

.04 The fair market value of work in process should be based on the same factors used to determine the fair market value of finished goods reduced by the expected costs of completion, including a reasonable profit allowance for the completion and selling effort of the acquiring corporation. In determining the fair market value of raw materials, the current costs of replacing the inventory in the quantities to be valued generally provides the most reliable standard.

SEC. 4. CONCLUSION.

Because valuing inventory is an inherently factual determination, no rigid formulas can be applied. Consequently, the methods outlined above can only serve as guidelines for determining the fair market value of inventories.

26 CFR 601.105: Examination of returns and claims for refund, credit or abatement; determination of correct tax liability. (Also Part I, Section 6020; 301.6020-1.)

Rev. Proc. 77-13

SECTION 1. PURPOSE.

The purpose of this Revenue Procedure is to announce the transfer of responsibility from the district Audit Division to the district Collection Division or the district Collection and Taxpayer Service Division both will be referred to hereafter as the Collection Division) for conducting conferences where employment tax returns are prepared in unagreed cases pursuant to section 6020(b) of the Internal Revenue Code of 1954; and to establish a procedure for processing these cases in the Collection Division.

SEC. 2. BACKGROUND.

Section 6020(b) of the Code provides that if any person fails to make any return (other than a declaration of estimated tax required under section 6015) at the time prescribed, or makes, willfully or otherwise, a false or fraudulent return, the Secretary or the Secretary's delegate may make such return from the knowledge and information as can be obtained through testimony or otherwise.

SEC. 3. SCOPE AND OBJECTIVE.

.01 The application of this Revenue Procedure includes the following returns:

- 1 Form 940, Employer's Annual Federal Unemployment Tax Return
- 2 Form 941, Employer's Quarterly Federal Tax Return
- 3 Form 942, Employer's Quarterly Tax Return for Household Employees
- 4 Form 943, Employer's Annual Tax Return for Agricultural Employees
- 5 Form CT-1, Employer's Annual Railroad Retirement Tax Return
- 6 Form CT-1, Employer's Quarterly Railroad Retirement Tax Return
- 7 Form CT-2, Employee Representative's Quarterly Railroad Retirement Tax Return

.02 This Revenue Procedure applies only when:

- 1 the taxpayer (employer) has failed to file an employment tax return at the time prescribed,
- 2 there is no dispute that the taxpayer was the employer of the employees whose wages are the subject of the return, and that the taxpayer paid taxable wages to such employees in the return period involved,
- 3 a return has been prepared for the taxpayer by a revenue officer, and
- 4 it has been determined that collection of the proposed delinquent employment tax liability is not in jeopardy.

SEC. 4. PRE-CONFERENCE PROCEDURE AND CONDITIONS.

.01 When a taxpayer fails to file an employment tax return at the time prescribed, and does not submit evidence to establish that no employment tax return was due, a revenue officer will determine if an employment tax return should have been filed. If the revenue officer establishes that the taxpayer should have filed a return and failed to do so, the revenue officer will prepare the return pursuant to the authority in section 6020(b) of the Code.

.02 The prepared return will be reviewed in the Collection Division, after which a copy will be sent with a

transmittal letter to the taxpayer. The transmittal letter will advise the taxpayer that the tax liability shown on the return will be assessed. The letter will also provide the taxpayer with a detailed explanation of the available appeal procedures and request that a district office official be notified of the taxpayer's choice of action, ordinarily within 30 days from the date of the letter. The taxpayer may:

- 1 sign the prepared return; or
- 2 file an employment tax return with respect to the tax period in question; or
- 3 protest the proposed liability.

.03 If the taxpayer or an authorized representative does not respond to the transmittal letter, the prepared return will be returned to the originating revenue officer. See Section 6.02 below.

.04 If the taxpayer protests the proposed liability, the following appeal procedures will be available:

1 If the amount of the proposed tax liability (exclusive of interest and penalties) does not exceed \$2,500 for any of the tax periods or years involved, the taxpayer, upon request, will be granted a conference in the Collection Division. A formal written protest is not required in order for a conference to be granted. However, the taxpayer may prepare a statement outlining the facts, law or arguments on which the taxpayer relies. Taxpayers are encouraged to avail themselves of a conference in the Collection Division to expedite disposition of unagreed delinquent employment tax cases.

