

## Section 847.—Special Estimated Tax Payments

**Special estimated tax payments.** Insurance companies taking deductions under section 847 of the Code are provided guidance with respect to discontinuing the deduction.

### Rev. Rul. 2003-34

#### ISSUE

If an insurance company takes a deduction under § 847 of the Internal Revenue Code in a taxable year, must the company request the permission of the Secretary of the Treasury (Secretary) or his delegate in order to discontinue using § 847 in a subsequent year?

#### FACTS

IC is an insurance company subject to tax under § 831 or a life insurance company subject to tax under § 801. IC discounts its unpaid losses under § 846. IC files its federal income tax returns on a calendar year basis. For the 2002 calendar tax year, IC claimed a deduction for special estimated tax payments pursuant to § 847(1) and made the special estimated tax payments described in § 847(2).

For the 2003 tax year, IC decided not to take the deduction described in § 847(1) for the 2003 accident year and, accordingly, did not make the special estimated tax payments for that year. IC continued to account for adjustments due to its 2002 deduction with respect to the 2002 accident year and its 2002 special estimated tax payments on its 2003 return and later returns.

#### LAW AND ANALYSIS

For taxable years beginning after December 31, 1987, § 847(1) allows an insurance company that is required to discount unpaid losses (as defined in § 846) a deduction for the taxable year if special estimated tax payments are made as required by § 847(2). This deduction cannot exceed (i) the excess of — (A) the undiscounted, unpaid losses (as defined in § 846(b)) attributable to losses incurred in taxable years beginning after December 31, 1986, over (B) the discounted unpaid losses determined under § 846(b) less (ii) any

amounts deducted under this paragraph in a preceding tax year.

Section 847(2) provides, in part, that the deduction under § 847(1) shall be allowed only to the extent that such a deduction would result in a tax benefit for the taxable year for which such deduction is allowed or any carryback year. In addition, the deduction is allowable only if special estimated tax payments are made in an amount equal to the tax benefit attributable to such a deduction on or before the due date (determined without regard to extensions) for filing the return for the taxable year for which the deduction is allowed.

Section 847(3) provides that each company that is allowed a deduction under § 847(1) shall, for purposes of this part, establish and maintain a special loss discount account.

Section 847 imposes no requirement upon an insurance company that is required to discount its unpaid losses under § 846 to continue to avail itself of the § 847 deduction on an annual basis. Further, the legislative history of § 847 does not suggest that an insurance company having once used § 847 is obligated to continue to do so in subsequent tax years. *See* H.R. Conf. Rep. No. 1104 (Vol. II), 100<sup>th</sup> Cong., 2<sup>nd</sup> Sess. 172 (1988), 1988-3 C.B. 662. Even though IC had used § 847 in 2002, IC may chose not to utilize the § 847 deduction in 2003 for accident year 2003 without securing the approval of the Secretary or his delegate.

#### HOLDING

If an insurance company takes a deduction under § 847 in a taxable year, the company is not required to request the permission of the Secretary or his delegate in order to discontinue using § 847 in a subsequent year.

#### DRAFTING INFORMATION

The principal author of this revenue ruling is William T. Sullivan of the Office of Associate Chief Counsel (Financial Institutions & Products). For further information regarding this revenue ruling, contact Mr. Sullivan at (202) 622-3970 (not a toll-free call).