



DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 10034]

RIN 1545-BN93

Interest Capitalization Requirements for Improvements that constitute Designated Property

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final rule.

SUMMARY: This document contains final regulations that, with regard to the interest capitalization requirements for improvements constituting designated property, remove the associated property rule and similar rules from the existing regulations. In addition, this document contains final regulations that modify the definition of “improvement” for purposes of applying those existing regulations. Lastly, this document contains final regulations that modify other rules in those existing regulations in light of the removal of the associated property rule. The final regulations affect taxpayers making improvements to real or tangible personal property that constitute the production of designated property.

DATES: *Effective date:* These regulations are effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

Applicability date: For the applicability date, see § 1.263A-15(a)(6).

FOR FURTHER INFORMATION CONTACT: Elizabeth Boone or Max Fishman of the Office of the Associate Chief Counsel (Income Tax and Accounting) at (202) 317-7007 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Authority

This document amends the regulations under section 263A(f) of the Internal Revenue Code (Code) regarding the interest capitalization requirements for improvements that constitute the production of designated property under § 1.263A-8 (final regulations). The final regulations are issued under the express delegation of authority to the Secretary of the Treasury or the Secretary's delegate (Secretary) under section 263A(j), which provides, in part, that "[t]he Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of [section 263A]." The final regulations are also issued under the express delegation of authority to the Secretary under section 7805(a) of the Code, which provides that "the Secretary shall prescribe all needful rules and regulations for the enforcement of [the Code], including all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue."

Background and Summary of Comments

On May 15, 2024, the Department of the Treasury (Treasury Department) and the IRS published in the **Federal Register** (89 FR 42404) a notice of proposed rulemaking (REG-133850-13) proposing amendments to regulations under 26 CFR part 1 (proposed regulations). The proposed regulations would remove the "associated property rule" and similar rules in § 1.263A-11(e) from the interest capitalization requirements for improvements that constitute the production of designated property under section 263A(f) and § 1.263A-8(d)(3). In addition, the proposed regulations would modify the mid-production purchases rule of § 1.263A-11(f) to clarify that the rule applies only to property purchased and further produced before it is placed in service. Finally, the proposed regulations would amend § 1.263A-8(d)(3) to update the definition of "improvement" so that it is consistent with the definition of "improvement" in § 1.263(a)-3, including the exceptions, safe harbors, and elections provided under §

1.263(a)-3.

On July 24, 2024, the Treasury Department and the IRS published a correction to the proposed regulations in the **Federal Register** (89 FR 59864) to amend a citation error in the preamble of REG-133850-13. No public hearing was requested or held on the proposed regulations.

The Treasury Department and the IRS received two comments in response to the notice of proposed rulemaking. Both comments are available at <https://www.regulations.gov> or upon request. The first comment did not address the proposed regulations. The second comment expressed support for the proposed regulations without suggesting any modifications to the proposed regulations. Accordingly, this Treasury Decision adopts the proposed regulations as final regulations with only minor, clarifying changes. Specifically, the final regulations make minor changes to proposed § 1.263A-8(d)(3)(i) to clarify the scope of improvements that constitute the “production of property” for purposes of determining whether any such improvement is designated property under § 1.263A-8.

Special Analyses

I. Regulatory Planning and Review

The Office of Management and Budget's Office of Information and Regulatory Analysis has determined that the final regulations are not significant and are not subject to review under section 6(b) of Executive Order 12866. Therefore, a regulatory impact assessment is not required.

II. Paperwork Reduction Act

1. Collections of Information

These final regulations do not impose additional recordkeeping or reporting burden related to section 263A for taxpayers. A change in a taxpayer's treatment of interest to a method consistent with §§ 1.263A-8(d)(3) and 1.263A-11(e) and (f), as

applicable, is a change in method of accounting to which sections 446 and 481 of the Code apply. Taxpayers change methods of accounting by filing Form 3115, *Application for Change in Accounting Method* (Office of Management and Budget 1545-2070). For purposes of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) (PRA), the reporting burden associated with Form 3115 will be reflected in the PRA submission for Form 3115 (OMB 1545-2070).

2. Burden Estimates

These final regulations impose 0 hours and \$0 of additional recordkeeping or reporting burden related to section 263A for taxpayers. Taxpayers who change their accounting method based on the revised requirements do so by filing Form 3115 (OMB 1545-2070). For purposes of the PRA, the reporting burden associated with Form 3115 will be reflected in the PRA submission for Form 3115 (OMB 1545-2070).

