



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF
CHIEF COUNSEL

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September 7, 2006

Dear _____ :

I am responding to your e-mail message to _____ . _____ wrote to us on your behalf and asked us to respond directly to your question about the 50 percent additional first year depreciation deduction under section 1400N(d) of the Internal Revenue Code (the Code).

The Gulf Opportunity Zone Act of 2005 (GOZA) amended the Code to help people affected by Hurricanes Katrina, Rita, and Wilma. Section 101 of the GOZA added section 1400N(d) of the Code, which generally allows a 50 percent additional first year depreciation deduction for qualified Gulf Opportunity (GO) Zone property. On August 14, 2006, we published Notice 2006-67, 2006-33 I.R.B. 248, to provide guidance under section 1400N(d).

This Notice provides that GO Zone property is depreciable property that meets all of the following requirements:

- The property is described in sections 168(k)(2)(A)(i) of the Code and 1.168(k)-1T(b)(2)(i) of the Income Tax Regulations, or the property is nonresidential real property or residential rental property and depreciated under section 168 of the Code
- The use of the property is substantially all in the GO Zone and in the active conduct of a trade or business by the taxpayer in the GO Zone
- The original use of the property commences with the taxpayer in the GO Zone on or after August 28, 2005
- The taxpayer acquired the property by purchase on or after August 28, 2005, but

only if no written binding contract for the acquisition of the property was in effect before August 28, 2005

- The property is placed in service by the taxpayer on or before December 31, 2007 (December 31, 2008, in the case of qualified nonresidential real property and residential rental property).

Regarding the active conduct requirement, we generally consider a taxpayer to actively conduct a trade or business if the taxpayer meaningfully participates in managing or operating the trade or business (section 3.02 of Notice 2006-67). The term "trade or business" has the same meaning as in section 162 of the Code, so property the taxpayer holds merely for the production of income does not qualify for the 50 percent additional first year depreciation deduction for GO Zone property. We determine whether a taxpayer is using rental property in a trade or business after considering all the facts and circumstances. Similarly, we determine whether a taxpayer is actively conducting a trade or business based on all facts and circumstances. I am enclosing a copy of Notice 2006-67.

I hope this information is helpful. If you have any questions, please contact _____, Identification Number _____, at (____) _____.

Sincerely,

Charles B. Ramsey

Charles B. Ramsey
Branch Chief, Branch 6
(Passthroughs and Special Industries)

Enclosure

cc: