

(ii) On January 1, 1992, G sells G's partnership interest to A. Under paragraph (h)(2) of this section, immediately before the sale G increases the adjusted basis of G's partnership interest by \$2,500, the amount of the outstanding carryover of disallowed deduction with respect to the partnership interest.

[T.D. 8455, 57 FR 61321, Dec. 24, 1992]

#### § 1.179-4 Definitions.

The following definitions apply for purposes of section 179 and §§ 1.179-1 through 1.179-6:

(a) *Section 179 property.* The term *section 179 property* means any tangible property described in section 179(d)(1) that is acquired by purchase for use in the active conduct of the taxpayer's trade or business (as described in § 1.179-2(c)(6)). For purposes of this paragraph (a), the term *trade or business* has the same meaning as in section 162 and the regulations thereunder.

(b) *Section 38 property.* The term *section 38 property* shall have the same meaning assigned to it in section 48(a) and the regulations thereunder.

(c) *Purchase.* (1)(i) Except as otherwise provided in paragraph (d)(2) of this section, the term *purchase* means any acquisition of the property, but only if all the requirements of paragraphs (c)(1)(ii), (iii), and (iv) of this section are satisfied.

(ii) Property is not acquired by purchase if it is acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under section 267 or 707(b). The property is considered not acquired by purchase only to the extent that losses would be disallowed under section 267 or 707(b). Thus, for example, if property is purchased by a husband and wife jointly from the husband's father, the property will be treated as not acquired by purchase only to the extent of the husband's interest in the property. However, in applying the rules of section 267 (b) and (c) for this purpose, section 267(c)(4) shall be treated as providing that the family of an individual will include only his spouse, ancestors, and lineal descendants. For example, a purchase of property from a corporation by a taxpayer who owns, directly or indirectly, more than 50 percent in value of the outstanding stock of such corpora-

tion does not qualify as a purchase under section 179(d)(2); nor does the purchase of property by a husband from his wife. However, the purchase of section 179 property by a taxpayer from his brother or sister does qualify as a purchase for purposes of section 179(d)(2).

(iii) The property is not acquired by purchase if acquired from a component member of a controlled group of corporations (as defined in paragraph (g) of this section) by another component member of the same group.

(iv) The property is not acquired by purchase if the basis of the property in the hands of the person acquiring it is determined in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or is determined under section 1014(a), relating to property acquired from a decedent. For example, property acquired by gift or bequest does not qualify as property acquired by purchase for purposes of section 179(d)(2); nor does property received in a corporate distribution the basis of which is determined under section 301(d)(2)(B), property acquired by a corporation in a transaction to which section 351 applies, property acquired by a partnership through contribution (section 723), or property received in a partnership distribution which has a carryover basis under section 732(a)(1).

(2) Property deemed to have been acquired by a new target corporation as a result of a section 338 election (relating to certain stock purchases treated as asset acquisitions) will be considered acquired by purchase.

(d) *Cost.* The cost of section 179 property does not include so much of the basis of such property as is determined by reference to the basis of other property held at any time by the taxpayer. For example, X Corporation purchases a new drill press costing \$10,000 in November 1984 which qualifies as section 179 property, and is granted a trade-in allowance of \$2,000 on its old drill press. The old drill press had a basis of \$1,200. Under the provisions of sections 1012 and 1031(d), the basis of the new drill press is \$9,200 (\$1,200 basis of old drill press plus cash expended of \$8,000). However, only \$8,000 of the basis of the

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new drill press qualifies as cost for purposes of the section 179 expense deduction; the remaining \$1,200 is not part of the cost because it is determined by reference to the basis of the old drill press.

(e) *Placed in service.* The term *placed in service* means the time that property is first placed by the taxpayer in a condition or state of readiness and availability for a specifically assigned function, whether for use in a trade or business, for the production of income, in a tax-exempt activity, or in a personal activity. See § 1.46-3(d)(2) for examples regarding when property shall be considered in a condition or state of readiness and availability for a specifically assigned function.

(f) *Controlled group of corporations and component member of controlled group.* The terms *controlled group of corporations* and *component member* of a controlled group of corporations shall have the same meaning assigned to those terms in section 1563 (a) and (b), except that the phrase “more than 50 percent” shall be substituted for the phrase “at least 80 percent” each place it appears in section 1563(a)(1).

[T.D. 8121, 52 FR 413, Jan. 6, 1987. Redesignated by T.D. 8455, 57 FR 61321, 61323, Dec. 24, 1992]

### § 1.179-5 Time and manner of making election.

(a) *Election.* A separate election must be made for each taxable year in which a section 179 expense deduction is claimed with respect to section 179 property. The election under section 179 and § 1.179-1 to claim a section 179 expense deduction for section 179 property shall be made on the taxpayer's first income tax return for the taxable year to which the election applies (whether or not the return is timely) or on an amended return filed within the time prescribed by law (including extensions) for filing the return for such taxable year. The election shall be made by showing as a separate item on the taxpayer's income tax return the following items:

- (1) The total section 179 expense deduction claimed with respect to all section 179 property selected, and
- (2) The portion of that deduction allocable to each specific item.

The person shall maintain records which permit specific identification of each piece of section 179 property and reflect how and from whom such property was acquired and when such property was placed in service. However, for this purpose a partner (or an S corporation shareholder) treats partnership (or S corporation) section 179 property for which section 179 expenses are allocated from a partnership (or an S corporation) as one item of section 179 property. The election to claim a section 179 expense deduction under this section, with respect to any property, is irrevocable and will be binding on the taxpayer with respect to such property for the taxable year for which the election is made and for all subsequent taxable years, unless the Commissioner consents to the revocation of the election. Similarly, the selection of section 179 property by the taxpayer to be subject to the expense deduction and apportionment scheme must be adhered to in computing the taxpayer's taxable income for the taxable year for which the election is made and for all subsequent taxable years, unless consent to change is given by the Commissioner.

(b) *Revocation.* Any election made under section 179, and any specification contained in such election, may not be revoked except with the consent of the Commissioner. Such consent will be granted only in extraordinary circumstances. Requests for consent must be filed with the Commissioner of Internal Revenue, Washington, DC 20224. The request must include the name, address, and taxpayer identification number of the taxpayer and must be signed by the taxpayer or his duly authorized representative. It must be accompanied by a statement showing the year and property involved, and must set forth in detail the reasons for the request.

[T.D. 8121, 52 FR 414, Jan. 6, 1987. Redesignated by T.D. 8455, 57 FR 61321, 61323, Dec. 24, 1992]

### § 1.179-6 Effective date.

The provisions of §§ 1.179-1 through 1.179-5 are effective for property placed in service in taxable years ending after January 25, 1993. However, a taxpayer may apply the provisions of §§ 1.179-1 through 1.179-5 to property placed in