26 CFR 601.201: Rulings and determination letters. (Also Part I, §§ 162, 167, 197, 446, 481; 1.162–11, 1.167(a)–14, 1.197–2, 1.446–1.)

REV. PROC. 2000–50

SECTION 1. PURPOSE

This revenue procedure provides guidelines on the treatment of the costs of computer software.

SECTION 2. DEFINITION

For the purpose of this revenue procedure, "computer software" is any program or routine (that is, any sequence of machine-readable code) that is designed to cause a computer to perform a desired function or set of functions, and the documentation required to describe and maintain that program or routine. It includes all forms and media in which the software is contained, whether written, magnetic, or otherwise. Computer programs of all classes, for example, operating systems, executive systems, monitors, compilers and translators, assembly routines, and utility programs as well as application programs, are included. Computer software also includes any incidental and ancillary rights that are necessary to effect the acquisition of the title to, the ownership of, or the right to use the computer software, and that are used only in connection with that specific computer software. Computer software does not include any data or information base described in § 1.197–2(b)(4) of the Income Tax Regulations (for example, data files, customer lists, or client files) unless the data base or item is in the public domain and is incidental to a computer program. Nor does it include any cost of procedures that are external to the computer's operation.

SECTION 3. BACKGROUND

.01 In the preamble to the final regulations issued January 25, 2000, under §§ 167(f) and 197 of the Internal Revenue Code (T.D. 8865, 2000–7 I.R.B. 589), the Internal Revenue Service advised taxpayers that they may not rely on the procedures in Rev. Proc. 69–21, 1969–2 C.B. 303, to the extent the procedures are inconsistent with § 167(f) or § 197, or the final regulations thereunder.

.02 Except as otherwise expressly provided, §§ 446(e) and 1.446–1(e) provide that a taxpayer must obtain the consent of the Commissioner of Internal Revenue before changing a method of accounting for federal income tax purposes. Section 1.446–1(e)(3)(ii) authorizes the Commissioner to prescribe administrative procedures setting forth the limitations, terms, and conditions deemed necessary to permit a taxpayer to obtain consent to change a method of accounting.

SECTION 4. SCOPE

This revenue procedure applies to all costs of computer software as defined in section 2 of this revenue procedure. This revenue procedure does not apply to any computer software that is subject to amortization as an "amortizable section 197 intangible" as defined in § 197(c) and the regulations thereunder, or to costs that a taxpayer has treated as a research and experimentation expenditure under § 174.

SECTION 5. COSTS OF DEVELOPING COMPUTER SOFTWARE

.01 The costs of developing computer software (whether or not the particular software is patented or copyrighted) in many respects so closely resemble the kind of research and experimental expenditures that fall within the purview of § 174 as to warrant similar accounting treatment. Accordingly, the Service will not disturb a taxpayer's treatment of costs paid or incurred in developing software for any particular project, either for the taxpayer's own use or to be held by the taxpayer for sale or lease to others, where:

(1) All of the costs properly attributable to the development of software by the taxpayer are consistently treated as current expenses and deducted in full in accordance with rules similar to those applicable under § 174(a); or

(2) All of the costs properly attributable to the development of software by the taxpayer are consistently treated as capital expenditures that are recoverable through deductions for ratable amortization, in accordance with rules similar to those provided by § 174(b) and the regulations thereunder, over a period of 60 months from the date of completion of the development or, in accordance with rules provided in § 167(f)(1) and the regulations thereunder, over 36 months from the date the software is placed in service.

SECTION 6. COSTS OF ACQUIRED COMPUTER SOFTWARE

.01 With respect to costs of acquired computer software, the Service will not disturb the taxpayer's treatment of:

(1) Costs that are included, without being separately stated, in the cost of the hardware (computer) if the costs are consistently treated as a part of the cost of the hardware that is capitalized and depreciated; or

(2) Costs that are separately stated if the costs are consistently treated as capital expenditures for an intangible asset the cost of which is to be recovered by amortization deductions ratably over a period of 36 months beginning with the month the software is placed in service, in accordance with the rules under § 167(f)(1). *See* § 1.167(a)–14(b)(1).

SECTION 7. LEASED OR LICENSED COMPUTER SOFTWARE

Where a taxpayer leases or licenses computer software for use in the taxpayer's trade or business, the Service will not disturb a deduction properly allowable under the provisions of § 1.162–11 as rental. However, an amount described in § 1.162–11 is not currently deductible if, without regard to § 1.162–11, the amount is properly chargeable to capital account. *See* § 1.197–2(a)(3).

SECTION 8. APPLICATION

.01 A change in a taxpayer's treatment of costs paid or incurred to develop, purchase, lease, or license computer software to a method described in section 5, 6, or 7 of this revenue procedure is a change in method of accounting to which §§ 446 and 481 apply. However, a change in useful life under the method described in section 5.01(2) or 6.01(2) of this revenue procedure is not a change in method of accounting. Section 1.446–1(e)(2)(ii)(*b*).

.02 A taxpayer that wants to change the taxpayer's method of accounting under this revenue procedure must follow the automatic change in method of accounting provisions in Rev. Proc. 99–49, 1999–2 C.B. 725 (or its successor), with the following modifications:

(1) In order to assist the Service in processing changes in method of accounting under this section and to ensure proper handling, section 6.02(3)(a) of Rev. Proc. 99–49 is modified to require that a Form 3115, Application for Change in Accounting Method, filed under this section include the statement: "Automatic Change Filed Under Section 8.01 of Rev. Proc. 2000–50." This statement must be legibly printed or typed at the top of any Form 3115 filed under this revenue procedure.

