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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9564]

RIN 1545-BJ93

Guidance Regarding Deduction and Capitalization of Expenditures Related to Tangible Property

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Technical amendments.

SUMMARY: This document contains amendments to temporary regulations relating to guidance regarding deduction and capitalization of expenditures related to tangible property. These amendments change the applicability dates of the temporary regulations to taxable years beginning on or after January 1, 2014, while permitting taxpayers to choose to apply the temporary regulations for taxable years beginning on or after January 1, 2012. The amendments to the temporary regulations will affect all taxpayers that acquire, produce, or improve tangible property.

DATES: These amendments are effective **[INSERT DATE OF PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Concerning §§1.162-3T, 1.162-4T, 1.162-11T, 1.263(a)-1T, 1.263(a)-2T, 1.263(a)-3T, and 1.263(a)-6T, Merrill D. Feldstein or Alan S. Williams, Office of Associate Chief Counsel (Income Tax & Accounting), (202) 622-4950 (not a toll-free call); Concerning §§1.165-2T,

1.167(a)-4T, 1.167(a)-7T, 1.167(a)-8T, 1.168(i)-1T, 1.168(i)-7T, 1.168(i)-8T, 1.263A-1T, and 1.1016-3T, Kathleen Reed or Patrick Clinton, Office Associate Chief Counsel (Income Tax & Accounting), (202) 622-4930 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations that are the subject of these amendments are under sections 162, 165, 167, 168, 263, 263A, and 1016 of the Internal Revenue Code. The temporary regulations (TD 9564) were published in the **Federal Register** on Tuesday, December 27, 2011 (76 FR 81060). Because the temporary regulations are applicable to taxable years beginning on or after January 1, 2012, the IRS and the Treasury Department are concerned that taxpayers are expending resources to comply with temporary regulations that may not be consistent with forthcoming final regulations. For more information about the temporary regulations and these amendments, see Notice 2012-73, which is in IRB 2012-51.

Taxpayers choosing to apply the provisions of the temporary regulations to taxable years beginning on or after January 1, 2012, may continue to rely on the procedures by which a taxpayer may obtain the automatic consent of the Commissioner of Internal Revenue to change its methods of accounting provided in Revenue Procedures 2012-19 (2012-14 IRB 689), and 2012-20 (2012-14 IRB 700), both of which are available at IRS.gov.

Need for amendments

For the reasons discussed, the IRS and the Treasury Department have decided to amend the applicability dates of the temporary regulations.

List of Subjects in 26 CFR part 1

Income taxes, Reporting and recordkeeping requirements

Amendments of publication

Accordingly, 26 CFR Part 1 is amended by making the following technical amendments.

PART 1--INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.168(i)-1T also issued under 26 U.S.C. 168(i)(4). * * *

Par. 2. Section 1.162-3T is amended by revising paragraph (j) to read as follows:

§1.162-3T Materials and supplies (temporary)

* * * * *

(j) Effective/applicability date--(1) In general. This section generally applies to amounts paid or incurred (to acquire or produce property) in taxable years beginning on or after January 1, 2014. However, a taxpayer may apply paragraph (e) of this section (the optional method of accounting for rotatable and temporary spare parts) to taxable years beginning on or after January 1, 2014. Section 1.162-3 as contained in 26 CFR part 1 edition revised as of April 1, 2011, applies to taxable years beginning before January 1, 2014.

(2) Optional early application. Except for paragraph (e) of this section, a taxpayer may choose to apply this section to amounts paid or incurred (to acquire or produce property) in taxable years beginning on or after January 1, 2012. A taxpayer may choose to apply paragraph (e) of this section (the optional method of accounting for rotatable and temporary spare parts) to taxable years beginning on or after January 1, 2012.

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Par. 3. Section 1.162-4T is amended by revising paragraph (c) to read as follows:

§1.162-4T Repairs (temporary).

* * * * *

(c) Effective/applicability date--(1) In general. This section applies to taxable years beginning on or after January 1, 2014. Section 1.162-4 as contained in 26 CFR part 1 edition revised as of April 1, 2011, applies to taxable years beginning before January 1, 2014.

(2) Optional early application. A taxpayer may choose to apply this section to taxable years beginning on or after January 1, 2012.

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Par. 4. Section 1.162-11T is amended by revising paragraph (c) to read as follows:

§1.162-11T Rentals (temporary).

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(c) Effective/applicability date--(1) In general. This section applies to taxable years beginning on or after January 1, 2014. Section 1.162-11 as contained in 26 CFR part 1 edition revised as of April 1, 2011, applies to taxable years beginning before January 1, 2014.

(2) Optional early application. A taxpayer may choose to apply this section to taxable years beginning on or after January 1, 2012.

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Par. 5. Section 1.165-2T is amended by revising paragraph (d) to read as follows:

§1.165-2T Obsolescence of nondepreciable property (temporary).

