

- (4) Example.
- (h) Special rules for partners and S corporation shareholders.
 - (1) In general.
 - (2) Dispositions and other transfers of a partner's interest in a partnership or a shareholder's interest in an S corporation.
 - (3) Examples.

§ 1.179-4 Definitions

- (a) Section 179 property.
- (b) Section 38 property.
- (c) Purchase.
- (d) Cost.
- (e) Placed in service.
- (f) Controlled group of corporations and component member of controlled group.

§ 1.179-5 Time and Manner of Making Election

- (a) Election.
- (b) Revocation.

§ 1.179-6 Effective Date

[T.D. 8455, 57 FR 61316, Dec. 24, 1992]

§ 1.179-1 Election to expense certain depreciable assets.

(a) *In general.* Section 179(a) allows a taxpayer to elect to expense the cost (as defined in § 1.179-4(d)), or a portion of the cost, of section 179 property (as defined in § 1.179-4(a)) for the taxable year in which the property is placed in service (as defined in § 1.179-4(e)). The election is not available for trusts, estates, and certain noncorporate lessors. See paragraph (i)(2) of this section for rules concerning noncorporate lessors. However, section 179(b) provides certain limitations on the amount that a taxpayer may elect to expense in any one taxable year. See §§ 1.179-2 and 1.179-3 for rules relating to the dollar and taxable income limitations and the carryover of disallowed deduction rules. For rules describing the time and manner of making an election under section 179, see § 1.179-5. For the effective date, see § 1.179-6.

(b) *Cost subject to expense.* The expense deduction under section 179 is allowed for the entire cost or a portion of the cost of one or more items of section 179 property. This expense deduction is subject to the limitations of section 179(b) and § 1.179-2. The taxpayer may select the properties that are subject to the election as well as the portion of each property's cost to expense.

(c) *Proration not required*—(1) *In general.* The expense deduction under section 179 is determined without any proration based on—

(i) The period of time the section 179 property has been in service during the taxable year; or

(ii) The length of the taxable year in which the property is placed in service.

(2) *Example.* The following example illustrates the provisions of paragraph (c)(1) of this section.

Example. On December 1, 1991, X, a calendar-year corporation, purchases and places in service section 179 property costing \$20,000. For the taxable year ending December 31, 1991, X may elect to claim a section 179 expense deduction on the property (subject to the limitations imposed under section 179(b)) without proration of its cost for the number of days in 1991 during which the property was in service.

(d) *Partial business use*—(1) *In general.* If a taxpayer uses section 179 property for trade or business as well as other purposes, the portion of the cost of the property attributable to the trade or business use is eligible for expensing under section 179 provided that more than 50 percent of the property's use in the taxable year is for trade or business purposes. The limitations of section 179(b) and § 1.179-2 are applied to the portion of the cost attributable to the trade or business use.

(2) *Example.* The following example illustrates the provisions of paragraph (d)(1) of this section.

Example. A purchases section 179 property costing \$10,000 in 1991 for which 80 percent of its use will be in A's trade or business. The cost of the property adjusted to reflect the business use of the property is \$8,000 (80 percent × \$10,000). Thus, A may elect to expense up to \$8,000 of the cost of the property (subject to the limitations imposed under section 179(b) and § 1.179-2).

(3) *Additional rules that may apply.* If a section 179 election is made for "listed property" within the meaning of section 280F(d)(4) and there is personal use of the property, section 280F(d)(1), which provides rules that coordinate section 179 with the section 280F limitation on the amount of depreciation, may apply. If section 179 property is no longer predominantly used in the taxpayer's trade or business, paragraphs

(e) (1) through (4) of this section, relating to recapture of the section 179 deduction, may apply.

(e) *Change in use; recapture*—(1) *In general.* If a taxpayer's section 179 property is not used predominantly in a trade or business of the taxpayer at any time before the end of the property's recovery period, the taxpayer must recapture in the taxable year in which the section 179 property is not used predominantly in a trade or business any benefit derived from expensing such property. The benefit derived from expensing the property is equal to the excess of the amount expensed under this section over the total amount that would have been allowable for prior taxable years and the taxable year of recapture as a deduction under section 168 (had section 179 not been elected) for the portion of the cost of the property to which the expensing relates (regardless of whether such excess reduced the taxpayer's tax liability). For purposes of the preceding sentence (i) the "amount expensed under this section" shall not include any amount that was not allowed as a deduction to a taxpayer because the taxpayer's aggregate amount of allowable section 179 expenses exceeded the section 179(b) dollar limitation, and (ii) in the case of an individual who does not elect to itemize deductions under section 63(g) in the taxable year of recapture, the amount allowable as a deduction under section 168 in the taxable year of recapture shall be determined by treating property used in the production of income other than rents or royalties as being property used for personal purposes. The amount to be recaptured shall be treated as ordinary income for the taxable year in which the property is no longer used predominantly in a trade or business of the taxpayer. For taxable years following the year of recapture, the taxpayer's deductions under section 168(a) shall be determined as if no section 179 election with respect to the property had been made. However, see section 280F(d)(1) relating to the coordination of section 179 with the limitation on the amount of depreciation for luxury automobiles and where certain property is used for personal purposes. If the recapture rules of both section

280F(b)(2) and this paragraph (e)(1) apply to an item of section 179 property, the amount of recapture for such property shall be determined only under the rules of section 280F(b)(2).

