IRS Reassures Nursery Growers About Farming Exception

Announcement 97–120

This announcement confirms that recently issued proposed regulations specifically permit nursery growers to qualify

for the "farming exception" to the uniform capitalization rules under § 263A of the Internal Revenue Code. In recent weeks, the Internal Revenue Service has received numerous form letters from nursery growers expressing concern that they would no longer be eligible for the farming exception as a result of the proposed regulations. However, as Service and Treasury officials stated at a November 19, 1997, public hearing, these proposed regulations did not change who is eligible for the farming exception.

Under § 263A(d), enacted by the Tax Reform Act of 1986, the farming exception to the uniform capitalization rules is available for certain plants "produced" (*e.g.*, grown) in a farming business. Thus, the regulations permit nursery growers using the farming exception to deduct the costs of seeds and young plants purchased for further development and cultivation prior to sale, as well as the costs of growing the plants. Under the regulations, nursery growers using the farming exception are permitted to deduct these costs even if the plants are partly grown by another person or are grown by the nursery in temporary containers. Because the statutory exception only applies to the costs of plants "produced" in a farming business, the exception cannot be used for costs incurred by a taxpayer in activities in which the taxpayer does not grow plants, but merely buys and resells plants grown entirely by others. An example will be added to the final regulations to illustrate these points.