

attributable to costs which were required to be capitalized under section 263 of the Internal Revenue Code of 1954 and which would have been taken into account in applying section 189 of the Internal Revenue Code of 1954 (as in effect before its repeal by section 803 of Pub. L. 99-514) or, if applicable, section 266 of such Code, see section 7831(d)(2) of Pub. L. 101-239, set out as an Effective Date note under section 263A of this title.

Amendment by Pub. L. 99-514 applicable to costs incurred after Dec. 31, 1986, in taxable years ending after such date, except as otherwise provided, see section 803(d) of Pub. L. 99-514, set out as an Effective Date note under section 263A of this title.

#### COORDINATION WITH SECTION 481

Pub. L. 105-34, title IX, §961(b)(2), Aug. 5, 1997, 111 Stat. 891, provided that: “In the case of any taxpayer permitted by this section [amending this section and enacting provisions set out as a note above] to change its method of accounting to a permissible method for any taxable year—

“(A) such changes shall be treated as initiated by the taxpayer,

“(B) such changes shall be treated as made with the consent of the Secretary of the Treasury, and

“(C) the period for taking into account the adjustments under section 481 [26 U.S.C. 481] by reason of such change shall be 4 years.”

#### STUDY OF ACCOUNTING METHODS FOR INVENTORY; REPORT NOT LATER THAN DECEMBER 31, 1982

Pub. L. 97-34, title II, §238, Aug. 13, 1981, 95 Stat. 254, directed Secretary of the Treasury to conduct a study of methods of tax accounting for inventory with a view towards development of simplified methods and to report to Congress, not later than Dec. 31, 1982, prior to repeal by Pub. L. 100-647, title VI, §6252(a)(2), Nov. 10, 1988, 102 Stat. 3752.

### § 472. Last-in, first-out inventories

#### (a) Authorization

A taxpayer may use the method provided in subsection (b) (whether or not such method has been prescribed under section 471) in inventorying goods specified in an application to use such method filed at such time and in such manner as the Secretary may prescribe. The change to, and the use of, such method shall be in accordance with such regulations as the Secretary may prescribe as necessary in order that the use of such method may clearly reflect income.

#### (b) Method applicable

In inventorying goods specified in the application described in subsection (a), the taxpayer shall:

(1) Treat those remaining on hand at the close of the taxable year as being: First, those included in the opening inventory of the taxable year (in the order of acquisition) to the extent thereof; and second, those acquired in the taxable year;

(2) Inventory them at cost; and

(3) Treat those included in the opening inventory of the taxable year in which such method is first used as having been acquired at the same time and determine their cost by the average cost method.

#### (c) Condition

Subsection (a) shall apply only if the taxpayer establishes to the satisfaction of the Secretary that the taxpayer has used no procedure other than that specified in paragraphs (1) and (3) of

subsection (b) in inventorying such goods to ascertain the income, profit, or loss of the first taxable year for which the method described in subsection (b) is to be used, for the purpose of a report or statement covering such taxable year—

(1) to shareholders, partners, or other proprietors, or to beneficiaries, or

(2) for credit purposes.

#### (d) 3-year averaging for increases in inventory value

The beginning inventory for the first taxable year for which the method described in subsection (b) is used shall be valued at cost. Any change in the inventory amount resulting from the application of the preceding sentence shall be taken into account ratably in each of the 3 taxable years beginning with the first taxable year for which the method described in subsection (b) is first used.

#### (e) Subsequent inventories

If a taxpayer, having complied with subsection (a), uses the method described in subsection (b) for any taxable year, then such method shall be used in all subsequent taxable years unless—

(1) with the approval of the Secretary a change to a different method is authorized; or,

(2) the Secretary determines that the taxpayer has used for any such subsequent taxable year some procedure other than that specified in paragraph (1) of subsection (b) in inventorying the goods specified in the application to ascertain the income, profit, or loss of such subsequent taxable year for the purpose of a report or statement covering such taxable year (A) to shareholders, partners, or other proprietors, or beneficiaries, or (B) for credit purposes; and requires a change to a method different from that prescribed in subsection (b) beginning with such subsequent taxable year or any taxable year thereafter.

If paragraph (1) or (2) of this subsection applies, the change to, and the use of, the different method shall be in accordance with such regulations as the Secretary may prescribe as necessary in order that the use of such method may clearly reflect income.

#### (f) Use of government price indexes in pricing inventory

The Secretary shall prescribe regulations permitting the use of suitable published governmental indexes in such manner and circumstances as determined by the Secretary for purposes of the method described in subsection (b).