(2) *Predominant use.* Property will be treated as not used predominantly in a trade or business of the taxpayer if 50 percent or more of the use of such property during any taxable year within the recapture period is for a use other than in a trade or business of the taxpayer. If during any taxable year of the recapture period the taxpayer disposes of the property (other than in a disposition to which section 1245(a) applies) or ceases to use the property in a trade or business in a manner that had the taxpayer claimed a credit under section 38 for such property such disposition or cessation in use would cause recapture under section 47, the property will be treated as not used in a trade or business of the taxpayer. However, for purposes of applying the recapture rules of section 47 pursuant to the preceding sentence, converting the use of the property from use in trade or business to use in the production of income will be treated as a conversion to personal use.

(3) *Basis; application with section 1245.* The basis of property with respect to which there is recapture under paragraph (e)(1) of this section shall be increased immediately before the event resulting in such recapture by the amount recaptured. If section 1245(a) applies to a disposition of property, there is no recapture under paragraph (e)(1) of this section.

(4) *Carryover of disallowed deduction.* See §1.179-3 for rules on applying the recapture provisions of this paragraph (e) when a taxpayer has a carryover of disallowed deduction.

(5) *Example.* The following example illustrates the provisions of paragraphs (e)(1) through (e)(4) of this section.

Example. A, a calendar-year taxpayer, purchases and places in service on January 1, 1991, section 179 property costing \$15,000. The property is 5-year property for section 168 purposes and is the only item of depreciable property placed in service by A during 1991. A properly elects to expense \$10,000 of the cost and elects under section 168(b)(5) to depreciate the remaining cost under the straight-line method. On January 1, 1992, A

converts the property from use in A's business to use for the production of income, and A uses the property in the latter capacity for the entire year. A elects to itemize deductions for 1992. Because the property was not predominantly used in A's trade or business in 1992, A must recapture any benefit derived from expensing the property under section 179. Had A not elected to expense the \$10,000 in 1991, A would have been entitled to deduct, under section 168, 10 percent of the \$10,000 in 1991, and 20 percent of the \$10,000 in 1992. Therefore, A must include \$7,000 in ordinary income for the 1992 taxable year, the excess of \$10,000 (the section 179 expense amount) over \$3,000 (30 percent of \$10,000).

(f) *Basis*—(1) *In general.* A taxpayer who elects to expense under section 179 must reduce the depreciable basis of the section 179 property by the amount of the section 179 expense deduction.

(2) *Special rules for partnerships and S corporations.* Generally, the basis of a partnership or S corporation's section 179 property must be reduced to reflect the amount of section 179 expense elected by the partnership or S corporation. This reduction must be made in the basis of partnership or S corporation property even if the limitations of section 179(b) and § 1.179-2 prevent a partner in a partnership or a shareholder in an S corporation from deducting all or a portion of the amount of the section 179 expense allocated by the partnership or S corporation. See § 1.179-3 for rules on applying the basis provisions of this paragraph (f) when a person has a carryover of disallowed deduction.

(3) *Special rules with respect to trusts and estates which are partners or S corporation shareholders.* Since the section 179 election is not available for trusts or estates, a partner or S corporation shareholder that is a trust or estate may not deduct its allocable share of the section 179 expense elected by the partnership or S corporation. The partnership or S corporation's basis in section 179 property shall not be reduced to reflect any portion of the section 179 expense that is allocable to the trust or estate. Accordingly, the partnership or S corporation may claim a depreciation deduction under section 168 or a section 38 credit (if available) with respect to any depreciable basis resulting from the trust or estate's inability to claim its allocable portion of the section 179 expense.

(g) *Disallowance of the section 38 credit.* If a taxpayer elects to expense under section 179, no section 38 credit is allowable for the portion of the cost expensed. In addition, no section 38 credit shall be allowed under section 48(d) to a lessee of property for the portion of the cost of the property that the lessor expensed under section 179.

(h) *Partnerships and S corporations*—(1) *In general.* In the case of property purchased and placed in service by a partnership or an S corporation, the determination of whether the property is section 179 property is made at the partnership or S corporation level. The election to expense the cost of section 179 property is made by the partnership or the S corporation. See sections 703(b), 1363(c), 6221, 6231(a)(3), 6241, and 6245.

(2) *Example.* The following example illustrates the provisions of paragraph (h)(1) of this section.