(2) If a taxpayer is changing to the method described in section 5.01(2) of this revenue procedure, the taxpayer must attach a statement to the Form 3115 stating whether the taxpayer is choosing the 60-month period from the date of completion of the development of the software, or the 36-month period from the placed-in-service date of the software.

.03 For taxable years ending on or after December 1, 2000, the Service will not disturb the taxpayer's treatment of costs of computer software that are handled in accordance with the practices described in this revenue procedure.

.04 For taxable years ending prior to December 1, 2000, the Service will not disturb the taxpayer's treatment of costs of computer software except to the extent that the taxpayer's treatment is markedly inconsistent with the practices described in this revenue procedure. For the purpose of applying the preceding sentence to costs described in section 5 of this revenue procedure, the absence of any formal election similar to that required by § 174 or the amortization of capitalized software costs over a period shorter than the 5-year period specified in § 174(b) (but not less than 36 months for costs paid or incurred after August 10, 1993, or, if a valid retroactive election has been made under § 1.197–1T, July 25, 1991) will not characterize the taxpayer's treatment of the costs as markedly inconsistent with the principles of this revenue procedure. In addition, the amortization of acquired software described in section 6 of this revenue procedure treated as an intangible asset over a period of 60 months or less, but in no case less than 36 months for costs paid or incurred after August 10, 1993 (or after July 25, 1991, if a valid retroactive election has been made under § 1.197–1T) will not characterize the taxpayer's treatment of these costs as markedly inconsistent with the principles of this revenue procedure.

SECTION 9. EFFECT ON OTHER DOCUMENTS

.01 Rev. Proc. 69–21, 1969–1 C.B. 303, is superseded.

.02 Rev. Proc. 97–50, 1997–2 C.B. 525, is modified by deleting all references to Rev. Proc. 69–21 and replacing them with references to this revenue procedure. Section 3 of Rev. Proc. 97–50 is modified by deleting references to section 3, section 4, and section 5 of Rev. Proc. 69–21, and replacing them with references to section 5, section 6, and section 7 of this revenue procedure.

.03 Rev. Proc. 99–49 is modified and amplified to include this accounting method change in the APPENDIX.

.04 Section 1.02 of the APPENDIX of Rev. Proc. 99–49 is modified by deleting all references to Rev. Proc. 69–21 and replacing them with references to this revenue procedure.

SECTION 10. EFFECTIVE DATE

This revenue procedure is effective for a Form 3115 filed on or after December 1, 2000, for taxable years ending on or after December 1, 2000. The Service will return any Form 3115 that is filed on or after December 1, 2000, for taxable years ending on or after December 1, 2000, if the Form 3115 is filed with the national office pursuant to the Code, regulations, or administrative guidance other than this revenue procedure and the change in method of accounting is within the scope of this revenue procedure.

DRAFTING INFORMATION

The principal author of this revenue procedure is John Huffman of the Office of the Associate Chief Counsel (Passthroughs & Special Industries). For further information regarding this revenue procedure, contact Mr. Huffman at (202) 622-3110 (not a toll-free call).

Social Security Contribution and Benefit Base for 2001

Under authority contained in the Social Security Act ("the Act"), the Commissioner, Social Security Administration, has determined and announced (65 F.R. 63663, dated October 24, 2000) that the contribution and benefit base for remuneration paid in 2001, and self-employment income earned in taxable years beginning in 2001 is $80,400.

"Old-Law" Contribution and Benefit Base

General

The "old-law" contribution and benefit base for 2001 is $59,700. This is the base that would have been effective under the Act without the enactment of the 1977 amendments. We compute the base under section 230(b) of the Act as it read prior to the 1977 amendments.

The "old-law" contribution and benefit base is used by:

(a) The Railroad Retirement program to determine certain tax liabilities and tier II benefits payable under that program to supplement the tier I payments which correspond to basic Social Security benefits,

(b) The Pension Benefit Guaranty Corporation to determine the maximum amount of pension guaranteed under the Employee Retirement Income Security Act (as stated in section 230(d) of the Social Security Act),

(c) Social Security to determine a year of coverage in computing the special minimum benefit, as described earlier, and

(d) Social Security to determine a year of coverage (acquired whenever earnings equal or exceed 25 percent of the "old-law'' base for this purpose only) in computing benefits for persons who are also eligible to receive pensions based on employment not covered under section 210 of the Act.

Domestic Employee Coverage Threshold

General

Section 2 of the "Social Security Domestic Employment Reform Act of 1994'' (Pub. L. 103–387) increased the threshold for coverage of a domestic employee's

wages paid per employer from $50 per calendar quarter to $1,000 per annum in calendar year 1994. The statute held the coverage threshold at the $1,000 level for 1995 and then increased the threshold in $100 increments for years after 1995. Section 3121(x) of the Internal Revenue Code provides the formula for increasing the threshold.

Computation

Under the formula, the domestic employee coverage threshold amount for 2001 shall be equal to the 1995 amount of $1,000 multiplied by the ratio of the national average wage index for 1999 to that for 1993. If the resulting amount is not a multiple of $100, it shall be rounded to the next lower multiple of $100.

Domestic Employee Coverage Threshold Amount

The ratio of the national average wage index for 1999, $30,469.84, compared to that for 1993, $23,132.67, is 1.3171778. Multiplying the 1995 domestic employee coverage threshold amount of $1,000 by the ratio of 1.3171778 produces the amount of $1,317.18, which must then be rounded to $1,300. Accordingly, the domestic employee coverage threshold amount is $1,300 for 2001.

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