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Rev. Rul. 77-448

Advice has been requested whether tangible personal property, purchased and used for personal purposes and later converted to business use, qualifies for first-year additional depreciation for the year of conversion under section 179 of the Internal Revenue Code of 1954.

The taxpayers, husband and wife, purchased household furnishings in 1973 and 1974 for their personal use. In June 1975, they converted their personal residence, and these household furnishings to rental purposes.

Section 179(a) of the Internal Revenue Code of 1954 provides that in the case of section 179 property, the term "reasonable allowance" as used in section 167(a) may, at the election of the taxpayer, include an allowance, for the first taxable year for which a deduction is allowable under section 167 to the taxpayer with respect to property, of 20 percent of the cost of such property.

Section 179(d)(1) of the Code provides that the term "section 179 property" means tangible personal property of a character subject to the allowance for depreciation under section 167, acquired by purchase after December 31, 1957, for use in a trade or business or for holding for production of income, and with a useful life (determined at the time of such acquisition) of 6 years or more.

Section 1.167(g)-1 of the Income Tax Regulations provides that in the case of property that has not been used in the taxpayer's trade or business nor held by the taxpayer for the production of income and that is thereafter converted to such use, the basis upon which the allowance for depreciation is to be computed shall be the taxpayer's adjusted basis in such property unless the fair market value of the property on the date of such conversion is less.

In order to qualify for the additional first-year depreciation provided by section 179 of the Code, subsection (d)(1) requires that property be acquired by purchase for use in a trade or business. Here, when the property was acquired, it was not purchased for use in a trade or business, but was for personal use.

Accordingly, the personal property purchased and used for personal purposes and later converted to rental purposes does not qualify for the first-year additional depreciation allowable under section 179 of the Code.