Example. A owns certain residential rental property as an investment. A and others form ABC partnership whose function is to rent and manage such property. A and ABC partnership file their income tax returns on a calendar-year basis. In 1991, ABC partnership purchases and places in service office furniture costing \$20,000 to be used in the active conduct of ABC's business. Although the office furniture is used with respect to an investment activity of A, the furniture is being used in the active conduct of ABC's trade or business. Therefore, because the determination of whether property is section 179 property is made at the partnership level, the office furniture is section 179 property and ABC may elect to expense a portion of its cost under section 179.

(i) *Leasing of section 179 property*—(1) *In general.* A lessor of section 179 property who is treated as the owner of the property for Federal tax purposes will be entitled to the section 179 expense deduction if the requirements of section 179 and the regulations thereunder are met. These requirements will not be met if the lessor merely holds the property for the production of income. For certain leases entered into prior to January 1, 1984, the safe harbor provisions of section 168(f)(8) apply in determining whether an agreement is treated as a lease for Federal tax purposes.

(2) *Noncorporate lessor.* In determining the class of taxpayers (other than an estate or trust) for which section 179 is applicable, section 179(d)(5) provides

that if a taxpayer is a noncorporate lessor (*i.e.*, a person who is not a corporation and is a lessor), the taxpayer shall not be entitled to claim a section 179 expense for section 179 property purchased and leased by the taxpayer unless the taxpayer has satisfied all of the requirements of section 179(d)(5)(A) or (B).

(j) *Application of sections 263 and 263A.* Under section 263(a)(1)(G), expenditures for which a deduction is allowed under section 179 and this section are excluded from capitalization under section 263(a). Under this paragraph (j), amounts allowed as a deduction under section 179 and this section are excluded from the application of the uniform capitalization rules of section 263A.

(k) *Cross references.* See section 453(i) and the regulations thereunder with respect to installment sales of section 179 property. See section 1033(g)(3) and the regulations thereunder relating to condemnation of outdoor advertising displays. See section 1245(a) and the regulations thereunder with respect to recapture rules for section 179 property.

[T.D. 8121, 52 FR 410, Jan. 6, 1987, as amended by T.D. 8455, 57 FR 61316, Dec. 24, 1992]

§ 1.179-2 Limitations on amount subject to section 179 election.

(a) *In general.* Sections 179(b)(1) and (2) limit the aggregate cost of section 179 property that a taxpayer may elect to expense under section 179 for any one taxable year (dollar limitation). See paragraph (b) of this section. Section 179(b)(3)(A) limits the aggregate cost of section 179 property that a taxpayer may deduct in any taxable year (taxable income limitation). See paragraph (c) of this section. Any cost that is elected to be expensed but that is not currently deductible because of the taxable income limitation may be carried forward to the next taxable year (carryover of disallowed deduction). See § 1.179-3 for rules relating to carryovers of disallowed deductions. See also sections 280F(a), (b), and (d)(1) relating to the coordination of section 179 with the limitations on the amount of depreciation for luxury automobiles and other listed property. The dollar and taxable income limitations apply to each taxpayer and not to each trade

or business in which the taxpayer has an interest.

(b) *Dollar limitation—(1) In general.* The aggregate cost of section 179 property that a taxpayer may elect to expense under section 179 for any taxable year is \$10,000 reduced (but not below zero) by the amount of any excess section 179 property (described in paragraph (b)(2) of this section) placed in service during the taxable year.

(2) *Excess section 179 property.* The amount of any excess section 179 property for a taxable year equals the excess (if any) of—

(i) The cost of section 179 property placed in service by the taxpayer in the taxable year; over

(ii) \$200,000.

(3) *Application to partnerships—(i) In general.* The dollar limitation of this paragraph (b) applies to the partnership as well as to each partner. In applying the dollar limitation to a taxpayer that is a partner in one or more partnerships, the partner's share of section 179 expenses allocated to the partner from each partnership is aggregated with any nonpartnership section 179 expenses of the taxpayer for the taxable year. However, in determining the excess section 179 property placed in service by a partner in a taxable year, the cost of section 179 property placed in service by the partnership is not attributed to any partner.

(ii) *Example.* The following example illustrates the provisions of paragraph (b)(3)(i) of this section.

Example. During 1991, CD, a calendar-year partnership, purchases and places in service section 179 property costing \$150,000 and elects under section 179(c) and § 1.179-5 to expense \$10,000 of the cost of that property. CD properly allocates to C, a calendar-year taxpayer and a partner in CD, \$5,000 of section 179 expenses (C's distributive share of CD's section 179 expenses for 1991). In applying the dollar limitation to C for 1991, C must include the \$5,000 of section 179 expenses allocated from CD. However, in determining the amount of any excess section 179 property C placed in service during 1991, C does not include any of the cost of section 179 property placed in service by CD, including the \$5,000 of cost represented by the \$5,000 of section 179 expenses allocated to C by the partnership.

(iii) *Partner's share of section 179 expenses.* Section 704 and the regulations thereunder govern the determination