#### (g) Conformity rules applied on controlled group basis

##### (1) In general

Except as otherwise provided in regulations, all members of the same group of financially related corporations shall be treated as 1 taxpayer for purposes of subsections (c) and (e)(2).

##### (2) Group of financially related corporations

For purposes of paragraph (1), the term “group of financially related corporations” means—

(A) any affiliated group as defined in section 1504 determined by substituting “50 per-

cent” for “80 percent” each place it appears in section 1504(a) and without regard to section 1504(b), and

(B) any other group of corporations which consolidate or combine for purposes of financial statements.

(Aug. 16, 1954, ch. 736, 68A Stat. 159; Pub. L. 94-455, title XIX, §§1901(b)(36)(A), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1802, 1834; Pub. L. 97-34, title II, §§235, 236(a), Aug. 13, 1981, 95 Stat. 252; Pub. L. 98-369, div. A, title I, §95(a), July 18, 1984, 98 Stat. 616.)

#### Editorial Notes

##### AMENDMENTS

1984—Subsec. (g). Pub. L. 98-369 added subsec. (g).

1981—Subsec. (d). Pub. L. 97-34, §236(a), substituted “3-year averaging for increases in inventory value” for “Preceding closing inventory” in heading, substituted first sentence reading “The beginning inventory for the first taxable year for which the method described in subsection (b) is used shall be valued at cost.” for “In determining income for the taxable year preceding the taxable year for which the method described in subsection (b) is first used, the closing inventory of such preceding year of the goods specified in the application referred to in subsection (a) shall be at cost.” and inserted “Any change in the inventory amount resulting from the application of the preceding sentence shall be taken into account ratably in each of the 3 taxable years beginning with the first taxable year for which the method described in subsection (b) is first used.”

Subsec. (f). Pub. L. 97-34, §235, added subsec. (f).

1976—Subsecs. (a), (c), (e). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary” wherever appearing.

Subsec. (f). Pub. L. 94-455, §1901(b)(36)(A), struck out subsec. (f) which provided for a cross reference relating to involuntary liquidation and replacement of LIFO inventories.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. A, title I, §95(b), July 18, 1984, 98 Stat. 616, provided that: “The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after the date of the enactment of this Act [July 18, 1984].”

##### EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-34, title II, §236(b), Aug. 13, 1981, 95 Stat. 252, provided that: “The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1981.”

##### EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1901(b)(36)(A) of Pub. L. 94-455 effective for taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as a note under section 2 of this title.

### § 473. Qualified liquidations of LIFO inventories

#### (a) General rule

If, for any liquidation year—

(1) there is a qualified liquidation of goods which the taxpayer inventories under the LIFO method, and

(2) the taxpayer elects to have the provisions of this section apply with respect to such liquidation,

then the gross income of the taxpayer for such taxable year shall be adjusted as provided in subsection (b).

#### (b) Adjustment for replacements

If the liquidated goods are replaced (in whole or in part) during any replacement year and such replacement is reflected in the closing inventory for such year, then the gross income for the liquidation year shall be—

(1) decreased by an amount equal to the excess of—

(A) the aggregate replacement cost of the liquidated goods so replaced during such year, over

(B) the aggregate cost of such goods reflected in the opening inventory of the liquidation year, or

(2) increased by an amount equal to the excess of—

(A) the aggregate cost reflected in such opening inventory of the liquidated goods so replaced during such year, over

(B) such aggregate replacement cost.

#### (c) Qualified liquidation defined

For purposes of this section—

##### (1) In general

The term “qualified liquidation” means—

(A) a decrease in the closing inventory of the liquidation year from the opening inventory of such year, but only if

(B) the taxpayer establishes to the satisfaction of the Secretary that such decrease is directly and primarily attributable to a qualified inventory interruption.

##### (2) Qualified inventory interruption defined

###### (A) In general

The term “qualified inventory interruption” means a regulation, request, or interruption described in subparagraph (B) but only to the extent provided in the notice published pursuant to subparagraph (B).

###### (B) Determination by Secretary

Whenever the Secretary, after consultation with the appropriate Federal officers, determines—

(i) that—

(I) any Department of Energy regulation or request with respect to energy supplies, or

(II) any embargo, international boycott, or other major foreign trade interruption,

has made difficult or impossible the replacement during the liquidation year of any class of goods for any class of taxpayers, and

(ii) that the application of this section to that class of goods and taxpayers is necessary to carry out the purposes of this section,

he shall publish a notice of such determinations in the Federal Register, together with the period to be affected by such notice.

#### (d) Other definitions and special rules

For purposes of this section—

##### (1) Liquidation year

The term “liquidation year” means the taxable year in which occurs the qualified liquidation to which this section applies.