

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **INFO 2007-0008**
Release Date: 3/30/2007

Third Party Communication: None
Date of Communication: Not Applicable

Index Number: 179.02-00

Person To Contact: _____, ID No. _____
Telephone Number: _____

Refer Reply To:
CC:PSI:6
GENIN-123504-04
Date:
December 13, 2006

In re:

Request to Revoke Section 179 Election
Taxable Year: 2000

Dear _____ :

This is in response to a letter dated _____, submitted on behalf of Taxpayers (husband and wife), to the Commissioner of Internal Revenue, requesting permission to revoke the \$10,000 election made under section 179 of the Internal Revenue Code on the wife's separately filed 2000 individual federal income tax return. We apologize for the delay in our response to you on this matter. In order for us to respond to your specific request, you must submit a request for a private letter ruling. The request must comply with all the requirements of section 7 of Revenue Procedure 2006-1, 2006-1 I.R.B. 1. A copy of selected sections of Rev. Proc. 2006-1 has been enclosed for your reference. We hope that you find the following general information to be helpful.

Taxpayers originally filed their 2000 tax returns separately. We have assumed for purpose of this general information letter that the election of joint filing status by amended return for 2000 is valid. The wife's original return included an election to expense \$10,000 under section 179 of the Code, which was one half of the maximum section 179 dollar limitation for 2000. Under section 179(b)(4), Taxpayers could have elected to allocate 100 percent of \$20,000 of section 179 property costs to the wife. However, the tax return software used to prepare their original returns automatically limited the wife's section 179 deduction to \$10,000, 50 percent of the section 179 dollar limitation. The husband did not claim any section 179 expense on his original return.

We are enclosing a copy of section 179 of the Code and the regulations under that section. You may find section 179(c)(2) of particular interest. Under section 179(c)(2), an election made under section 179 (with respect to a taxable year beginning before 2002), and any specification contained in any such election, may not be revoked except with the consent of the Commissioner. Such consent to revoke an election under section 179, however, will be granted only in extraordinary circumstances (Emphasis added). See section 1.179-5(b) of the Income Tax Regulations.

For purposes of section 179(b)(1) of the Code and section 1.179-2(b)(1) of the regulations, the maximum dollar limitation for taxable years beginning in 2000 was \$20,000. Section 1.179-2(b)(5) provides rules for determining the amount of the dollar limitation under section 1.179-5(b)(1) for joint returns and section 1.179-2(b)(6) provides rules for determining the amount of the dollar limitation under section 1.179-5(b)(1) for married individuals filing separately.

Section 1.179-2(b)(5) *Joint returns*. states the following:

(i) In general. A husband and wife who file a joint income tax return under section 6013(a) are treated as one taxpayer in determining the amount of the dollar limitation under paragraph (b)(1) of this section, regardless of which spouse purchased the property placed it in service.

(ii) Joint returns filed after separate returns. In the case of a husband and wife who elect under section 6013(b) to file a joint income tax return for a taxable year after the time prescribed by law for filing the return for such taxable year has expired, the dollar limitation under paragraph (b)(1) of this section is the lesser of –

(A) The dollar limitation (as determined under paragraph (5)(b)(i) of this section); or

(B) The aggregate cost of section 179 property elected to be expensed by the husband and wife on their separate returns.

Section 1.179-2(b)(6) *Married individuals filing separately*. states the following:

(i) In general. In the case of an individual who is married but files a separate income tax return for a taxable year, the dollar limitation of this paragraph (b) for such taxable year is the amount that would be determined under paragraph (b)(5)(i) of this section if the individual filed a joint income tax return under section 6013(a) multiplied by either the percentage elected by the individual under this paragraph (b)(6) or 50 percent. The election in the preceding sentence is made in accordance with the requirements of section 179(c) and § 1.179-5. However, the amount determined under paragraph (b)(5)(i) of this section must be multiplied by 50 percent if either the individual or the individual's spouse does not elect a percentage under this paragraph (b)(6) or the sum

of the percentages elected by the individual and the individual's spouse does not equal 100 percent. For purposes of this paragraph (b)(6), marital status is determined under section 7703 and the regulations under that section.

We note that by deducting \$10,000 under section 179 of the Code, the wife elected to expense \$10,000 for 2000. Section 1.179-2(b)(5)(ii) limits the section 179 dollar limitation for Taxpayer's joint return to \$10,000 because literally this was aggregate of the amounts elected to be expense by the husband and the wife on their separate returns. Any section 179 deduction is based on an election to expense the cost of the property under section 179 and not just an election of a percentage by husband and wife under section 1.179-2(b)(6). The husband and the wife may not deduct more than \$10,000 on a joint return unless they obtain permission to revoke the section 179 election of the \$10,000 amount.

For 2000, the election of the amount of a deduction under section 179 could only be revoked with the consent of the Commissioner, which is granted only in extraordinary circumstances. If Taxpayers wish to file a request for permission to revoke the election of the \$10,000 amount and elect to deduct \$20,000, Taxpayers must file a request for a letter ruling. Rev. Proc. 2006-1 provides the general procedures the Internal Revenue Service follows in issuing private letter rulings and the related instructions for the submission of private letter ruling requests by taxpayers. In addition, taxpayers are required by statute to pay user fees for requests for private letter rulings. Under section 15 of Rev. Proc. 2004-1, the user fee must accompany the request in order to be processed by the Service. In general, the user fee is \$10,000 for private letter rulings. However, there is a reduced fee of \$625 for a request involving a business tax issue from a person with a gross income of less than \$250,000 and a reduced fee of \$2,500 for a request involving a business-related tax issue from a person with a gross income of less than \$1 million and more than \$250,000. See Appendix A of Rev. Proc. 2006-1.

If you should decide to request a private letter ruling, section 7.03 of Rev. Proc. 2006-1 provides information as to where to send the request. Also, as we have noted above, section 7 of Rev. Proc. 2006-1 provides general instructions for requesting a private letter ruling.

This letter has called your attention to certain general principles of tax law. It is intended for informational purposes only and does not constitute a ruling. See sections 2.01 and 2.04 of Rev. Proc. 2006-1. We hope the materials enclosed will be helpful to you; however, if you should have any additional questions or comments, please contact our office at () .

In accordance with the power of attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely yours,

Charles B. Ramsey

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

Enclosures (3)