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(d) Effective/applicability date--(1) In general. This section applies to taxable years beginning on or after January 1, 2014. Section 1.165-2 as contained in 26 CFR part 1 edition revised as of April 1, 2011, applies to taxable years beginning before January 1, 2014.

(2) Optional early application. A taxpayer may choose to apply this section to taxable years beginning on or after January 1, 2012.

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Par. 6. Section 1.167(a)-4T is amended by:

1. Revising paragraph (b)(1).

2. Revising the heading and introductory text to paragraph (b)(2).

The revisions read as follows:

§1.167(a)-4T Leased property (temporary).

* * * * *

(b) * * *

(1) In general. Except as provided in paragraphs (b)(2) and (b)(3) of this section, this section applies to taxable years beginning on or after January 1, 2014.

(2) Application of this section to leasehold improvements placed in service after December 31, 1986, in taxable years beginning before January 1, 2014.

For leasehold improvements placed in service after December 31, 1986, in taxable years beginning before January 1, 2014, a taxpayer may--

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Par. 7. Section 1.167(a)-7T is amended by revising paragraph (f) to read as follows:

§1.167(a)-7T Accounting for depreciable property (temporary).

* * * * *

(f) Effective/applicability date--(1) In general. This section applies to taxable years beginning on or after January 1, 2014. Section 1.167(a)-7 as contained in 26 CFR part 1 edition revised as of April 1, 2011, applies to taxable years beginning before January 1, 2014.

(2) Optional early application. A taxpayer may choose to apply this section to taxable years beginning on or after January 1, 2012.

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Par. 8. Section 1.167(a)-8T is amended by revising paragraph (h) to read as follows:

§1.167(a)-8T Retirements (temporary).

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(h) Effective/applicability date--(1) In general. This section applies to taxable years beginning on or after January 1, 2014. Section 1.167(a)-8 as contained in 26 CFR part 1 edition revised as of April 1, 2011, applies to taxable years beginning before January 1, 2014.

(2) Optional early application. A taxpayer may choose to apply this section to taxable years beginning on or after January 1, 2012.

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- Par. 9. Section 1.168(i)-1T is amended by:
1. Revising paragraph (m)(1).
 2. Redesignating paragraph (m)(3) as paragraph (m)(4).
 3. Redesignating paragraph (m)(2) as paragraph (m)(3) and adding new paragraph (m)(2).
 4. In redesignated paragraph (m)(3), last sentence, the language “paragraph (m)(2)” is removed and “paragraph (m)(3)” is added in its place.

The revision and addition read as follows:

§1.168(i)-1T General asset accounts (temporary).

* * * * *

(m) * * *

(1) In general. This section applies to taxable years beginning on or after January 1, 2014. Section 1.168(i)-1 as contained in 26 CFR part 1 edition revised as of April 1, 2011, applies to taxable years beginning before January 1, 2014.

(2) Optional early application. A taxpayer may choose to apply this section to taxable years beginning on or after January 1, 2012.

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Par. 10. Section 1.168(i)-7T is amended by:

1. Revising paragraph (e)(1).
2. Redesignating paragraph (e)(3) as paragraph (e)(4).
3. Redesignating paragraph (e)(2) as paragraph (e)(3) and adding new paragraph (e)(2).

The revision and addition read as follows:

§1.168(i)-7T Accounting for MACRS property (temporary).

* * * * *

(e) * * *

(1) In general. This section applies to taxable years beginning on or after January 1, 2014.

(2) Optional early application. A taxpayer may choose to apply this section to taxable years beginning on or after January 1, 2012.

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Par. 11. Section 1.168(i)-8T is amended by:

1. Revising paragraph (i)(1).
2. Redesignating paragraph (i)(3) as paragraph (i)(4).
3. Redesignating paragraph (i)(2) as paragraph (i)(3) and adding new paragraph (i)(2).

The revision and addition read as follows:

§1.168(i)-8T Dispositions of MACRS property (temporary).

* * * * *

(i) * * *

(1) In general. This section applies to taxable years beginning on or after January 1, 2014.

(2) Optional early application. A taxpayer may choose to apply this section to taxable years beginning on or after January 1, 2012.

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Par. 12. Section 1.263(a)-0T is amended by:

1. Adding new entries in the table of contents for §1.263(a)-1T(g)(1) and (g)(2).

2. Adding new entries in the table of contents for §1.263(a)-2T(k)(1) and (k)(2).

3. Adding new entries in the table of contents for §1.263(a)-3T(p)(1) and (p)(2).

The additions read as follows:

§1.263(a)-0T Table of Contents (temporary).

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§1.263(a)-1T Capital expenditures; in general (temporary).

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(g) * * *

(1) In general.

(2) Optional early application.

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§1.263(a)-2T Amounts paid to acquire or produce tangible property (temporary).

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(k) * * *

(1) In general.

(2) Optional early application.

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§1.263(a)-3T Amounts paid to improve tangible property (temporary).