Because businesses with gross receipts of up to \$25 million (as adjusted for inflation pursuant to sections 263A(i) and 446(c)) are exempted from the requirement to capitalize costs, including interest, under section 263A, businesses with gross receipts in excess of \$25 million (as adjusted for inflation) are impacted by these final regulations. Approximately 30,000 taxpayers with gross receipts in excess of \$25 million (as adjusted for inflation) reported that they were subject to section 263A during the past five years. This number is based upon the number of taxpayers who reported that they were subject to section 263A on Form 1120, *U.S. Corporation Income Tax Return*, Form 1125-A, *Cost of Goods Sold*, and Form 4562, *Depreciation and Amortization (Including Information on Listed Property)*.

It is estimated that no more than 1 percent of these businesses will make improvements to real or tangible personal property that constitute the production of designated property for which a change in accounting method will be made in any one year. Therefore, it is estimated that approximately 300 taxpayers may be impacted by

the changes in these final regulations.

III. *Regulatory Flexibility Act*

Taxpayers with gross receipts of up to \$25 million (as adjusted for inflation) are exempted from the requirement to capitalize costs, including interest, under section 263A. Therefore, very few, if any, small entities will be affected by these regulations.

The Secretary of the Treasury hereby certifies that these final regulations will not have a significant economic impact on a substantial number of small entities within the meaning of section 601(6) of the Regulatory Flexibility Act (5 U.S.C. chapter 6).

IV. *Section 7805(f)*

Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding these final regulations was submitted to the Chief Counsel of the Office of Advocacy of the Small Business Administration for comment on its impact on small business. No comments on that notice of proposed rulemaking were received from the Chief Counsel for the Office of Advocacy of the Small Business Administration.

V. *Unfunded Mandates Reform Act*

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a State, local, or Tribal government, in the aggregate, or by the private sector, of \$100 million (updated annually for inflation). These final regulations do not include any Federal mandate that may result in expenditures by State, local, or Tribal governments, or by the private sector in excess of that threshold.

VI. *Executive Order 13132: Federalism*

Executive Order 13132 (Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on State and local governments, and is not required by statute, or preempts State

law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. These final regulations do not have federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive order.

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

Drafting Information

The principal authors of these regulations are Elizabeth Boone and Max Fishman of the Office of the Associate Chief Counsel (Income Tax and Accounting). However, other personnel from the Treasury Department and IRS participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, the Treasury Department and the IRS amend 26 CFR part 1 as follows:

PART 1--INCOME TAXES

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

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

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Sections 1.263A-8 through 1.263A-15 also issued under 26 U.S.C. 263A(j).

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§ 1.263A-0 [Amended]

Par. 2. Section 1.263A-0 is amended by removing the entries for § 1.263A-11(e)(1) and (2).

Par. 3. Section 1.263A-8 is amended by revising paragraph (d)(3)(i) to read as follows:

§ 1.263A-8 Requirement to capitalize interest.

* * * * *

(d) * * *

(3) * * *

(i) *In general.* Any improvement to real or tangible personal property under § 1.263(a)-3, or any improvement to tangible personal property as defined in § 1.263A-2(a)(2)(ii), constitutes the production of property. Generally, any improvement to designated property constitutes the production of designated property. An improvement is not treated as the production of designated property, however, if the de minimis exception described in paragraph (b)(4) of this section applies to the improvement. Paragraph (d)(3)(iii) of this section provides an exception for certain improvements to tangible personal property. In addition, improvements to designated property under this paragraph (d)(3)(i) do not include repairs and maintenance described in § 1.162-4(a).

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Par. 4. Section 1.263A-11 is amended by revising paragraphs (e) and (f) to read as follows:

§ 1.263A-11 Accumulated production expenditures.

* * * * *

(e) *Improvements.* If an improvement constitutes the production of designated property under § 1.263A-8(d)(3), accumulated production expenditures with respect to the improvement consist of all direct and indirect costs required to be capitalized with respect to the improvement. See § 1.263A-12(d)(1) to determine when the production

period for a unit of property has ended.

(f) *Mid-production purchases.* If a taxpayer purchases a unit of property for further production before the purchased unit of property is placed in service, the taxpayer's accumulated production expenditures include the full purchase price of the purchased unit of property plus all the additional direct and indirect production costs incurred by the taxpayer that are required to be capitalized with respect to the purchased unit of property.

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Par. 5. Section 1.263A-15 is amended by adding paragraph (a)(6) to read as follows:

§ 1.263A-15 Effective dates, transitional rules, and anti-abuse rule.

(a) * * *

(6) Sections 1.263A-8(d)(3) and 1.263A-11(e) and (f) apply to taxable years beginning after **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. A change in a taxpayer's treatment of interest to a method consistent with §§ 1.263A-8(d)(3) and 1.263A-11(e) and (f), as applicable, is a change in method of accounting to which sections 446 and 481 of the Internal Revenue Code apply.

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Edward T. Killen,

Acting Chief Tax Compliance Officer.

Approved: August 12, 2025

Kenneth J. Kies,

Assistant Secretary of the Treasury (Tax Policy).