

**DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Part 1**

[REG-110732-13]

RIN 1545-BL52

**Guidance Regarding Dispositions of Tangible Depreciable Property**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of proposed rulemaking, notice of public hearing, and partial withdrawal of previously proposed regulations.

**SUMMARY:** This document contains proposed regulations regarding dispositions of property subject to depreciation under section 168 of the Internal Revenue Code (Code) (Modified Accelerated Cost Recovery System (MACRS) property). The proposed regulations also amend the general asset account regulations under § 1.168(i)-1 and the accounting for MACRS property regulations under § 1.168(i)-7. The proposed regulations will affect all taxpayers that dispose of MACRS property. This document also provides notice of a public hearing on these proposed regulations and partially withdraws the proposed regulations published in the **Federal Register** on December 27, 2011 (76 FR 81128).

**DATES:** Written and/or electronic comments must be received by November 18, 2013. Requests to speak and outlines of topics to be discussed at the public hearing scheduled for December 19, 2013, at 10 a.m. must be received by November 18, 2013.

**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG-110732-13), room 5205, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8:00 a.m. and 4:00 p.m. to CC:PA:LPD:PR (REG-110732-13), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, or sent electronically, via the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov) (IRS REG-110732-13). The public hearing will be held in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Concerning the proposed regulations, Kathleen Reed and Patrick Clinton, Office of Associate Chief Counsel (Income Tax and Accounting) (202) 622-4930; and concerning submission

of comments, the hearing, and/or to be placed on the building access list to attend the hearing, Oluwafunmilayo (Funmi) Taylor, (202) 622-7180 (not toll-free numbers).

**SUPPLEMENTARY INFORMATION:****Background**

On December 27, 2011, the IRS and the Treasury Department published in the **Federal Register** (76 FR 81060) temporary regulations (TD 9564) regarding the accounting for, and dispositions of, property subject to depreciation under section 168 (MACRS property). The temporary regulations also amended the general asset account regulations under § 1.168(i)-1. On the same date, the IRS published in the **Federal Register** (76 FR 81128) a notice of proposed rulemaking (REG-168745-03) cross-referencing the temporary regulations (2011 proposed regulations). The IRS and the Treasury Department received numerous written comments responding to the notice of proposed rulemaking and held a public hearing on May 9, 2012.

The temporary regulations generally apply to taxable years beginning on or after January 1, 2012. In response to the comments received and the statements made at the public hearing, the IRS and the Treasury Department released Notice 2012-73, 2012-51 IRB 713, on November 20, 2012, announcing that, to help taxpayers transition to the final regulations, the IRS and the Treasury Department will change the applicability date of the temporary regulations to taxable years beginning on or after January 1, 2014, while permitting taxpayers to choose to apply the temporary regulations to taxable years beginning on or after January 1, 2012, and before the applicability date of the final regulations. Notice 2012-73 also alerts taxpayers that the IRS and the Treasury Department intend to publish final regulations in 2013 and expect the final regulations to apply to taxable years beginning on or after January 1, 2014, but that the final regulations would permit taxpayers to apply the provisions of the final regulations to taxable years beginning on or after January 1, 2012. On December 17, 2012, the IRS and the Treasury Department published in the **Federal Register** (77 FR 74583) a technical amendment to TD 9564, which amended the applicability date of the temporary regulations to taxable years beginning on or after January 1, 2014, while permitting taxpayers to choose to apply the temporary regulations to taxable years beginning on or after January 1, 2012,

and before the applicability date of the final regulations.

Notice 2012-73 also alerts taxpayers that the IRS and the Treasury Department intend to revise the disposition rules in the temporary regulations. After considering the comment letters and the statements made at the public hearing, the IRS and the Treasury Department decided to withdraw the 2011 proposed regulations under §§ 1.168(i)-1 and 1.168(i)-8 and to propose new regulations. This document contains the new proposed regulations under §§ 1.168(i)-1 and 1.168(i)-8 as well as new proposed regulations under § 1.168(i)-7. The temporary regulations under §§ 1.168(i)-1T and 1.168(i)-8T are not revised and taxpayers continue to have the option of applying those temporary regulations to taxable years beginning on or after January 1, 2012, and before the applicability date of the final regulations.

**Summary of Comments and Explanation of Provisions****I. Overview**

These proposed regulations under §§ 1.168(i)-1 and 1.168(i)-8 include many of the provisions contained in the 2011 proposed regulations and the temporary regulations under §§ 1.168(i)-1T and 1.168(i)-8T. However, these proposed regulations provide significant changes to the rules relating to the determination of the asset disposed of and a qualifying disposition of an asset in a general asset account, and the proposed regulations under §§ 1.168(i)-1, 1.168(i)-7, and 1.168(i)-8 provide new rules for partial dispositions of assets. The IRS and the Treasury Department intend to publish final regulations under §§ 1.168(i)-1, 1.168(i)-7, and 1.168(i)-8 later this year. Accordingly, these proposed regulations generally are proposed to apply to taxable years beginning on or after January 1, 2014.

**II. Disposition Rules for MACRS Property**

The IRS and the Treasury Department received several comments on the disposition rules under §§ 1.168(i)-1T and 1.168(i)-8T. Most of the comments related to dispositions of structural components of a building, dispositions of assets in a general asset account, and determination of the unadjusted depreciable basis of a disposed asset in a multiple asset account or a general asset account.

### A. Determination of Asset Disposed of and Partial Dispositions

#### 1. The Temporary Regulations

The temporary regulations under § 1.168(i)-8T provide rules for determining gain or loss upon the disposition of MACRS property that are generally consistent with the disposition rules under § 1.168-6 of the proposed regulations on the Accelerated Cost Recovery System of former section 168 (ACRS) (which have been generally applied to MACRS property). However, if an abandoned asset is subject to nonrecourse indebtedness, the temporary regulations clarify that the asset is treated in the same manner as an asset disposed of by sale.

Section 1.168-2(l)(1) of the proposed ACRS regulations provides that a disposition does not include the retirement of a structural component of a building and, consequently, § 1.168-6(b) of the proposed ACRS regulations provides that no loss is recognized upon the retirement of a structural component of a building. The temporary regulations expand the definition of disposition for MACRS property to include the retirement of a structural component of a building and, accordingly, the temporary regulations allow the recognition of a loss upon such a retirement.

The temporary regulations under § 1.168(i)-1T provide rules for establishing general asset accounts, for computing depreciation for general asset accounts, and for determining gain or loss upon the disposition of assets in general asset accounts. Section 1.168(i)-1T(e)(2) provides that, in general, no loss is recognized upon the disposition of an asset from a general asset account. However, § 1.168-1T(e)(3)(iii) provides that a taxpayer may elect to recognize gain or loss upon the disposition of an asset in a general asset account if there is a qualifying disposition. The temporary regulations define the term "disposition" to include the retirement of a structural component of a building and define the term "qualifying disposition" to allow the recognition of gain or loss upon most dispositions of assets in general asset accounts. Thus, a taxpayer has the option of recognizing a loss on most dispositions of assets in general asset accounts under the temporary regulations.

