



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF THE CHIEF COUNSEL

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The Honorable Benjamin L. Cardin
United States Senator
Tower I, Suite 1710
100 South Charles Street
Baltimore, Maryland 21201

Attention:

Dear Senator Cardin:

I am responding to your July 13, 2011, inquiry on behalf of your constituent, . In his , letter, states that he spent in an attempt to obtain a Japanese patent. He was unable to obtain the patent, and he asks how to treat the expenditure for federal tax purposes.

The amounts a taxpayer spends to obtain property (for example, a patent) are capital expenditures. Section 165 of the Internal Revenue Code (the Code) permits a taxpayer to deduct a loss incurred in a transaction entered into for profit, such as the attempted acquisition of a patent. A taxpayer who incurs expenses in an attempt to obtain property, and then is unable to obtain that property, may deduct the expenses as an ordinary loss.

appears to have spent U.S. dollars to pursue his Japanese patent application, though he may have converted the dollars into Japanese yen. The amount of his deduction is the amount of U.S. dollars he actually spent.

I hope this information is helpful. If you have any questions, please contact me or
at .

Sincerely,

George J. Blaine
Associate Chief Counsel
(Income Tax & Accounting)