2 If the amount of the proposed tax liability (exclusive of interest and penalties) exceeds \$2,500 for any of the tax periods or years involved, the taxpayer, upon request, will be granted a conference in the Collection Division, provided a written protest is filed setting forth the facts, law and arguments upon which the taxpayer relies.

3 If the proposed tax liability (exclusive of interest and penalties) is in excess of \$2,500 for any of the tax

periods or years involved, and the nature or complexity of the unagreed issues is such that original consideration by the Appellate Division would in the judgment of the Chief, Collection Division, result in more expeditious resolution of the case, the taxpayer will be invited to request initial consideration by the regional Appellate Division. However, the taxpayer may refuse such an invitation, in which case, the taxpayer will be afforded a conference in the Collection Division.

.05 The preparation of an employment tax return by a revenue officer under section 6020(b) of the Code does not constitute an employment tax examination of the books and records for the period in question. It does represent a determination by the Service of the taxpayer's delinquent tax liability. Accordingly, whether or not the taxpayer agrees to the proposed liability, a subsequent employment tax examination of books and records may result in an additional tax adjustment to the determined liability. In such cases, if the adjustment resulting from examination is not agreed to, the taxpayer may appeal the proposed additional tax adjustment by requesting a district conference in the Audit Division.

SEC. 5. CONFERENCE PROCEDURE.

.01 The purpose of the conference in the Collection Division is to determine if a return is due, to ascertain the correct amount of tax due on the return, and to allow the taxpayer to present a case for nonassessment of the proposed liability including any penalties.

.02 The conferee will be designated by the Chief, Collection Division. The location of the conference will usually be the district headquarter's office. Upon request of the taxpayer, the conference may be held in an area office at the discretion of the conferee.

.03 Agreed Cases—If the conferee concludes that there is no liability for the period involved, the taxpayer will be so advised. If the taxpayer agrees that a return is due, the taxpayer will be requested to sign the prepared return or to prepare a return by a specific date (generally within 30 days from the date of the conference).

.04 Unagreed Cases—The conferee will explain to the taxpayer the basis for the proposed assessment and the statutory authority for executing the return and for making the assessment. The conferee will prepare a written report of findings. The taxpayer will be sent a copy of the conferee's report with a transmittal letter providing a detailed explanation of the available appeal procedures and requesting that the taxpayer notify a district office of the course of action the taxpayer elects to take, ordinarily within 30 days from the date of the letter.

SEC. 6. POST-CONFERENCE PROCEDURE.

.01 In cases where the taxpayer requests Appellate Division consideration, responsibility for resolving the case will be transferred to that division.

.02 In cases where the taxpayer does not protest a conference determination, or does not respond to the transmittal letter described in section 4.02 above, within the time provided, the prepared tax return will be returned to the originating revenue officer who will complete the "Date, Signature and Title" line of the tax return. The following statement will be added: "This return was prepared and signed under authority of section 6020(b) of the Internal Revenue Code." The return will then be processed for assessment and the taxpayer will be billed for any balance due.

SEC. 7. EFFECTIVE DATE.

This Revenue Procedure is effective on May 2, 1977.

26 CFR 601.105: Examination of returns and claims for refund, credit or abatement; determination of correct tax liability. (Also Part I, Section 167; 1.167(a)-11.)

Rev. Proc. 77-14¹

SECTION 1. PURPOSE.

The purpose of this Revenue Procedure is to prescribe under section 1.167(a)-11 of the Income Tax Regulations a new asset guideline class, asset depreciation period and range, and annual repair allowance percentage, designated class 49.223 Substitute Natural Gas—Coal Gasification.

SEC. 2. ASSET GUIDELINE CLASSES, PERIODS, ASSET DEPRECIATION RANGES, AND ANNUAL REPAIR ALLOWANCE PERCENTAGES FOR THE GAS INDUSTRY ACTIVITIES ENUMERATED BELOW.

The asset guideline classes and asset guideline depreciation periods, ranges, and annual repair allowance percentages for the following gas industry activities are established as set forth below.

SEC. 3. EFFECT ON OTHER DOCUMENTS.

Rev. Proc. 77-10, page 548, this Bulletin, is modified by adding the guideline class set forth in section 2 above.

SEC. 4. EFFECTIVE DATE.

The asset guideline class, period, asset depreciation range, and annual repair allowance percentage for gas industry activities set forth in this Revenue Procedure are effective for property placed in service in taxable years beginning after December 31, 1976.

¹ Also released as News Release IR-1803, dated April 27, 1977.