The temporary regulations under §§ 1.168(i)-1T and 1.168(i)-8T also provide rules for determining the disposed asset. Those sections of the temporary regulations provide that the facts and circumstances of each disposition are considered in determining the appropriate disposed

asset. In general, the asset for disposition purposes cannot be larger than the unit of property as determined under § 1.263(a)-3(e)(2), (e)(3), and (e)(5) or as otherwise provided in published guidance in the **Federal Register** or in the Internal Revenue Bulletin. However, under §§ 1.168(i)-1T and 1.168(i)-8T, each building is the asset for disposition purposes, unless more than one building is treated as the asset under § 1.1250-1(a)(2)(ii). If the building includes two or more condominium or cooperative units, then each condominium or cooperative unit (instead of the building) is the asset for disposition purposes. Consistent with including a retirement of a structural component of a building as a disposition, the temporary regulations provide that each structural component of a building, condominium unit, or cooperative unit is the asset for disposition purposes. Further, if a taxpayer properly includes an item in one of the asset classes 00.11 through 00.4 of Rev. Proc. 87-56 (1987-2 CB 674), (see 26 CFR 601.601(d)(2)(ii)(b)) or classifies an item in one of the categories under section 168(e)(3) (other than a category that includes buildings or structural components; for example, retail motor fuels outlet and qualified leasehold improvement property), each item is the asset provided it is not larger than the unit of property as determined under § 1.263(a)-3(e)(3) or (e)(5). Consistent with section 168(i)(6), the temporary regulations also provide that if the taxpayer places in service an improvement or addition to an asset after the taxpayer placed the asset in service, the improvement or addition is a separate asset for depreciation purposes. The temporary regulations also provide that a taxpayer generally may use any reasonable, consistent method to treat each of an asset's components as the asset for disposition purposes.

#### 2. Comments on the Temporary Regulations

Several commenters stated that requiring taxpayers to treat the structural components of a building as assets separate from the underlying building increases administrative burdens for taxpayers because of the necessity to track the components. Further, while the temporary regulations permit taxpayers to define the asset for disposition purposes at the smallest component level, effectively allowing taxpayers the ability to recognize a loss on the partial retirement of a larger item, some commenters indicated that such an approach is unduly complicated and

will pose significant administrative burdens for taxpayers. Other commenters suggested that the ability to use any reasonable, consistent method to treat each of an asset's components as the asset for disposition purposes be expanded to assets classified in asset classes 00.11 through 00.4 of Rev. Proc. 87-56, which accounts for the property that a taxpayer typically uses in its business (for example, office furniture, computers, cars, corporate jets, and land improvements (other than a building and its structural components)).

Several commenters suggested that the use of general asset accounts be the default rule to eliminate traps for taxpayers. Commenters stated that requiring taxpayers to make a general asset account election when structural components are placed in service to forgo the loss on dispositions of structural components occurring years later was a trap for taxpayers. For example, because a taxpayer that did not elect general asset account treatment cannot forgo a mandatory loss on a disposition of a structural component, the taxpayer would be required to capitalize the replacement of the structural component under § 1.263(a)-3(k)(1)(i) even if the replacement of the structural component does not constitute the replacement of a major component, a significant portion of a major component, or a substantial structural part of the building unit of property under §§ 1.263(a)-3(k)(1)(vi) and 1.263(a)-3(k)(6)(ii). Further, because some structural components are defined in § 1.48-1(e)(2) at a diminutive level (for example, one window in a building), commenters stated that absent including all structural components in a general asset account, taxpayers run the risk of failing to identify every disposition in a given taxable year.

The IRS and the Treasury Department do not think that the use of general asset accounts should be the default rule. However, the IRS and the Treasury Department agree that taxpayers that do not elect general asset account treatment should have the same flexibility to forgo a loss upon the disposition of a structural component as taxpayers that elect general asset account treatment. As discussed in this preamble, these proposed regulations make significant modifications to the disposition rules to allow this flexibility.

#### 3. Structural Components

These proposed regulations change the rule in the temporary regulations under §§ 1.168(i)-1T and 1.168(i)-8T that each structural component of a building, condominium, or cooperative is the asset for tax disposition purposes.

The proposed regulations provide that a building (including its structural components), a condominium (including its structural components), or a cooperative (including its structural components) is the asset for disposition purposes. This rule allows taxpayers to forgo a loss upon the disposition of a structural component of a building without making a general asset account election.

#### 4. Partial Dispositions

##### A. Assets Not Included in General Asset Accounts

The proposed regulations under § 1.168(i)-8 also provide that the disposition rules apply to a partial disposition of an asset (for example, the disposition of a roof (or a portion of the roof)). This rule allows taxpayers to claim a loss upon the disposition of a structural component (or a portion thereof) of a building or upon the disposition of a component (or a portion thereof) of any other asset without identifying the component as an asset before the disposition event. The partial disposition rule also minimizes circumstances in which an original part and any subsequent replacements of the same part are required to be capitalized and depreciated simultaneously. These proposed regulations provide examples demonstrating the application of the partial disposition rule.

In many cases, the partial disposition rule is elective (“partial disposition election”). However, consistent with the operation of sections 165, 168(i)(7), 1031, and 1033, and because sales of a portion of an asset are common, the partial disposition rule is required to be applied to a disposition of a portion of an asset as a result of a casualty event described in section 165, to a disposition of a portion of an asset for which gain (determined without regard to section 1245 or 1250) is not recognized in whole or in part under section 1031 or 1033, to a transfer of a portion of an asset in a step-in-the-shoes transaction described in section 168(i)(7)(B), or to a sale of a portion of an asset. Consequently, a disposition includes a disposition of a portion of an asset under these circumstances, even if the taxpayer does not make the partial disposition election for that disposed portion. For other transactions, a disposition includes a disposition of a portion of an asset only if the taxpayer makes the partial disposition election for that disposed portion.

A taxpayer may make the partial disposition election for the disposition of a portion of any type of MACRS property, including an asset that is

properly included in one of the asset classes 00.11 through 00.4 of Rev. Proc. 87-56. However, consistent with section 168(i)(6), a taxpayer making the partial disposition election for the disposition of a portion of an asset that is properly included in one of the asset classes 00.11 through 00.4 of Rev. Proc. 87-56 must classify the replacement portion of the asset under the same asset class as the disposed portion of the asset.

The partial disposition election is made on the taxpayer’s timely filed original Federal tax return, including extensions, for the taxable year in which the portion of the asset is disposed of by the taxpayer. This election may not be made or revoked by the filing of an application for a change in method of accounting. A taxpayer may revoke a partial disposition election by filing a request for a letter ruling and obtaining the consent of the Commissioner of Internal Revenue to revoke this election. The Commissioner may grant a request to revoke this election if the taxpayer acted reasonably and in good faith, and the revocation will not prejudice the interests of the Government. In deciding whether to grant such a request, the Commissioner anticipates applying standards similar to the standards under 26 CFR 301.9100-3 for granting extensions of time for making regulatory elections. If a taxpayer chooses to apply these proposed regulations to its taxable year beginning in 2012 or 2013, these proposed regulations also provide rules for making the partial disposition election for the portion of an asset disposed of by the taxpayer during those taxable years.

These proposed regulations also provide a special partial disposition rule to address commenters’ concerns about the effect of an IRS disallowance of a taxpayer’s characterization of the replacement of a portion of an asset as a repair. When the IRS disallows a taxpayer’s repair deduction for the amount paid or incurred for the replacement of a portion of an asset and capitalizes such amount under § 1.263(a)-2 or § 1.263(a)-3, the taxpayer may make the partial disposition election for the disposition of the portion of the asset to which the IRS’s adjustment pertains by filing an application for change in accounting method, provided the asset of which the disposed portion was a part is owned by the taxpayer at the beginning of the year of change (as defined for purposes of section 446(e)).

##### B. Assets Included in General Asset Accounts

Similarly, the proposed regulations under § 1.168(i)-1 also provide that the

disposition rules apply to a partial disposition of an asset included in a general asset account. Consequently, a disposition includes a disposition of a portion of an asset as a result of a casualty event described in section 165, a disposition of a portion of an asset for which gain (determined without regard to section 1245 or 1250) is not recognized in whole or in part under section 1031 or 1033, a transfer of a portion of an asset in a transaction described in section 168(i)(7)(B), a sale of a portion of an asset, or a disposition of a portion of an asset in a transaction described under the anti-abuse rules applicable to general asset accounts. For other transactions, a disposition includes a disposition of a portion of an asset only if the taxpayer makes the election to terminate the general asset account upon the disposition of all assets, including that disposed portion, in that general asset account or makes the qualifying disposition election for that disposed portion. A separate partial disposition election is not provided for assets in a general asset account because a taxpayer can claim a loss upon the disposition of an asset (or a portion thereof) in a general asset account only when the taxpayer makes these two elections.

