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MEMORANDUM FOR	ALL LB&I EMPLOYEES
FROM:	Heather C. Maloy /s/ Douglas W. O'Donnell for Heather C. Maloy Commissioner, Large Business & International Division
SUBJECT:	Large Business & International Directive on the I.R.C. § 199 Definition of “Manufactured, Produced, Grown, or Extracted”

PURPOSE

This Directive provides direction to the Large Business & International (LB&I) examiners on what activities meet the definition of “manufactured, produced, grown, or extracted” (MPGE) under Treas. Reg. § 1.199-3(e) for the Domestic Production Deduction under I.R.C. § 199.

This Directive is not an official pronouncement of law, and cannot be used, cited, or relied on as such. In addition, nothing in this Directive should be construed as affecting the operation of any other provision of the Code, regulations, or guidance thereunder.

BACKGROUND

In general, I.R.C. § 199 provides a deduction for certain income attributable to domestic production activities. To be eligible for the deduction, among other requirements, a taxpayer must determine that it had manufactured, produced, grown, or extracted (MPGE)¹ the qualified property² in whole or in significant part within the United States.

SCOPE OF GUIDANCE

This Directive provides guidance to examiners on whether certain activities meet the definition of MPGE. In order to claim the deduction, the taxpayer must also meet all of the other requirements of I.R.C. § 199 and the relevant regulations.

¹ MPGE is defined in Treas. Reg. § 1.199-3(e)(1) and illustrated in the examples under Treas. Reg. § 1.199-3(e)(5).

² See I.R.C. § 199(c)(5).

EXAMINATION GUIDANCE

Taxpayers may not claim I.R.C. § 199 deductions when their activities fall outside the definition of MPGE in Treas. Reg. § 1.199-3(e). Examples of activities that are generally not MPGE include the following activities performed at a retail level:

- (1) cutting blank keys to a customer's specification;
- (2) mixing base paint and a paint coloring agent;
- (3) applying garnishments to cake that is not baked where sold;
- (4) applying gas to agricultural products to slow or expedite fruit ripening;
- (5) storing agricultural products in a controlled environment to extend shelf life; and
- (6) maintaining plants and seedlings.

Other similar activities may be non-MPGE activities, depending on the specific facts and circumstances of the taxpayer's activities, processes through which the activities are performed, and the taxpayer's industry. LB&I examiners are encouraged to contact the Corporate Income & Losses Issue Practice Group (CIL IPG) if, in the cases assigned to them, a taxpayer claims I.R.C. § 199 deductions for activities that are different from but similar to those described in this Directive. This will enable LB&I to expand the list of non-MPGE activities as appropriate.

CONTACT

Questions concerning this Directive should be directed to the Corporate Income and Loss Issue Practice Group.

cc: Division Counsel, LB&I
Chief, Appeals
Commissioner, Small Business/Self-Employed Division