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(p) * * *

(1) In general.

(2) Optional early application.

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§1.263(a)-1T [Amended]

Par. 13. Section 1.263(a)-1T is amended by revising paragraph (g) to read as follows:

§1.263(a)-1T Capital expenditures; in general (temporary).

* * * * *

(g) Effective/applicability date--(1) In general. This section applies to taxable years beginning on or after January 1, 2014. Section 1.263(a)-1 as contained in 26 CFR part 1 edition revised as of April 1, 2011, applies to taxable years beginning before January 1, 2014.

(2) Optional early application. A taxpayer may choose to apply this section to taxable years beginning on or after January 1, 2012.

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Par. 14. Section 1.263(a)-2T is amended by revising paragraph (k) to read as follows:

§1.263(a)-2T Amounts paid to acquire or produce tangible property (temporary).

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(k) Effective/applicability date--(1) In general. Except for paragraphs (f)(2)(iii), (f)(2)(iv), (f)(3)(ii), and (g) of this section, this section generally applies to taxable years beginning on or after January 1, 2014. Paragraphs (f)(2)(iii), (f)(2)(iv), (f)(3)(ii), and (g) of this section apply to amounts paid or incurred (to acquire or produce property) in taxable years beginning on or after January 1, 2014. Section 1.263(a)-2 as contained in 26 CFR part 1 edition revised as of April 1, 2011, applies to taxable years beginning before January 1, 2014.

(2) Optional early application. Except for paragraphs (f)(2)(iii), (f)(2)(iv), (f)(3)(ii), and (g) of this section, a taxpayer may choose to apply this section to taxable years beginning on or after January 1, 2012. A taxpayer may choose to apply paragraphs (f)(2)(iii), (f)(2)(iv), (f)(3)(ii), and (g) of this section to amounts

paid or incurred (to acquire or produce property) in taxable years beginning on or after January 1, 2012.

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Par. 15. Section 1.263(a)-3T is amended by revising paragraph (p) to read as follows:

§1.263(a)-3T Amounts paid to improve tangible property (temporary).

* * * * *

(p) Effective/applicability date--(1) In general. This section applies to taxable years beginning on or after January 1, 2014. Section 1.263(a)-3 as contained in 26 CFR part 1 edition revised as of April 1, 2011, applies to taxable years beginning before January 1, 2014.

(2) Optional early application. A taxpayer may choose to apply this section to taxable years beginning on or after January 1, 2012.

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Par. 16. Section 1.263(a)-6T is amended by revising paragraph (c) to read as follows:

§1.263(a)-6T Election to deduct or capitalize certain expenditures (temporary).

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(c) Effective/applicability date--(1) In general. This section applies to taxable years beginning on or after January 1, 2014. Section 1.263(a)-3 as contained in 26 CFR part 1 edition revised as of April 1, 2011, applies to taxable

years beginning before January 1, 2014. For the effective dates of the enumerated election provisions, see those Internal Revenue Code sections and the regulations thereunder.

(2) Optional early application. A taxpayer may choose to apply this section to taxable years beginning on or after January 1, 2012.

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Par. 17. Section 1.263A-1T is amended by:

1. Revising paragraph (m)(2).
2. Redesignating paragraph (m)(3) as paragraph (n).

The revision reads as follows:

§1.263A-1T Uniform capitalization of costs (temporary).

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(m) * * *

(2) Paragraph (b)(14), the introductory phrase of paragraph (c)(4), the last sentence of paragraphs (e)(2)(i)(A) and (e)(2)(ii)(E), paragraph (l), and paragraph (m)(2) of this section apply to amounts paid or incurred (to acquire or produce property) in taxable years beginning on or after January 1, 2014. Section 1.263A-1 as contained in 26 CFR part 1 edition revised as of April 1, 2011, applies to taxable years beginning before January 1, 2014. A taxpayer may choose to apply paragraph (b)(14), the introductory text of paragraph (c)(4), the last sentence of paragraphs (e)(2)(i)(A) and (e)(2)(ii)(E), and paragraph (l) of this

section to amounts paid or incurred (to acquire or produce property) in taxable years beginning on or after January 1, 2012.

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Par. 18. Section 1.1016-3T is amended by revising paragraph (j)(3) to read as follows:

§1.1016-3T Exhaustion, wear and tear, obsolescence, amortization, and depletion for periods since February 13, 1913 (temporary).

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(j)* * *

(3) Application of §1.1016-3T(a)(1)(ii)--(i) In general. Paragraph (a)(1)(ii) of this section applies to taxable years beginning on or after January 1, 2014. Section 1.1016-3(a)(1)(ii) as contained in 26 CFR part 1 edition revised as of April 1, 2011, applies to taxable years beginning before January 1, 2014.

(ii) Optional early application. A taxpayer may choose to apply paragraph (a)(1)(ii) of this section to taxable years beginning on or after January 1, 2012.

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