#### 5. Components of an Asset

Because the partial disposition rule under these proposed regulations allows taxpayers to treat the disposition of an asset’s component as a disposition, the IRS and the Treasury Department believe that the rule in §§ 1.168(i)-1T and 1.168(i)-8T allowing taxpayers to use any reasonable, consistent method to treat an asset’s components as the asset for disposition purposes is no longer needed. Accordingly, these proposed regulations do not include that temporary regulations rule. The IRS and the Treasury Department request comments addressing whether the rule in §§ 1.168(i)-1T and 1.168(i)-8T allowing taxpayers to use any reasonable, consistent method to treat an asset’s components as the asset for disposition purposes is still needed.

#### 6. Disposition Definition

Consistent with these changes, these proposed regulations modify the temporary regulations’ definition of a disposition under §§ 1.168(i)-1T and 1.168(i)-8T to provide that a disposition includes the disposition of a structural component (or a portion thereof) of a building only if the partial disposition rule applies to such structural component (or a portion thereof).

## 7. General Asset Accounts

Finally, these proposed regulations change the temporary regulation definition of a qualifying disposition under § 1.168(i)-1T(e)(3)(iii). The purpose of a general asset account is to reduce the administrative burden of tracking depreciable assets. This purpose was accomplished in the final regulations for general asset accounts under § 1.168(i)-1 (as in effect before the temporary regulations under § 1.168(i)-1T) by allowing a taxpayer to group assets in one or more general asset accounts and by allowing a taxpayer to elect to terminate general asset account treatment only when the taxpayer disposes of all of the assets, or the last asset, in the account, or disposes of an asset in a qualifying disposition, which generally was a casualty or other extraordinary event. The temporary regulations under § 1.168(i)-1T expand a qualifying disposition to include generally any disposition and, as a result, increased the administrative burden of tracking depreciable assets. To reduce this burden, the IRS and the Treasury Department have decided to change the definition of a qualifying disposition so that it is the same as it was under the final regulations for general asset accounts under § 1.168(i)-1 (as in effect before the temporary regulations under § 1.168(i)-1T). Accordingly, these proposed regulations provide that a qualifying disposition is a disposition that does not involve all the assets, the last asset, or the remaining portion of the last asset, remaining in a general asset account and that is: (1) A direct result of a fire, storm, shipwreck, or other casualty, or from theft; (2) a charitable contribution for which a deduction is allowable under section 170; (3) a direct result of a cessation, termination, or disposition of a business, manufacturing, or other income producing process, operation, facility, plant, or other unit (other than by transfer to a supplies, scrap, or similar account); or (4) generally a transaction to which a nonrecognition section of the Code applies.

### *B. Determination of Basis and Identification of Disposed or Converted Asset*

The temporary regulations under §§ 1.168(i)-1T and 1.168(i)-8T provide that if the disposed asset is in a general asset account, is in a multiple asset account, or is a component of a larger asset, and it is impracticable from the taxpayer's records to determine the unadjusted depreciable basis of the disposed asset, the taxpayer may use any reasonable method that is

consistently applied to the taxpayer's general asset accounts, multiple asset accounts, or larger assets, as applicable.

Several commenters requested that one or more specific methodologies be provided. They suggested using replacement cost adjusted for inflation using an objective index, using third-party construction estimating and valuation services, or using relative fair market value of acquired components.

In response, these proposed regulations provide nonexclusive examples of reasonable methods. Such examples include: (1) Discounting the cost of the replacement asset to its placed-in-service year cost using the Consumer Price Index; (2) a pro rata allocation of the unadjusted depreciable basis of the general asset account or multiple asset account, as applicable, based on the replacement cost of the disposed asset and the replacement cost of all of the assets in the general asset account or multiple asset account, as applicable; and (3) a study allocating the cost of the asset to its individual components. The IRS and the Treasury Department expect that reasonable methods are available that use information readily available or known to the taxpayer and do not necessitate undertaking expensive studies.

As previously mentioned, these proposed regulations do not include the temporary regulation rule in §§ 1.168(i)-1T and 1.168(i)-8T that allows taxpayers to use any reasonable, consistent method to treat an asset's components as the asset for tax disposition purposes. Consistent with this change, these proposed regulations do not include the temporary regulation rules in §§ 1.168(i)-1T and 1.168(i)-8T regarding the determination of the unadjusted depreciable basis, and identification, of the disposed component of a larger asset. However, these proposed regulations provide rules regarding the determination of the unadjusted depreciable basis, and identification, of the disposed portion of an asset when the partial disposition rule applies.

If the partial disposition rule applies, these proposed regulations provide that a taxpayer may use any reasonable method for determining the unadjusted depreciable basis of the disposed portion of the asset. Also, if a taxpayer disposes of more than one portion of the same asset, the taxpayer may use any reasonable method that is consistently applied to all portions of the same asset for purposes of determining the unadjusted depreciable basis of each disposed portion of the asset. These proposed regulations provide

nonexclusive examples of reasonable methods.

If a taxpayer disposes of a portion of the asset and the partial disposition rule applies to that disposition, these proposed regulations provide rules regarding the identification of the asset. When it is impracticable from the taxpayer's records to determine the particular taxable year in which the asset was placed in service by the taxpayer, the taxpayer must identify the asset by using the methods allowed when the asset is in a general asset account or a multiple asset account: the first-in, first-out (FIFO) method, the modified FIFO method, a mortality dispersion table if the asset is a mass asset, or any other method designated by the Secretary in published guidance. A last-in, first-out (LIFO) method is not permitted.

### *C. Other Changes*

The proposed regulations under § 1.168(i)-8 provide that if a taxpayer disposes of a portion of an asset and the partial disposition rule applies to that disposition, the taxpayer must account for the disposed portion in a single asset account beginning in the taxable year in which the disposition occurs. This new rule also is provided in the proposed regulations under § 1.168(i)-7.

The proposed regulations under §§ 1.168(i)-1 and 1.168(i)-8 also provide examples demonstrating the interaction between the disposition rules and the capitalization of tangible property rules under § 1.263(a)-3.

### **Proposed Effective Date**

These regulations are proposed to apply to taxable years beginning on or after January 1, 2014. The regulations also permit taxpayers to rely on the provisions of the proposed regulations for taxable years beginning on or after January 1, 2012, and before the applicability date of the final regulations. The proposed regulations provide that taxpayers may apply the provisions of the final regulations to taxable years beginning on or after January 1, 2012. The temporary regulations under §§ 1.168(i)-1T and 1.168(i)-8T allow taxpayers to apply the temporary regulations to taxable years beginning on or after January 1, 2012, but the final regulations will provide that taxpayers may not apply the temporary regulations to taxable years beginning on or after January 1, 2014.

### **Special Analyses**

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866, as

supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, this regulation has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

### Comments and Public Hearing

Before the proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under the **ADDRESSES** heading. The IRS and the Treasury Department request comments on all aspects of these proposed rules. All comments will be available for public inspection and copying at [www.regulations.gov](http://www.regulations.gov) or upon request.

A public hearing has been scheduled for December 19, 2013, beginning at 10 a.m. in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit electronic or written comments, an outline of the topics to be discussed, and the time to be devoted to each topic (signed original and eight (8) copies) by November 18, 2013. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

### Statement of Availability for IRS Document

For copies of recently issued Revenue Procedures, Revenue Rulings, notices and other guidance published in the

Internal Revenue Bulletin or Cumulative Bulletin please visit the IRS Web site at <http://www.irs.gov>.

