

**§ 1.180-2**

used for farming purposes by the taxpayer or his tenant (although chargeable to capital account) are not subject to the election. The principles stated in §§ 1.175-3 and 1.175-4 are equally applicable under this section in determining whether the taxpayer is engaged in the business of farming and whether the land is used in farming.

(74 Stat. 1001, 26 U.S.C. 180)

[T.D. 6548, 26 FR 1486, Feb. 22, 1961]

**§ 1.180-2 Time and manner of making election and revocation.**

(a) *Election.* The claiming of a deduction on the taxpayer's return for an amount to which section 180 applies for amounts (otherwise chargeable to capital account) expended for fertilizer, lime, etc., shall constitute an election under section 180 and paragraph (a) of § 1.180-1. Such election shall be effective only for the taxable year for which the deduction is claimed.

(b) *Revocation.* Once the election is made for any taxable year such election may not be revoked without the consent of the district director for the district in which the taxpayer's return is required to be filed. Such requests for consent shall be in writing and signed by the taxpayer or his authorized representative and shall set forth:

- (1) The name and address of the taxpayer;
- (2) The taxable year to which the revocation of the election is to apply;
- (3) The amount of expenditures paid or incurred during the taxable year, or portions thereof (where applicable), previously taken as a deduction on the return in respect of which the revocation of the election is to be applicable; and
- (4) The reasons for the request to revoke the election.

(74 Stat. 1001, 26 U.S.C. 180)

[T.D. 6548, 26 FR 1486, Feb. 22, 1961]

**§ 1.182-1 Expenditures by farmers for clearing land; in general.**

Under section 182, a taxpayer engaged in the business of farming may elect, in the manner provided in § 1.182-6, to deduct certain expenditures paid or incurred by him in any taxable year beginning after December 31, 1962, in the clearing of land. The expenditures

to which the election applies are all expenditures paid or incurred during the taxable year in clearing land for the purpose of making the "land suitable for use in farming" (as defined in § 1.182-4) which are not otherwise deductible (exclusive of expenditures for or in connection with depreciable items referred to in paragraph (b)(1) of § 1.182-3), but only if such expenditures are made in furtherance of the taxpayer's business of farming. The term *expenditures* to which the election applies also includes a reasonable allowance for depreciation (not otherwise allowable) on equipment used in the clearing of land provided such equipment, if used in the carrying on of a trade or business, would be subject to the allowance for depreciation under section 167. (See paragraph (c) of § 1.182-3.) (See section 175 and the regulations thereunder for deductibility of certain expenditures for treatment or moving of earth by a farmer where the land already qualifies as land used in farming as defined in § 1.175-4.) The amount deductible for any taxable year is limited to the lesser of \$5,000 or 25 percent of the taxable income derived from farming (as defined in paragraph (a)(2) of § 1.182-5) during the taxable year. Expenditures paid or incurred in a taxable year in excess of the amount deductible under section 182 for such taxable year shall be treated as capital expenditures and shall constitute an adjustment to the basis of the land under section 1016(a).

[T.D. 6794, 30 FR 790, Jan. 26, 1965]

**§ 1.182-2 Definition of "the business of farming."**

Under section 182, the election to deduct expenditures incurred in the clearing of land is applicable only to a taxpayer who is engaged in "the business of farming" during the taxable year. A taxpayer is engaged in the business of farming if he cultivates, operates, or manages a farm for gain or profit, either as owner or tenant. For purposes of section 182, a taxpayer who receives a rental (either in cash or in kind) which is based upon farm production is engaged in the business of farming. However, a taxpayer who receives a fixed rental (without reference to production) is engaged in the business