

§ 1.190-1 Expenditures to remove architectural and transportation barriers to the handicapped and elderly.

(a) *In general.* Under section 190 of the Internal Revenue Code of 1954, a taxpayer may elect, in the manner provided in § 1.190-3 of this chapter, to deduct certain amounts paid or incurred by him in any taxable year beginning after December 31, 1976, and before January 1, 1980, for qualified architectural and transportation barrier removal expenses (as defined in § 1.190-2(b) of this chapter). In the case of a partnership, the election shall be made by the partnership. The election applies to expenditures paid or incurred during the taxable year which (but for the election) are chargeable to capital account.

(b) *Limitation.* The maximum deduction for a taxpayer (including an affiliated group of corporations filing a consolidated return) for any taxable year is \$25,000. The \$25,000 limitation applies to a partnership and to each partner. Expenditures paid or incurred in a taxable year in excess of the amount deductible under section 190 for such taxable year are capital expenditures and are adjustments to basis under section 1016(a). A partner must combine his distributive share of the partnership's deductible expenditures (after application of the \$25,000 limitation at the partnership level) with that partner's distributive share of deductible expenditures from any other partnership plus that partner's own section 190 expenditures, if any (if he makes the election with respect to his own expenditures), and apply the partner's \$25,000 limitation to the combined total to determine the aggregate amount deductible by that partner. In so doing, the partner may allocate the partner's \$25,000 limitation among the partner's own section 190 expenditures and the partner's distributive share of partnership deductible expenditures in any manner. If such allocation results in all or a portion of the partner's distributive share of a partnership's deductible expenditures not being an allowable deduction by the partner, the partnership may capitalize such unallowable portion by an appropriate adjustment to the basis of the relevant partnership property under section 1016. For pur-

poses of adjustments to the basis of properties held by a partnership, however, it shall be presumed that each partner's distributive share of partnership deductible expenditures (after application of the \$25,000 limitation at the partnership level) was allowable in full to the partner. This presumption can be rebutted only by clear and convincing evidence that all or any portion of a partner's distributive share of the partnership section 190 deduction was not allowable as a deduction to the partner because it exceeded that partner's \$25,000 limitation as allocated by him. For example, suppose for 1978 A's distributive share of the ABC partnership's deductible section 190 expenditures (after application of the \$25,000 limitation at the partnership level) is \$15,000. A also made section 190 expenditures of \$20,000 in 1978 which he elects to deduct. A allocates \$10,000 of his \$25,000 limitation to his distributive share of the ABC expenditures and \$15,000 to his own expenditures. A may capitalize the excess \$5,000 of his own expenditures. In addition, if ABC obtains from A evidence which meets the requisite burden of proof, it may capitalize the \$5,000 of A's distributive share which is not allowable as a deduction to A.

[T.D. 7634, 44 FR 43270, July 24, 1979]

§ 1.190-2 Definitions.

For purposes of section 190 and the regulations thereunder:

(a) *Architectural and transportation barrier removal expenses.* The term *architectural and transportation barrier removal expenses* means expenditures for the purpose of making any facility, or public transportation vehicle, owned or leased by the taxpayer for use in connection with his trade or business more accessible to, or usable by, handicapped individuals or elderly individuals. For purposes of this section:

(1) The term *facility* means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or similar real or personal property.

(2) The term *public transportation vehicle* means a vehicle, such as a bus, a railroad car, or other conveyance, which provides to the public general or