### Drafting Information

The principal author of these regulations is Kathleen Reed, Office of the Associate Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and the Treasury Department participated in their development.

### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

### Partial Withdrawal of Proposed Amendments to the Regulations

Accordingly, under the authority of 26 U.S.C. 7805, §§ 1.168(i)-1 and 1.168(i)-8 of the notice of proposed rulemaking (REG-168745-03) that was published in the **Federal Register** on December 27, 2011 (76 FR 81128), are withdrawn.

### Proposed Amendment to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended 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 \* \* \*

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

■ **Par. 2.** In § 1.168(i)-0, the entries under § 1.168(i)-1 are amended by:

■ 1. Redesignating the entries for paragraphs (b)(4), (b)(5), and (b)(6) as newly-designated entries for paragraphs (b)(5), (b)(6), and (b)(7).

■ 2. Adding entries for paragraphs (b)(4), (b)(8), and (b)(9).

■ 3. Revising the entries for newly-designated paragraphs (b)(6) and (b)(7).

■ 4. Revising entries for paragraphs (c)(3), (d)(2), (d)(3), (e), (e)(2)(v) through (viii), (e)(3)(vi), (h)(1), (i), and (m).

■ 5. Removing the entry for paragraph (h)(2).

■ 6. Redesignating the entries for paragraph (h)(3) as newly-designated entries for paragraph (h)(2).

The additions and revisions read as follows:

#### § 1.168(i)-0 Table of contents for the general asset account rules.

\* \* \* \* \*

#### § 1.168(i)-1 General asset accounts.

\* \* \* \* \*

(b) \* \* \*

(4) Building.

\* \* \*

(6) Mass assets.

(7) Portion of an asset.

(8) Remaining adjusted depreciable basis of the general asset account.

(9) Structural component.

(c) \* \* \*

(3) Examples.

\* \* \* \* \*

(d) \* \* \*

(2) Assets in general asset account are eligible for additional first year depreciation deduction.

(3) No assets in general asset account are eligible for additional first year depreciation deduction.

\* \* \* \* \*

(e) Dispositions from a general asset account.

\* \* \* \* \*

(2) \* \* \*

(v) Manner of disposition.

(vi) Disposition by transfer to a supplies account.

(vii) Leasehold improvements.

(viii) Determination of asset disposed of.

\* \* \* \* \*

(3) \* \* \*

(vi) Technical termination of a partnership.

\* \* \* \* \*

(h) \* \* \*

(1) Conversion to any personal use.

\* \* \* \* \*

(i) Redetermination of basis.

\* \* \* \* \*

(m) Effective/applicability date.

■ **Par. 3.** Section 1.168(i)-1 is amended by revising paragraphs (a) through (l)(1), and paragraph (m), to read as follows:

#### § 1.168(i)-1 General asset accounts.

(a) *Scope.* This section provides rules for general asset accounts under section 168(i)(4). The provisions of this section apply only to assets for which an election has been made under paragraph (l) of this section.

(b) *Definitions.* For purposes of this section, the following definitions apply:

(1) *Unadjusted depreciable basis* has the same meaning given such term in § 1.168(b)-1(a)(3).

(2) *Unadjusted depreciable basis of the general asset account* is the sum of the unadjusted depreciable bases of all assets included in the general asset account.

(3) *Adjusted depreciable basis of the general asset account* is the unadjusted depreciable basis of the general asset account less the adjustments to basis described in section 1016(a)(2) and (3).

(4) *Building* has the same meaning as that term is defined in § 1.48-1(e)(1).

(5) *Expensed cost* is the amount of any allowable credit or deduction

treated as a deduction allowable for depreciation or amortization for purposes of section 1245 (for example, a credit allowable under section 30 or a deduction allowable under section 179, 179A, or 190). Expensed cost does not include any additional first year depreciation deduction.

(6) *Mass assets* is a mass or group of individual items of depreciable assets—

(i) That are not necessarily homogenous;

(ii) Each of which is minor in value relative to the total value of the mass or group;

(iii) Numerous in quantity;

(iv) Usually accounted for only on a total dollar or quantity basis;

(v) With respect to which separate identification is impracticable; and

(vi) Placed in service in the same taxable year.

(7) *Portion of an asset* is any part of an asset that is less than the entire asset as determined under paragraph (e)(2)(viii) of this section.

(8) *Remaining adjusted depreciable basis of the general asset account* is the unadjusted depreciable basis of the general asset account less the amount of the additional first year depreciation deduction allowed or allowable, whichever is greater, for the general asset account.

(9) *Structural component* has the same meaning as that term is defined in § 1.48–1(e)(2).

(c) *Establishment of general asset accounts*—(1) *Assets eligible for general asset accounts*—(i) *General rules*. Assets that are subject to either the general depreciation system of section 168(a) or the alternative depreciation system of section 168(g) may be accounted for in one or more general asset accounts. An asset is included in a general asset account only to the extent of the asset's unadjusted depreciable basis. However, an asset is not to be included in a general asset account if the asset is used both in a trade or business (or for the production of income) and in a personal activity at any time during the taxable year in which the asset is placed in service by the taxpayer or if the asset is placed in service and disposed of during the same taxable year.

(ii) *Special rules for assets generating foreign source income*. (A) Assets that generate foreign source income, both United States and foreign source income, or combined gross income of a foreign sales corporation (FSC) (as defined in former section 922), domestic international sales corporation (DISC) (as defined in section 992(a)), or possessions corporation (as defined in section 936) and its related supplier may be included in a general asset

account if the requirements of paragraph (c)(2)(i) of this section are satisfied. If, however, the inclusion of these assets in a general asset account results in a substantial distortion of income, the Commissioner may disregard the general asset account election and make any reallocations of income or expense necessary to clearly reflect income.

(B) A general asset account shall be treated as a single asset for purposes of applying the rules in § 1.861–9T(g)(3) (relating to allocation and apportionment of interest expense under the asset method). A general asset account that generates income in more than one grouping of income (statutory and residual) is a multiple category asset (as defined in § 1.861–9T(g)(3)(ii)), and the income yield from the general asset account must be determined by applying the rules for multiple category assets as if the general asset account were a single asset.

(2) *Grouping assets in general asset accounts*—(i) *General rules*. If a taxpayer makes the election under paragraph (l) of this section, assets that are subject to the election are grouped into one or more general asset accounts. Assets that are eligible to be grouped into a single general asset account may be divided into more than one general asset account. Each general asset account must include only assets that—

(A) Have the same applicable depreciation method;

(B) Have the same applicable recovery period;

(C) Have the same applicable convention; and

(D) Are placed in service by the taxpayer in the same taxable year.

(ii) *Special rules*. In addition to the general rules in paragraph (c)(2)(i) of this section, the following rules apply when establishing general asset accounts—

(A) Assets subject to the mid-quarter convention may only be grouped into a general asset account with assets that are placed in service in the same quarter of the taxable year;

(B) Assets subject to the mid-month convention may only be grouped into a general asset account with assets that are placed in service in the same month of the taxable year;

(C) Passenger automobiles for which the depreciation allowance is limited under section 280F(a) must be grouped into a separate general asset account;

(D) Assets not eligible for any additional first year depreciation deduction (including assets for which the taxpayer elected not to deduct the additional first year depreciation) provided by, for example, section 168(k), 168(l), 168(m), 168(n), 1400L(b),

or 1400N(d), must be grouped into a separate general asset account;

(E) Assets eligible for the additional first year depreciation deduction may only be grouped into a general asset account with assets for which the taxpayer claimed the same percentage of the additional first year depreciation (for example, 30 percent, 50 percent, or 100 percent);

(F) Except for passenger automobiles described in paragraph (c)(2)(ii)(C) of this section, listed property (as defined in section 280F(d)(4)) must be grouped into a separate general asset account;

(G) Assets for which the depreciation allowance for the placed-in-service year is not determined by using an optional depreciation table (for further guidance, see section 8 of Rev. Proc. 87–57, 1987–2 CB 687, 693 (see § 601.601(d)(2) of this chapter)) must be grouped into a separate general asset account;

(H) Mass assets that are or will be subject to paragraph (j)(2)(i)(D) of this section (disposed of or converted mass asset is identified by a mortality dispersion table) must be grouped into a separate general asset account; and

(I) Assets subject to paragraph (h)(2)(iii)(A) of this section (change in use results in a shorter recovery period or a more accelerated depreciation method) for which the depreciation allowance for the year of change (as defined in § 1.168(i)–4(a)) is not determined by using an optional depreciation table must be grouped into a separate general asset account.

