



BDO Seidman, LLP
Accountants and Consultants

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Subject:
**Extended Time for
Automatic Change in
Accounting Method to
Comply with Final Regs
on Intangibles
(Sec. 1.263(a)-4)**

Federal Tax Alert

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Date/Timing:

While the final regulations are generally effective for taxable years ending on or after December 31, 2003, many taxpayers are eligible to file for an automatic change in accounting method under these rules for their second taxable year ending on or after December 31, 2003.

Affecting:

These final regulations generally affect all accrual or cash basis taxpayers that capitalize or expense costs paid or incurred to acquire or create intangible assets. Affected taxpayers that did not automatically change their accounting method to comply with these regulations for their first taxable year ended on or after December 31, 2003, may now automatically change their accounting method for their second taxable year ending on or after December 31, 2003.

Details:

On December 31, 2003, Treasury and the IRS issued final regulations under Section 263(a) of the Internal Revenue Code with respect to the tax treatment of costs to acquire or create intangible assets. Reg. Sec. 1.263(a)-4 contains rules requiring the capitalization of costs to acquire or create, and facilitate the acquisition or creation, of intangibles. However, under an exception provided in the final regulations, referred to as the "12-month rule," certain prepaid expenses may be deducted entirely in the year paid rather than being capitalized.

These final regulations are effective for amounts paid or incurred in taxable years ending on or after December 31, 2003, with respect to taxpayers that change their method of accounting to comply with these regulations. Consistent with the final regulations, the IRS, in March 2004, issued Rev. Proc. 2004-23 that provided the exclusive administrative procedures under which a taxpayer may obtain automatic consent for the taxpayer's first taxable year ending on or after December 31, 2003, to change to a method of accounting provided under these final regulations.

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Details ... (continued)

The IRS recently extended the time period for obtaining automatic consent. On December 13, 2004, the IRS issued Rev. Proc. 2005-9 that provides the exclusive administrative procedures under which a taxpayer may obtain automatic consent for the taxpayer's second taxable year ending on or after December 31, 2003, to change to a method of accounting provided under these final regulations.

For additional information, please see our January 2005 Washington Tax Report.

Recommended Action:

A BDO Seidman tax professional can analyze the potential tax benefit these final regulations may provide your firm and assist with the preparation of an application to change your tax accounting method for costs to acquire or create intangible assets under the automatic consent procedures provided in Rev. Proc. 2005-9.

**For More Information &
Your Local Contacts Please
Contact:**

**Jack Frame
330 Madison Ave
New York, NY 10017**

**Phone: 212-885-8125
Fax: 707-982-0633
Email: jframe@bdo.com**

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