dealer organizations. Every page contains the caveat that this IRS/MSSP list is not an "Official List," it does not reflect "Service Position." Accordingly, examiners are not required to follow it. Please, someone, tell us what that is supposed to mean.

#6. CADILLAC REGIONAL DISTRIBUTION

CENTER PROGRAM. The March, 1995 *LIFO Lookout* (page 9) discussed several LIFO-related considerations facing Florida dealers participating in the Regional Distribution Center (RDC) test program that Cadillac initiated last year.

The May, 1995 *Automotive Executive* has indicated that Cadillac is attempting to smooth out some of the difficulties...particularly "ballooning LIFO costs." In its article on this subject, *A/E* reported that dealers were complaining about LIFO problems because "cars in the RDC don't technically belong to them under IRS guidelines (even though Cadillac pre-assigns vehicles to calculate floor plan)." It is also reported that GM is negotiating with the IRS to have that changed. (Lots of luck!)

Interestingly enough, the article says that many expect this Enterprise Program to go nationwide when Cadillac's national franchise agreement comes up for renewal this fall.

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