LTA21657

LEAD INDUSTRIES ASSOCIATION

Graybar Building, 420 Lexington Avenue

New York, N. Y.

March 8, 1937.

To Members of the Lead Industries Association:

Subject: Normal Stock Method of Calculation of Profits and Inventory Valuation for Corporate and Tax Purposes.

Please recall the action which was taken by the Lead Industries Association, through its Executive Committee, in June, 1936, on the adoption of a resolution on the use of the Normal Stock Method of Calculation of Profits and Inventory Valuation for Corporate and Tax Purposes.

Through the courtesy of Mr. M. E. Peloubet, of Pogson, Peloubet & Company, I am submitting the attached summary of what has been done in Washington to accomplish the purpose of our resolution, and making suggestions for for your consideration.

Respectfully submitted,

F. Wormser

Secretary.

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Following hearings before the Senate Finance Committee on the 1936 Revenue Act, representatives of various taxpayers and associations have, at the suggestion of the Committee, been in touch with officials of the Treasury Department and the Bureau of Internal Revenue, with a view to obtaining relief from taxation of unrealized and undistributable profits which results from the application of the so-called first-in first-out method in valuing inventories and in determining the cost of goods sold. It was the Senate Committee's recommendation that the relief should be sought through amendment of the Treasury Department Regulations or through a Treasury decision, rather than by new legislation, since the Commissioner already has power to grant the relief.

The case for permitting a method of costing sales or of inventory valuation which would have the effect of applying current costs to current sales in those industries in which a large and constant volume of raw material must at all times be maintained in inventory, has been presented to various officials of the Treasury Department and Bureau of Internal Revenue. The situation at the present time may be summed up as one which shows very substantial progress towards the granting of some relief to the industries affected, but it is still impossible to state in exactly what form or at exactly what time this relief can be expected. As a result of this, the General Counsel's office of the Treasury Department was asked what, if any, steps could or should be taken by the taxpayer who desired to make certain that if any changes in regulations were made, or if any decision was handed down permitting the use of a method which would allow current costs to be applied to current sales, they would apply to his Federal Income tax return for 1937.

The General Counsel's office replied that in all probability any relief would apply to the year 1937 as it would appear to be inequitable to interpose a delay of one year between the granting of relief and its application to the case of an individual taxpayer. The General Counsel's office also stated, however, that if a taxpayer wished to protect his rights more certainly, he could apply before the expiry of ninety days from the beginning of the calendar year 1937 or a fiscal year ending after December 31, 1937 under the authority granted to the Commissioner under Article 41-2 of Regulations 94, for permission to adopt a method of accounting which would have the effect of applying the cost of current purchases or production to current sales. The General Counsel's office stated that these applications would be held without prejudice until some decision had been arrived at in the Treasury Department and the Bureau of Internal Revenue on the question of industries where constant volume of raw materials must at all times be maintained in inventory. The effect of this treatment of such an application would appear to be equivalent to an indefinite extension until such time as the question was settled.

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Although it is impossible to go into complete details here, there is reason to believe that some change in regulations or some decision covering this point will be made before the close of the current year. A form of application for change in accounting method is enclosed. It is suggested that if you wish to protect your rights in this matter, the application should be filled out and signed and returned to the office of this association. If any decision is reached on these matters by the Treasury Department before March 31, the application will be unnecessary and will be returned to you. If, however, as now seems most probable, no decision is reached, the application will be filed and your rights will be protected. It is suggested that you make your decision as to the filing of this application without delay, after consultation with your counsel, if necessary, although the form of application enclosed has already been passed on by counsel familiar with the situation.

([illegible] OF APPLICATION)

Commissioner of Internal Revenue,
Bureau of Internal Revenue,
Washington, D. C.

Dear Sir:

The   Company, in accordance with Article 41-2 of Regulations 94, hereby applies for permission to adopt a method of accounting, for the year 1937 and subsequent years, which will have the effect of applying the cost of current purchases or production to current sales.

The proposed method of accounting will result in a different treatment of inventories and of the cost of goods sold, in order to avoid the serious distortion of the Company's income which results from the method heretofore prescribed. No items will be duplicated or omitted as a result of the proposed change, as inventories at the beginning of the year 1937 would be maintained at the price of the closing inventories for 1936.

The Treasury Department now has under consideration the general question whether such a method of accounting should be permitted in respect of certain classes of taxpayers who are engaged in industries where large and constant volumes of raw material must at all times be maintained in inventories. This application is filed in order to fully protect the right of this Company to adopt such proposed method of accounting for the taxable year 1937 in the event that the method is hereafter recognized by the Treasury Department.

It is respectfully requested that action upon this application be withheld pending a decision by the Department on the general question. In the event that an appropriate method of accounting embodying the above principles is authorized, either by amendment of the statute or Regulations, or by decision or ruling, supporting information and data establishing the application thereof to this Company will be submitted.

Respectfully,