

Internal Revenue Service

Department of the Treasury

Index Number: 44.62-00
190.01-00

Washington, DC 20224

Number: **INFO 2000-0272**

Release Date: 12/29/2000

Person to Contact:

Telephone Number:
(202) 622-3110

Refer Reply To:

CC:PSI:6-COR-110797-00

Date:

September 26, 2000

Re: Request for General Information

Dear [REDACTED]:

This letter responds to your May 4, 2000, request for information concerning the availability of tax credits and deductions for costs incurred in providing parking spaces for the disabled. As discussed below, two sections of the Internal Revenue Code ("Code") provide tax incentives for making places of business more accessible to the disabled. The information provided is advisory only and does not represent the views of the Internal Revenue Service regarding the application of the law and precedents to the facts of a specific case.

Section 44 of the Code provides for a disabled access credit equal to 50 percent of the eligible access expenditures incurred during a tax year by an eligible small business that exceed \$250 but do not exceed \$10,250. The maximum credit allowed for a tax year is \$5,000. Under section 44(b) a business is an eligible small business if, for the preceding tax year, either its gross receipts did not exceed \$1,000,000 or the number of its full-time employees did not exceed 30. Section 44(c) provides that eligible access expenditures are expenditures made by an eligible small business that enable it to comply with the applicable requirements of the Americans With Disabilities Act of 1990 (ADA). Under the ADA, businesses with parking facilities are required to provide designated parking spaces for the disabled. Therefore, costs incurred by eligible businesses to establish these spaces would qualify for the credit. We note, however, that not all businesses are subject to the ADA. The disabled access credit is only available to businesses that incur costs in order to comply with the ADA.

Section 190 of the Code provides a deduction for architectural and transportation barrier removal expenses. Section 190, which predates section 44 by many years, is not connected to ADA compliance and is available to any business taxpayer. The maximum amount of qualified expenditures deductible each year is \$15,000. Regulations issued under section 190 describe many types of barrier removals that

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would generate qualified expenditures. The regulations indicate that costs incurred in establishing parking spaces for the disabled would be deductible under section 190.

Sections 44 and 190 of the Code are not mutually exclusive. Accordingly, a business that qualifies as an eligible small business under section 44 may be able to claim both a credit and a deduction for the same disabled parking space expenditures. The amount of credit claimed under section 44 is subtracted from the expenditure total and the remainder is deductible under section 190.

We hope this general information is of assistance to you. As you requested, we are enclosing various publications and other tax materials for you. If you have any questions regarding this matter please contact [REDACTED] at (202) 622-3110.

Sincerely yours,

Charles B. Ramsey
Chief, Branch 6
Office of Associate Chief Counsel
(Passthroughs and Special Industries)

Enclosures: 5
Publication 535
Publication 340
Form 8826
Section 44 of the Code
Section 190 of the Code