



Tax Reduction Letter

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PLR 8104117

October 30, 1980

This is in reply to a letter written on your behalf by your authorized representative. In that letter five rulings were requested. At the present time we can only respond to ruling requests nos. 1, 3, and 4. See Rev. Proc. 80-20, 1980-26 I.R.B. 7 sections 5 and 8.

...(Taxpayer) has elected to be taxed as a small business corporation under section 1372 of the Internal Revenue Code.

Taxpayer's principal business is as a television commercial production company. Taxpayer contracts with various advertising agencies to produce television commercials. In connection with its activities as a production company, it hires a director, cameramen and performers. It seeks out various shooting locations to shoot the commercials. In this regard, personal residences of various homeowners are selected for daily rental where the principal photography will take place; often times are the shareholders of Taxpayer will rent their personal residence to Taxpayer for the day for the shooting.

The shooting generally begins in the early morning hours and ends in the mid-afternoon. The actual shooting is confined to a particular part of the house. (e.g.; kitchen, backyard, etc.) although the production crew has the right to use the entire house during the shooting.

In this request it is stated that not only will Taxpayer pay rent to outside third parties for rental of their homes but Taxpayer will also rent from and pay rent to ... for the use of his personal residence.

Section 162(a) of the Code allows as a deduction all the ordinary and necessary business expenses of carrying on a trade or business. Section 162(a)(3) allows as a deduction rentals or other payments required to be made for the benefit or continued use of property used in a business, assuming the property is not owned by the taxpayer and title will not be acquired as a result of the rental payments.

Section 280A(g) of the Code states, in pertinent part, that if a dwelling unit is used during the taxable year by the taxpayer as a residence, and such dwelling unit is actually rented for less than 15 days during the taxable year then no deduction otherwise allowable because of the rental use of such dwelling unit shall be allowed and the income derived from such use for the taxable year shall not be included in the gross income of such taxpayer under section 61 of the Code.

Based solely on the information submitted it is concluded that:

(1) The payment of rent to an unrelated party under the arrangement described above will be deductible as an ordinary and necessary business expense by Taxpayer under section 162(a) of the Code.

(2) The payment of rent by Taxpayer to ... under the arrangement described above will be deductible as an ?? and necessary business expense under section 162(a) of the Code to the

extent the amount of such payment is customary in the industry (i.e.; is equal to the fair rental value of the residence for the use described herein).

In accordance with section 280A(g) of the Code, if the residence is rented for less than 15 days, the taxpayer, ... may not deduct any expenses incurred with regard to the rental of his residence to Taxpayer and he need not include the income earned from this rental in his gross income.

A copy of this letter should be attached to your federal income tax return for the year in which the transaction discussed therein is consummated. Accordingly a copy is enclosed for that purpose.

In accordance with the power of attorney on file, we are sending a copy of this letter to your authorized representative.

This ruling is directed only to the taxpayer who requested it. Section 6110(j)(3) of the Code provides that it may not be used or cited as precedent.