(3) *Examples*. The following examples illustrate the application of this paragraph (c). For purposes of these examples, assume that section 168 as in effect on September 19, 2013, applies to taxable years beginning on or after January 1, 2014.

*Example 1*. In 2014, J, a proprietorship with a calendar year-end, purchases and places in service one item of equipment that costs \$550,000. This equipment is section 179 property and also is 5-year property under section 168(e). On its Federal tax return for 2014, J makes an election under section 179 to expense \$25,000 of the equipment's cost and makes an election under paragraph (l) of this section to include the equipment in a general asset account. As a result, the unadjusted depreciable basis of the equipment is \$525,000. In accordance with paragraph (c)(1) of this section, J must include only \$525,000 of the equipment's cost in the general asset account.

*Example 2*. In 2014, K, a proprietorship with a calendar year-end, purchases and places in service 100 items of equipment. All of these items are 5-year property under section 168(e), are not listed property, and are not eligible for any additional first year depreciation deduction. On its Federal tax return for 2014, K does not make an election under section 179 to expense the cost of any

of the 100 items of equipment and does make an election under paragraph (l) of this section to include the 100 items of equipment in a general asset account. K depreciates its 5-year property placed in service in 2014 using the optional depreciation table that corresponds with the general depreciation system, the 200-percent declining balance method, a 5-year recovery period, and the half-year convention. In accordance with paragraph (c)(2) of this section, K includes all of the 100 items of equipment in one general asset account.

*Example 3.* The facts are the same as in *Example 2*, except that K decides not to include all of the 100 items of equipment in one general asset account. Instead and in accordance with paragraph (c)(2) of this section, K establishes 100 general asset accounts and includes one item of equipment in each general asset account.

*Example 4.* L, a calendar-year corporation, is a wholesale distributor. In 2014, L places in service the following properties for use in its wholesale distribution business: computers, automobiles, and forklifts. On its Federal tax return for 2014, L does not make an election under section 179 to expense the cost of any of these items of equipment and does make an election under paragraph (l) of this section to include all of these items of equipment in a general asset account. All of these items are 5-year property under section 168(e) and are not eligible for any additional first year depreciation deduction. The computers are listed property, and the automobiles are listed property and are subject to section 280F(a). L depreciates its 5-year property placed in service in 2014 using the optional depreciation table that corresponds with the general depreciation system, the 200-percent declining balance method, a 5-year recovery period, and the half-year convention. Although the computers, automobiles, and forklifts are 5-year property, L cannot include all of them in one general asset account because the computers and automobiles are listed property. Further, even though the computers and automobiles are listed property, L cannot include them in one general asset account because the automobiles also are subject to section 280F(a). In accordance with paragraph (c)(2) of this section, L establishes three general asset accounts: one for the computers, one for the automobiles, and one for the forklifts.

*Example 5.* M, a fiscal-year corporation with a taxable year ending June 30, purchases and places in service ten items of new equipment in October 2014, and purchases and places in service five other items of new equipment in February 2015. On its Federal tax return for the taxable year ending June 30, 2015, M does not make an election under section 179 to expense the cost of any of these items of equipment and does make an election under paragraph (l) of this section to include all of these items of equipment in a general asset account. All of these items of equipment are 7-year property under section 168(e), are not listed property, and are property described in section 168(k)(2)(B). All of the ten items of equipment placed in service in October 2014 are eligible for the 50-percent additional first year depreciation

deduction provided by section 168(k)(1). All of the five items of equipment placed in service in February 2015 are not eligible for any additional first year depreciation deduction. M depreciates its 7-year property placed in service for the taxable year ending June 30, 2015, using the optional depreciation table that corresponds with the general depreciation system, the 200-percent declining balance method, a 7-year recovery period, and the half-year convention. Although the 15 items of equipment are depreciated using the same depreciation method, recovery period, and convention, M cannot include all of them in one general asset account because some of items of equipment are not eligible for any additional first year depreciation deduction. In accordance with paragraph (c)(2) of this section, M establishes two general asset accounts: one for the ten items of equipment eligible for the 50-percent additional first year depreciation deduction and one for the five items of equipment not eligible for any additional first year depreciation deduction.

(d) *Determination of depreciation allowance*—(1) *In general.* Depreciation allowances are determined for each general asset account. The depreciation allowances must be recorded in a depreciation reserve account for each general asset account. The allowance for depreciation under this section constitutes the amount of depreciation allowable under section 167(a).

(2) *Assets in general asset account are eligible for additional first year depreciation deduction.* If all the assets in a general asset account are eligible for the additional first year depreciation deduction, the taxpayer first must determine the allowable additional first year depreciation deduction for the placed-in-service year and then must determine the amount otherwise allowable as a depreciation deduction for the general asset account for the placed-in-service year and any subsequent taxable year. The allowable additional first year depreciation deduction for the general asset account for the placed-in-service year is determined by multiplying the unadjusted depreciable basis of the general asset account by the additional first year depreciation deduction percentage applicable to the assets in the account (for example, 30 percent, 50 percent, or 100 percent). The remaining adjusted depreciable basis of the general asset account then is depreciated using the applicable depreciation method, recovery period, and convention for the assets in the account.

(3) *No assets in general asset account are eligible for additional first year depreciation deduction.* If none of the assets in a general asset account are eligible for the additional first year depreciation deduction, the taxpayer must determine the allowable

depreciation deduction for the general asset account for the placed-in-service year and any subsequent taxable year by using the applicable depreciation method, recovery period, and convention for the assets in the account.

(4) *Special rule for passenger automobiles.* For purposes of applying section 280F(a), the depreciation allowance for a general asset account established for passenger automobiles is limited for each taxable year to the amount prescribed in section 280F(a) multiplied by the excess of the number of automobiles originally included in the account over the number of automobiles disposed of during the taxable year or in any prior taxable year in a transaction described in paragraphs (e)(3)(iii) (disposition of an asset in a qualifying disposition), (e)(3)(iv) (transactions subject to section 168(i)(7)), (e)(3)(v) (transactions subject to section 1031 or section 1033), (e)(3)(vi) (technical termination of a partnership), (e)(3)(vii) (anti-abuse rule), (g) (assets subject to recapture), (h)(1) (conversion to personal use), or (h)(2) (business or income-producing use percentage changes) of this section.

(e) *Dispositions from a general asset account*—(1) *Scope and Definition*—(i) *In general.* This paragraph (e) provides rules applicable to dispositions of assets included in a general asset account. For purposes of this paragraph (e), an asset in a general asset account is disposed of when ownership of the asset is transferred or when the asset is permanently withdrawn from use either in the taxpayer's trade or business or in the production of income. A disposition includes the sale, exchange, retirement, physical abandonment, or destruction of an asset. A disposition also occurs when an asset is transferred to a supplies, scrap, or similar account, or when a portion of an asset is disposed of as described in paragraph (e)(1)(ii) of this section. If a structural component (or a portion thereof) of a building is disposed of in a disposition described in paragraph (e)(1)(ii) of this section, a disposition also includes the disposition of such structural component (or such portion thereof).

