



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

OFFICE OF
CHIEF COUNSEL

July 13, 2005

Number: **INFO 2006-0020**
Release Date: 3/31/06
UIL: 461.15-00

CC:ITA:B03
GENIN-135558-05

Dear _____ :

This letter responds to your election filed under Rev. Proc. 83-77 to ratably accrue real property taxes under § 461(c) of the Internal Revenue Code, dated June 15, 2005. In order to elect § 461(c) treatment, you must follow the rules and procedures outlined in § 1.461-1(c) of the Income Tax Regulations.

Section 461(c) provides that an accrual method taxpayer may elect to ratably accrue real property taxes. Section 1.461-1(c)(3) of the regulations provides the procedures by which one elects this method. If it is the taxpayer's first taxable year, the taxpayer may elect this method without the consent of the Internal Revenue Service. To do so, the taxpayer submits a statement with the taxpayer's return for the taxpayer's first taxable year. The return with the statement must be submitted by the due date of the return for the first taxable year, or if the due date has been extended, by the end of the extension.

If it is not the taxpayer's first taxable year, the taxpayer must request the consent of the Internal Revenue Service to ratably accrue real property taxes under § 461(c). To do so, the taxpayer must provide all information requested by § 1.461-1(c)(3)(ii) of the regulations. Section 1.461-1(c)(3)(ii) requires that this election be filed within 90 days of the beginning of the tax year for which the change is being requested. Revenue Procedure 83-77, 1983-2 C.B. 594, extended this to 180 days. Your election appears to be for your taxable year ending December 31, 2004. It was not filed until June 15, 2005. Consequently, it does not meet the requirements of Rev. Proc. 83-77 and so was not timely filed. Therefore, we cannot consider your election.

You may submit a new request for the taxable year ending December 31, 2005. In this regard, please see Rev. Proc. 2005-63 (copy enclosed) which was just published and extends the time period for filing a request under § 1.461-1(c)(3)(ii) to include the whole taxable year during which the taxpayer desires to make the change. This means that you have until December 31, 2005 to submit a request for your taxable year ending December 31, 2005. Alternatively, you may request a private letter ruling granting relief to make a late election for your taxable year ending December 31, 2004 pursuant to §

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301.9100-3 of the regulations. In this regard, please see Rev. Proc. 2005-1, 2005-1 I.R.B. 1 for the requirements to request a private letter ruling.

If you have any additional questions, please contact _____ at _____ .

Sincerely,

Christopher F. Kane
Chief, Branch 3
Associate Chief Counsel
(Income Tax & Accounting)

Enclosure: Rev. Proc. 2005-63