following their adoption, whichever is later. The request shall:

(1) Set forth the name and address of the taxpayer;

(2) Designate the first taxable year to which the method or change of method is to apply;

(3) State whether the method or change of method is intended to apply to all expenditures within the permissible scope of section 175, or only to a particular project or farm and, if the latter, include such information as will identify the project or farm as to which the method or change of method is to apply;

(4) Set forth the amount of all soil and water conservation expenditures paid or incurred during the first taxable year for which the method or change of method is to apply; and

(5) State that the taxpayer will make an accounting segregation in his books and records of the expenditures to which the election relates.

(e) *Scope of method.* Except with the consent of the district director as provided in paragraph (b) or (c) of this section, the taxpayer's method of treating soil and water conservation expenditures described in section 175 shall apply to all such expenditures for the taxable year of adoption and all subsequent taxable years. Although a taxpayer may have elected to deduct soil and water conservation expenditures, he may request an authorization to capitalize his soil and water conservation expenditures attributable to a special project or single farm. Similarly, a taxpayer who has not elected to deduct such expenditures may request an authorization to deduct his soil and water conservation expenditures attributable to a special project or single farm. The authorization with respect to the special project or single farm will not affect the method adopted with respect to the taxpayer's regularly incurred soil and water conservation expenditures. No adoption of, or change of, the method under section 175 will be permitted as to expenditures actually paid or incurred before the taxable year to which the method or change of method is to apply. Thus, if a taxpayer adopts such method for 1956, he cannot deduct any part of such expenditures which he capitalized, or should have capitalized, in 1955. Likewise, if a taxpayer who has adopted such method has an unused carryover of such expenditures in excess of the 25-percent limitation, and is granted consent to capitalize soil and water conservation expenditures beginning in 1956, he cannot capitalize any part of the unused carryover. The excess expenditures carried over continue to be deductible to the extent of 25 percent of the taxpayer's gross income from farming. No adjustment to the basis of land shall be made under section 1016 for expenditures to which the method under section 175 applies. For example, A has an unused carryover of soil and water conservation expenditures amounting to $5,000 as of December 31, 1956. On January 1, 1957, A sells his farm and goes out of the business of farming. The unused carryover of $5,000 cannot be added to the basis of the farm for purposes of determining gain or loss on its sale. In 1959, A purchases another farm and resumes the business of farming. In such year, A may deduct the amount of the unused carryover to the extent of 25 percent of his gross income from farming and may carry over any excess to subsequent years.

§ 1.175–7 Allocation of expenditures in certain circumstances.

(a) *General rule.* If at the time the taxpayer paid or incurred expenditures for the purpose of soil or water conservation, or for the prevention of erosion of land, it was reasonable to believe that such expenditures would directly and substantially benefit land of the taxpayer which does not qualify as ''land used in farming,'' as defined in § 1.175–4, as well as land of the taxpayer which does so qualify, then, for purposes of section 175, only a part of the taxpayer's total expenditures is in respect of ''land used in farming.''

(b) *Method of allocation.* The part of expenditures allocable to ''land used in farming'' generally equals the amount which bears the same proportion to the total amount of such expenditures as the area of land of the taxpayer used in farming which it was reasonable to believe would be directly and substantially benefited as a result of the expenditures bears to the total area of

land of the taxpayer which it was reasonable to believe would be so benefited. If it is established by clear and convincing evidence that, in the light of all the facts and circumstances, another method of allocation is more reasonable than the method provided in the preceding sentence, the taxpayer may allocate the expenditures under that other method. For purposes of this section, the term *land of the taxpayer* means land with respect to which the taxpayer has title, leasehold, or some other substantial interest.

(c) *Examples.* The provisions of this section may be illustrated by the following examples:

Example 1. A owns a 200-acre tract of land, 80 acres of which qualify as ''land used in farming.'' A makes expenditures for the purpose of soil and water conservation which can reasonably be expected to directly and substantially benefit the entire 200-acre tract. In the absence of clear and convincing evidence that a different allocation is more reasonable, A may deduct 40 percent (80/200) of such expenditures under section 175. The same result would obtain if A had made the expenditures after newly acquiring the tract from a person who had used 80 of the 200 acres in farming immediately prior to A's acquisition.

Example 2. Assume the same facts as in *Example 1,* except that A's expenditures for the purpose of soil and water conservation can reasonably be expected to directly and substantially benefit only the 80 acres which qualify as land used in farming; any benefit to the other 120 acres would be minor and incidental. A may deduct all of such expenditures under section 175.

Example 3. Assume the same facts as in *Example 1,* except that A's expenditures for the purpose of soil and water conservation can reasonably be expected to directly and substantially benefit only the 120 acres which do not qualify as land used in farming. A may not deduct any of such expenditures under section 175. The same result would obtain even if A had leased the 200-acre tract to B in the expectation that B would farm the entire tract.

[T.D. 7740, 45 FR 78635, Nov. 26, 1980]

§ 1.177–1 Election to amortize trademark and trade name expenditures.

(a) *In general.* (1) Section 177 provides that a taxpayer may elect to treat any trademark or trade name expenditure (defined in section 177(b) and paragraph (b) of this section) paid or incurred during a taxable year beginning after December 31, 1955, as a deferred expense. Any expenditure so treated shall be allowed as a deduction ratably over the number of continuous months (not less than 60) selected by the taxpayer, beginning with the first month of the taxable year in which the expenditure is paid or incurred. The term *paid or incurred,* as used in section 177 and this section, is to be construed according to the method of accounting used by the taxpayer in computing taxable income. See section 7701(a)(25). An election under section 177 is irrevocable insofar as it applies to a particular trademark or trade name expenditure, but separate elections may be made with respect to other trademark or trade name expenditures. See subparagraph (3) of this paragraph. See also paragraph (c) of this section for time and manner of making election.

(2) The number of continuous months selected by the taxpayer may be equal to or greater, but not less than 60, but in any event the deduction must begin with the first month of the taxable year in which the expenditure is paid or incurred. The number of months selected by the taxpayer at the time he makes the election may not be subsequently changed but shall be adhered to in computing taxable income for the taxable year for which the election is made and all subsequent taxable years.

(3) Section 177 permits an election by the taxpayer for each separate trademark or trade name expenditure. Thus, a taxpayer who has several trademark or trade name expenditures in a taxable year may elect under section 177 with respect to some of such expenditures and not elect with respect to the other expenditures. Also, a taxpayer may choose different amortization periods for different trademark or trade name expenditures with respect to which he has made the election under section 177.

(4) All trademark and trade name expenditures are properly chargeable to capital account for purposes of section 1016(a)(1), relating to adjustments to basis of property, whether or not they are to be amortized under section 177. However, the trademark and trade name expenditures with respect to which the taxpayer has made an election under section 177 must be kept in