(ii) *Disposition of a portion of an asset.* For purposes of applying paragraph (e) of this section, a disposition includes a disposition of a portion of an asset in a general asset account as a result of a casualty event described in section 165, a disposition of a portion of an asset in a general asset account for which gain (determined without regard to section 1245 or section 1250) is not recognized in whole or in part under section 1031 or section 1033, a transfer of a portion of an asset

in a general asset account in a transaction described in section 168(i)(7)(B), a sale of a portion of an asset in a general asset account, or a disposition of a portion of an asset in a general asset account in a transaction is described in paragraph (e)(3)(vii)(B) of this section. For other transactions, a disposition includes a disposition of a portion of an asset in a general asset account only if the taxpayer makes the election under paragraph (e)(3)(ii) of this section to terminate the general asset account in which that disposed portion is included or makes the election under paragraph (e)(3)(iii) of this section for that disposed portion.

(2) *General rules for a disposition*—(i) *No immediate recovery of basis.* Except as provided in paragraph (e)(3) of this section, immediately before a disposition of any asset in a general asset account or a disposition of a portion of such asset as described in paragraph (e)(1)(ii) of this section, the asset or the portion of the asset, as applicable, is treated as having an adjusted depreciable basis (as defined in § 1.168(b)–1(a)(4)) of zero for purposes of section 1011. Therefore, no loss is realized upon the disposition of an asset from the general asset account or upon the disposition of a portion of such asset as described in paragraph (e)(1)(ii) of this section. Similarly, where an asset or a portion of an asset, as applicable, is disposed of by transfer to a supplies, scrap, or similar account, the basis of the asset or the portion of the asset, as applicable, in the supplies, scrap, or similar account will be zero.

(ii) *Treatment of amount realized.* Any amount realized on a disposition is recognized as ordinary income (notwithstanding any other provision of subtitle A of the Internal Revenue Code) to the extent the sum of the unadjusted depreciable basis of the general asset account and any expensed cost (as defined in paragraph (b)(5) of this section) for assets in the account exceeds any amounts previously recognized as ordinary income upon the disposition of other assets in the account or upon the disposition of portions of such assets as described in paragraph (e)(1)(ii) of this section. The recognition and character of any excess amount realized are determined under other applicable provisions of the Internal Revenue Code (other than sections 1245 and 1250 or provisions of the Internal Revenue Code that treat gain on a disposition as subject to section 1245 or 1250).

(iii) *Effect of disposition on a general asset account.* Except as provided in paragraph (e)(3) of this section, the unadjusted depreciable basis and the

depreciation reserve of the general asset account are not affected as a result of a disposition of an asset from the general asset account or of a disposition of a portion of such asset as described in paragraph (e)(1)(ii) of this section.

(iv) *Coordination with nonrecognition provisions.* For purposes of determining the basis of an asset or a portion of an asset, as applicable, acquired in a transaction, other than a transaction described in paragraphs (e)(3)(iv) (pertaining to transactions subject to section 168(i)(7)), (e)(3)(v) (pertaining to transactions subject to section 1031 or section 1033), and (e)(3)(vi) (pertaining to technical terminations of partnerships) of this section, to which a nonrecognition section of the Internal Revenue Code applies (determined without regard to this section), the amount of ordinary income recognized under this paragraph (e)(2) is treated as the amount of gain recognized on the disposition.

(v) *Manner of disposition.* The manner of disposition (for example, normal retirement, abnormal retirement, ordinary retirement, or extraordinary retirement) is not taken into account in determining whether a disposition occurs or gain or loss is recognized.

(vi) *Disposition by transfer to a supplies account.* If a taxpayer made an election under § 1.162–3(d) to treat the cost of any rotatable spare part, temporary spare part, or standby emergency spare part (as defined in § 1.162–3(c)) as a capital expenditure subject to the allowance for depreciation and also made an election under paragraph (l) of this section to include that rotatable, temporary, or standby emergency spare part in a general asset account, the taxpayer can dispose of the rotatable, temporary, or standby emergency spare part by transferring it to a supplies account only if the taxpayer has obtained the consent of the Commissioner to revoke the § 1.162–3(d) election. See § 1.162–3(d)(3) for the procedures for revoking a § 1.162–3(d) election.

(vii) *Leasehold improvements.* The rules of paragraph (e) of this section also apply to—

(A) A lessor of leased property that made an improvement to that property for the lessee of the property, has a depreciable basis in the improvement, made an election under paragraph (l) of this section to include the improvement in a general asset account, and disposes of the improvement (or disposes of a portion of the improvement as described in paragraph (e)(1)(ii) of this section) before or upon the termination of the lease with the lessee. See section 168(i)(8)(B); and

(B) A lessee of leased property that made an improvement to that property, has a depreciable basis in the improvement, made an election under paragraph (l) of this section to include the improvement in a general asset account, and disposes of the improvement (or disposes of a portion of the improvement as described in paragraph (e)(1)(ii) of this section) before or upon the termination of the lease.

(viii) *Determination of asset disposed of*—(A) *General rules.* For purposes of applying paragraph (e) of this section to the disposition of an asset in a general asset account (instead of the disposition of the general asset account), the facts and circumstances of each disposition are considered in determining what is the appropriate asset disposed of. The asset for disposition purposes may not consist of items placed in service by the taxpayer on different dates. For purposes of determining what is the appropriate asset disposed of, the unit of property determination under § 1.263(a)–3(e) or in published guidance in the Internal Revenue Bulletin under section 263(a) (see § 601.601(d)(2) of this chapter) does not apply.

(B) *Special rules.* In addition to the general rules in paragraph (e)(2)(viii)(A) of this section, the following rules apply for purposes of applying paragraph (e) of this section to the disposition of an asset in a general asset account (instead of the disposition of the general asset account):

(1) Each building (including its structural components) is the asset except as provided in § 1.1250–1(a)(2)(ii) or in paragraph (e)(2)(viii)(B)(2) or paragraph (e)(2)(viii)(B)(4) of this section.

(2) If a building has two or more condominium or cooperative units, each condominium or cooperative unit (including its structural components) is the asset except as provided in § 1.1250–1(a)(2)(ii) or in paragraph (e)(2)(viii)(B)(4) of this section.

(3) If a taxpayer properly includes an item in one of the asset classes 00.11 through 00.4 of Rev. Proc. 87–56 (1987–2 CB 674) (see § 601.601(d)(2) of this chapter) or properly classifies an item in one of the categories under section 168(e)(3) (except for a category that includes buildings or structural components; for example, retail motor fuels outlet, qualified leasehold improvement property, qualified restaurant property, and qualified retail improvement property), each item is the asset provided paragraph (e)(2)(viii)(B)(4) of this section does not apply to the item. For example, each desk is the asset, each computer is the

asset, and each qualified smart electric meter is the asset.

(4) If the taxpayer places in service an improvement or addition to an asset after the taxpayer placed the asset in service, the improvement or addition is a separate asset.

(ix) *Examples.* The following examples illustrate the application of this paragraph (e)(2). For purposes of these examples, assume that section 168 as in effect on September 19, 2013, applies to taxable years beginning on or after January 1, 2014.

*Example 1.* A, a calendar-year partnership, maintains one general asset account for one office building that cost \$10 million. A discovers a leak in the roof of the building and decides to replace the entire roof. The roof is a structural component of the building. In accordance with paragraph (e)(2)(viii)(B)(1) of this section, the office building (including its structural components) is the asset for disposition purposes. The retirement of the replaced roof is not a disposition of a portion of an asset as described in paragraph (e)(1)(ii) of this section. Thus, the retirement of the replaced roof is not a disposition under paragraph (e)(1) of this section. As a result, A continues to depreciate the \$10 million cost of the general asset account. If A must capitalize the amount paid for the replacement roof pursuant to § 1.263(a)-3, the replacement roof is a separate asset for disposition purposes pursuant to paragraph (e)(2)(viii)(B)(4) of this section and for depreciation purposes pursuant to section 168(i)(6).

