

Update of List of Plants, Grown in Commercial Quantities in the United States, Having a Preproductive Period in Excess of Two Years Based on the Nationwide Weighted Average Preproductive Period for Such Plant.

Notice 2013-18

PURPOSE

This notice modifies and supersedes Notice 2000-45, 2000-2 C.B. 256, which provides guidance to taxpayers engaged in the trade or business of farming in determining whether a plant has a preproductive period in excess of 2 years for purposes of § 263A(d) and (e) of the Internal Revenue Code.

BACKGROUND

Section 263A requires generally that the direct costs and an allocable share of indirect costs of real or tangible personal property produced by a taxpayer be capitalized. Under § 263A, taxpayers generally are required to capitalize the costs of producing property in a farming business (including animals and plants without regard to the length of their preproductive period).

Sections 263A(d) and (e) set forth special rules for property produced in the trade or business of farming. Under § 263A(d)(1) and § 1.263A-4(a)(2) of the Income Tax Regulations, taxpayers that are not required to use an accrual method by § 447 and are not tax shelters prohibited from using the cash receipts and disbursements method of accounting by § 448(a)(3) (“qualified taxpayers”) are not required to capitalize (1) the costs of producing animals in a farming business, or (2) the costs of producing plants with a preproductive period of 2 years or less. In addition, under § 263A(d)(3) and § 1.263A-4(d), a qualified taxpayer may elect to have § 263A not apply to the costs of

producing plants in a farming business (other than citrus or almond trees). Thus, unless an election is made to have § 263A not apply in accordance with § 263A(d)(3), qualified taxpayers generally are required to capitalize the costs of producing plants that have a preproductive period in excess of 2 years.

Section 263A(e)(3)(B) and § 1.263A-4(b)(2)(i)(B) provide that, for purposes of determining whether a plant has a preproductive period in excess of 2 years, the preproductive period of plants grown in commercial quantities in the United States must be based on the nationwide weighted average preproductive period for such plants. The legislative history of § 263A explains that Congress expected the Treasury Department to periodically publish a list of the preproductive periods of various plants based on the nationwide weighted averages for such plants. See H.R. Rep. No. 426, 99th Cong., 1st Sess. 628 (1985), 1986-3 (Vol. 2) C.B. 628. A proposed list was included in the preamble of the proposed § 1.263A-4 regulations (REG-208151-91, 1997-2 C.B. 35 [62 Fed. Reg. 44,542]). The Internal Revenue Service (Service) and the Treasury Department received and considered comments on the proposed list in preparing Notice 2000-45.

In Notice 2000-45 the Service and the Treasury Department published a nonexclusive list of plants having a nationwide weighted average preproductive period in excess of 2 years. The Service and the Treasury Department utilized information provided by the United States Department of Agriculture to develop the list published in Notice 2000-45 of plants that have a nationwide weighted average preproductive period in excess of 2 years. At that time, the Department of Agriculture grouped blueberry, blackberry, and raspberry plants into one overall category, called “berries.” Blueberry

plants made up the largest share of the berries category, and they have a preproductive period greater than 2 years. Since that time, the Department of Agriculture has started tracking blueberry, blackberry, and raspberry plants separately. The Department of Agriculture's current data establishes that blackberry and raspberry plants each have a nationwide weighted average preproductive period of less than 2 years, requiring an update to the list published in Notice 2000-45. The Service and the Treasury Department have also determined that papaya plants should be removed from the list because Department of Agriculture data establishes that papaya plants have a nationwide weighted average preproductive period of less than 2 years.

DISCUSSION

Notice 2000-45 states that the Service and the Treasury Department intend to update, as needed, the list of plants that have a nationwide weighted average preproductive period in excess of 2 years. Based upon information provided by the Department of Agriculture, for the reasons stated above, the Service and the Treasury Department have decided to remove raspberry, blackberry, and papaya plants from its previously published list of plants having a preproductive period in excess of 2 years. In addition, the Service and the Treasury Department have determined that plants producing the following crops or yields continue to have a nationwide weighted average preproductive period in excess of 2 years:

almonds, apples, apricots, avocados, blueberries, cherries, chestnuts, coffee beans, currants, dates, figs, grapefruit, grapes, guavas, kiwifruit, kumquats, lemons, limes, macadamia nuts, mangoes, nectarines,

olives, oranges, peaches, pears, pecans, persimmons, pistachio nuts, plums, pomegranates, prunes, tangelos, tangerines, tangors, and walnuts.

This guidance is not an all-inclusive list of plants that have a nationwide weighted average preproductive period in excess of 2 years. In the case of other plants grown in commercial quantities in the United States, the nationwide weighted average preproductive period must be determined based on available statistical data. § 1.263A-4(b)(2)(i)(B). The Service and the Treasury Department intend to continue to update this guidance periodically as needed.

ACCOUNTING METHOD CHANGES

Concurrently with the issuance of this notice, the Service and the Treasury Department are issuing Revenue Procedure 2013-20 (2013-14 I.R.B. ___). Revenue Procedure 2013-20 modifies Revenue Procedure 2011-14, 2011-4 I.R.B. 330, to provide procedures for a taxpayer to obtain under § 446(e) the automatic consent of the Commissioner (1) to not apply § 263A, pursuant to § 263A(d)(1) and § 1.263A-4(a)(2), to the production of one or more plants that the Service and the Treasury Department have removed from the list of plants that have a nationwide weighted average preproductive period in excess of 2 years, or (2) to revoke an election pursuant to § 263A(d)(3) and § 1.263A-4(d) to not apply § 263A to the production of a plant or plants that have been removed from the list of plants that have a nationwide weighted average preproductive period in excess of 2 years.

EFFECT ON OTHER DOCUMENTS

Notice 2000-45 is modified and superseded.

DRAFTING INFORMATION

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