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Person To Contact:

, ID No.

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Date:

September 30, 2004

In re: Schedule C deduction under section 179

Dear

This letter is in response to your letter, received in our office on June 4, 2003, requesting a ruling concerning whether you are entitled to an expense deduction under section 179 of the Internal Revenue Code on the purchase of a sports utility vehicle with a loaded gross vehicle weight in excess of 6000 pounds. 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 8 of Revenue Procedure 2004-1, 2004-1 I.R.B. 1. A copy of selected selections of Rev. Rul. 2004-1 has been enclosed for your reference. We hope that you find the following general information to be helpful.

Section 179 of the Code allows a taxpayer to treat the cost of any qualifying property as an expense, deductible in the year that the property is placed in service, subject to a dollar limitation on the aggregate cost that can be deducted in a particular year. Under the provisions of the Jobs and Growth Tax Relief Reconciliation Act of 2003, the dollar limit applicable to qualifying property placed in service in taxable years beginning after 2002 is \$100,000.

A sport utility vehicle (SUV) built on a truck chassis is considered a truck for purposes of section 280F of the Code. Trucks that have a gross vehicle weight in excess of 6,000 pounds are not subject to the dollar limits imposed under section 280F(a), which would otherwise limit the amount of the depreciation deduction, including the deduction under section 179, available for the vehicle. However, these SUVs are nonetheless "listed property" under section 280F(d)(4)(A)(ii), and the remainder of the provisions of section 280F still apply.

Section 280F(b)(1) of the Code provides that if any listed property is not used more than fifty percent in a qualified business use for any taxable year, then depreciation for the property must be calculated under the “alternative depreciation system” as defined in section 168(g). A taxpayer required to depreciate an SUV under the alternative depreciation system may not claim the section 179 expense deduction, the bonus first-year allowance under section 168(k), or accelerated depreciation, but must instead depreciate the entire cost of the SUV ratably over the five-year recovery period using the “straight-line method”.

Furthermore, if a taxpayer uses an SUV more than fifty percent in a “qualified business use” in the taxable year the SUV is placed in service, but the taxpayer’s qualified business use drops to fifty percent or less in a later taxable year, section 280F(b)(2) requires the taxpayer to include in current income for that later year the excess depreciation for each previous taxable year (i.e. the excess of the sum of the deductions taken for the vehicle in each previous year for any section 179 expense deduction, any bonus first-year allowance under section 168(k), and any accelerated depreciation, over the deductions that would have been available under the alternative depreciation system for those years) and to use the alternative depreciation system for the remainder of the five-year recovery period.

For purposes of section 280F, qualified business use generally means any use in a trade or business of the taxpayer; however, certain use by a 5-percent owner or related person may not be qualified business use pursuant to section 280F(d)(6)(C). It should be noted that the use of a vehicle for commuting between a taxpayer’s home and the taxpayer’s regular place of business is personal use of the vehicle, not use in a trade or business of the taxpayer, and would not count towards “qualified business use”.

You should also be aware that the depreciation deduction (including the section 179 deduction) in a particular year is limited by the percentage of the use of the property in the taxpayer’s trade or business. So, for instance, if a taxpayer purchases an SUV for \$100,000 and uses it 75 percent in the taxpayer’s trade or business and 25 percent for personal use (such as commuting), the section 179 deduction available to the taxpayer for the SUV is limited to \$75,000.

Rev. Proc. 2004-1 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 \$6,000 for private letter rulings. However, there is a reduced fee of \$500 for a request involving a business-related tax issue from a taxpayer with a gross income of less than \$1 million. See Appendix A of Rev. Proc. 2004-1.

If you should decide to request a private letter ruling, section 8.03(1) of Rev. Proc. 2004-1 provides information as to where to send the request. Also, as we have

noted above, section 8 of Rev. Proc. 2004-1 provides general instructions for requesting a private letter ruling.

This letter has discussed 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. 2004-1. 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 (202) 622-3110.

Sincerely yours,

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

Enclosures