*Example 2.* B, a calendar-year commercial airline company, maintains one general asset account for five aircraft that cost a total of \$500 million. These aircraft are described in asset class 45.0 of Rev. Proc. 87-56. B replaces the existing engines on one of the aircraft with new engines. Assume each aircraft is a unit of property as determined under § 1.263(a)-3(e)(3) and each engine of an aircraft is a major component or substantial structural part of the aircraft as determined under § 1.263(a)-3(k)(6). Assume also that B treats each aircraft as the asset for disposition purposes in accordance with paragraph (e)(2)(viii) of this section. The retirement of the replaced engines is not a disposition of a portion of an asset as described in paragraph (e)(1)(ii) of this section. Thus, the retirement of the replaced engines is not a disposition under paragraph (e)(1) of this section. As a result, B continues to depreciate the \$500 million cost of the general asset account. If B must capitalize the amount paid for the replacement engines pursuant to § 1.263(a)-3, the replacement engines are a separate asset for disposition purposes pursuant to paragraph (e)(2)(viii)(B)(4) of this section and for depreciation purposes pursuant to section 168(i)(6).

*Example 3.* (i) R, a calendar-year corporation, maintains one general asset account for ten machines. The machines cost a total of \$10,000 and are placed in service in June 2014. Of the ten machines, one

machine costs \$8,200 and nine machines cost a total of \$1,800. Assume R depreciates this general asset account using the optional depreciation table that corresponds with the general depreciation system, the 200-percent declining balance method, a 5-year recovery period, and a half-year convention. R does not make a section 179 election for any of the machines, and all of the machines are not eligible for any additional first year depreciation deduction. As of January 1, 2015, the depreciation reserve of the account is \$2,000 ( $\$10,000 \times 20\%$ ).

(ii) On February 8, 2015, R sells the machine that cost \$8,200 to an unrelated party for \$9,000. Under paragraph (e)(2)(i) of this section, this machine has an adjusted depreciable basis of zero.

(iii) On its 2015 tax return, R recognizes the amount realized of \$9,000 as ordinary income because such amount does not exceed the unadjusted depreciable basis of the general asset account (\$10,000), plus any expensed cost for assets in the account (\$0), less amounts previously recognized as ordinary income (\$0). Moreover, the unadjusted depreciable basis and depreciation reserve of the account are not affected by the disposition of the machine. Thus, the depreciation allowance for the account in 2015 is \$3,200 ( $\$10,000 \times 32\%$ ).

*Example 4.* (i) The facts are the same as in *Example 3*. In addition, on June 4, 2016, R sells seven machines to an unrelated party for a total of \$1,100. In accordance with paragraph (e)(2)(i) of this section, these machines have an adjusted depreciable basis of zero.

(ii) On its 2016 tax return, R recognizes \$1,000 as ordinary income (the unadjusted depreciable basis of \$10,000, plus the expensed cost of \$0, less the amount of \$9,000 previously recognized as ordinary income). The recognition and character of the excess amount realized of \$100 ( $\$1,100 - \$1,000$ ) are determined under applicable provisions of the Internal Revenue Code other than section 1245 (such as section 1231). Moreover, the unadjusted depreciable basis and depreciation reserve of the account are not affected by the disposition of the machines. Thus, the depreciation allowance for the account in 2016 is \$1,920 ( $\$10,000 \times 19.2\%$ ).

(3) *Special rules—(i) In general.* This paragraph (e)(3) provides the rules for terminating general asset account treatment upon certain dispositions. While the rules under paragraphs (e)(3)(ii) and (iii) of this section are optional rules, the rules under paragraphs (e)(3)(iv), (v), (vi), and (vii) of this section are mandatory rules. A taxpayer elects to apply paragraph (e)(3)(ii) or paragraph (e)(3)(iii) of this section by reporting the gain, loss, or other deduction on the taxpayer's timely filed original Federal tax return (including extensions) for the taxable year in which the disposition occurs. A taxpayer may revoke the election to apply paragraph (e)(3)(ii) or paragraph (e)(3)(iii) of this section only by filing a request for a private letter ruling and

obtaining the Commissioner's consent to revoke the election. The Commissioner may grant a request to revoke this election if the taxpayer acted reasonably and in good faith, and the revocation will not prejudice the interests of the Government. See generally § 301.9100-3 of this chapter. The election to apply paragraph (e)(3)(ii) or (iii) of this section may not be made or revoked through the filing of an application for change in accounting method. For purposes of applying paragraph (e)(3)(iii) through (vii) of this section, see paragraph (j) of this section for identifying an asset disposed of and its unadjusted depreciable basis. Solely for purposes of applying paragraphs (e)(3)(iii), (e)(3)(iv)(C), (e)(3)(v)(B), and (e)(3)(vii) of this section, the term *asset* is:

(A) The asset as determined under paragraph (e)(2)(viii) of this section, or

(B) The portion of such asset that is disposed of in a disposition described in paragraph (e)(1)(ii) of this section.

(ii) *Disposition of all assets remaining in a general asset account—(A) Optional termination of a general asset account.* Upon the disposition of all of the assets, the last asset, or the remaining portion of the last asset, in a general asset account, a taxpayer may apply this paragraph (e)(3)(ii) to recover the adjusted depreciable basis of the general asset account (rather than having paragraph (e)(2) of this section apply). Under this paragraph (e)(3)(ii), the general asset account terminates and the amount of gain or loss for the general asset account is determined under section 1001(a) by taking into account the adjusted depreciable basis of the general asset account at the time of the disposition (as determined under the applicable convention for the general asset account). The recognition and character of the gain or loss are determined under other applicable provisions of the Internal Revenue Code, except that the amount of gain subject to section 1245 (or section 1250) is limited to the excess of the depreciation allowed or allowable for the general asset account, including any expensed cost (or the excess of the additional depreciation allowed or allowable for the general asset account), over any amounts previously recognized as ordinary income under paragraph (e)(2) of this section.

(B) *Examples.* The following examples illustrate the application of this paragraph (e)(3)(ii). For purposes of these examples, assume that section 168 as in effect on September 19, 2013, applies to taxable years beginning on or after January 1, 2014.

*Example 1.* (i) T, a calendar-year corporation, maintains a general asset account for 1,000 calculators. The calculators cost a total of \$60,000 and are placed in service in 2014. Assume T depreciates this general asset account using the optional depreciation table that corresponds with the general depreciation system, the 200-percent declining balance method, a 5-year recovery period, and a half-year convention. T does not make a section 179 election for any of the calculators, and all of the calculators are not eligible for any additional first year depreciation deduction. In 2015, T sells 200 of the calculators to an unrelated party for a total of \$10,000 and recognizes the \$10,000 as ordinary income in accordance with paragraph (e)(2) of this section.

(ii) On March 26, 2016, T sells the remaining calculators in the general asset account to an unrelated party for \$35,000. T elects to apply paragraph (e)(3)(ii) of this section. As a result, the account terminates and gain or loss is determined for the account.

(iii) On the date of disposition, the adjusted depreciable basis of the account is \$23,040 (unadjusted depreciable basis of \$60,000 less the depreciation allowed or allowable of \$36,960). Thus, in 2016, T recognizes gain of \$11,960 (amount realized of \$35,000 less the adjusted depreciable basis of \$23,040). The gain of \$11,960 is subject to section 1245 to the extent of the depreciation allowed or allowable for the account (plus the expensed cost for assets in the account) less the amounts previously recognized as ordinary income (\$36,960 + \$0 - \$10,000 = \$26,960). As a result, the entire gain of \$11,960 is subject to section 1245.

*Example 2.* (i) J, a calendar-year corporation, maintains a general asset account for one item of equipment. This equipment costs \$2,000 and is placed in service in 2014. Assume J depreciates this general asset account using the optional depreciation table that corresponds with the general depreciation system, the 200-percent declining balance method, a 5-year recovery period, and a half-year convention. J does not make a section 179 election for the equipment, and it is not eligible for any additional first year depreciation deduction. In June 2016, J sells the equipment to an unrelated party for \$1,000. J elects to apply paragraph (e)(3)(ii) of this section. As a result, the account terminates and gain or loss is determined for the account.

(ii) On the date of disposition, the adjusted depreciable basis of the account is \$768 (unadjusted depreciable basis of \$2,000 less the depreciation allowed or allowable of \$1,232). Thus, in 2016, J recognizes gain of \$232 (amount realized of \$1,000 less the adjusted depreciable basis of \$768). The gain of \$232 is subject to section 1245 to the extent of the depreciation allowed or allowable for the account (plus the expensed cost for assets in the account) less the amounts previously recognized as ordinary income (\$1,232 + \$0 - \$0 = \$1,232). As a result, the entire gain of \$232 is subject to section 1245.

(iii) *Disposition of an asset in a qualifying disposition—(A) Optional determination of the amount of gain,*

*loss, or other deduction.* In the case of a qualifying disposition (described in paragraph (e)(3)(iii)(B) of this section) of an asset, a taxpayer may elect to apply this paragraph (e)(3)(iii) (rather than having paragraph (e)(2) of this section apply). Under this paragraph (e)(3)(iii), general asset account treatment for the asset terminates as of the first day of the taxable year in which the qualifying disposition occurs, and the amount of gain, loss, or other deduction for the asset is determined under § 1.168(i)–8 or § 1.168(i)–8T, as applicable, by taking into account the asset's adjusted depreciable basis at the time of the disposition. The adjusted depreciable basis of the asset at the time of the disposition (as determined under the applicable convention for the general asset account in which the asset was included) equals the unadjusted depreciable basis of the asset less the depreciation allowed or allowable for the asset, computed by using the depreciation method, recovery period, and convention applicable to the general asset account in which the asset was included and by including the portion of the additional first year depreciation deduction claimed for the general asset account that is attributable to the asset disposed of. The recognition and character of the gain, loss, or other deduction are determined under other applicable provisions of the Internal Revenue Code, except that the amount of gain subject to section 1245 (or section 1250) is limited to the lesser of—

(1) The depreciation allowed or allowable for the asset, including any expensed cost (or the additional depreciation allowed or allowable) for the asset; or

(2) The excess of—

(i) The original unadjusted depreciable basis of the general asset account plus, in the case of section 1245 property originally included in the general asset account, any expensed cost; over

(ii) The cumulative amounts of gain previously recognized as ordinary income under either paragraph (e)(2) of this section or section 1245 (or section 1250).

(B) *Qualifying dispositions.* A *qualifying disposition* is a disposition that does not involve all the assets, or the last asset, remaining in a general asset account and that is—

(1) A direct result of a fire, storm, shipwreck, or other casualty, or from theft;

(2) A charitable contribution for which a deduction is allowable under section 170;

(3) A direct result of a cessation, termination, or disposition of a business, manufacturing or other income producing process, operation, facility, plant, or other unit (other than by transfer to a supplies, scrap, or similar account); or

(4) A transaction, other than a transaction described in paragraph (e)(3)(iv) (pertaining to transactions subject to section 168(i)(7)), (v) (pertaining to transactions subject to section 1031 or section 1033), (vi) (pertaining to technical terminations of partnerships), or (vii) (anti-abuse rule) of this section, to which a nonrecognition section of the Internal Revenue Code applies (determined without regard to this section).

(C) *Effect of a qualifying disposition on a general asset account.* If the taxpayer elects to apply this paragraph (e)(3)(iii) to a qualifying disposition of an asset, then—

(1) The asset is removed from the general asset account as of the first day of the taxable year in which the qualifying disposition occurs. For that taxable year, the taxpayer accounts for the asset in a single asset account in accordance with the rules under § 1.168(i)–7(b) or § 1.168(i)–7T(b), as applicable;

(2) The unadjusted depreciable basis of the general asset account is reduced by the unadjusted depreciable basis of the asset as of the first day of the taxable year in which the disposition occurs;

(3) The depreciation reserve of the general asset account is reduced by the depreciation allowed or allowable for the asset as of the end of the taxable year immediately preceding the year of disposition, computed by using the depreciation method, recovery period, and convention applicable to the general asset account in which the asset was included and by including the portion of the additional first year depreciation deduction claimed for the general asset account that is attributable to the asset disposed of; and

(4) For purposes of determining the amount of gain realized on subsequent dispositions that is subject to ordinary income treatment under paragraph (e)(2)(ii) of this section, the amount of any expensed cost with respect to the asset is disregarded.

(D) *Examples.* The following examples illustrate the application of this paragraph (e)(3)(iii). For purposes of these examples, assume that section 168 as in effect on September 19, 2013, applies to taxable years beginning on or after January 1, 2014.

*Example 1.* (i) Z, a calendar-year corporation, maintains one general asset

account for 12 machines. Each machine costs \$15,000 and is placed in service in 2014. Of the 12 machines, nine machines that cost a total of \$135,000 are used in Z's Kentucky plant, and three machines that cost a total of \$45,000 are used in Z's Ohio plant. Assume Z depreciates this general asset account using the optional depreciation table that corresponds with the general depreciation system, the 200-percent declining balance method, a 5-year recovery period, and the half-year convention. Z does not make a section 179 election for any of the machines, and all of the machines are not eligible for any additional first year depreciation deduction. As of December 31, 2015, the depreciation reserve for the account is \$93,600.

(ii) On May 27, 2016, Z sells its entire manufacturing plant in Ohio to an unrelated party. The sales proceeds allocated to each of the three machines at the Ohio plant is \$5,000. This transaction is a qualifying disposition under paragraph (e)(3)(iii)(B)(3) of this section and Z elects to apply paragraph (e)(3)(iii) of this section.

(iii) For Z's 2016 return, the depreciation allowance for the account is computed as follows. As of December 31, 2015, the depreciation allowed or allowable for the three machines at the Ohio plant is \$23,400. Thus, as of January 1, 2016, the unadjusted depreciable basis of the account is reduced from \$180,000 to \$135,000 (\$180,000 less the unadjusted depreciable basis of \$45,000 for the three machines), and, as of December 31, 2015, the depreciation reserve of the account is decreased from \$93,600 to \$70,200 (\$93,600 less the depreciation allowed or allowable of \$23,400 for the three machines as of December 31, 2015). Consequently, the depreciation allowance for the account in 2016 is \$25,920 (\$135,000  $\times$  19.2%).

(iv) For Z's 2016 return, gain or loss for each of the three machines at the Ohio plant is determined as follows. The depreciation allowed or allowable in 2016 for each machine is \$1,440 ( $(\$15,000 \times 19.2\%)/2$ ). Thus, the adjusted depreciable basis of each machine under section 1011 is \$5,760 (the adjusted depreciable basis of \$7,200 removed from the account less the depreciation allowed or allowable of \$1,440 in 2016). As a result, the loss recognized in 2016 for each machine is \$760 ( $\$5,000 - \$5,760$ ), which is subject to section 1231.

**Example 2.** (i) A, a calendar-year partnership, maintains one general asset account for one office building that cost \$20 million and was placed in service in July 2011. A depreciates this general asset account using the optional depreciation table that corresponds with the general depreciation system, the straight-line method, a 39-year recovery period, and the mid-month convention. As of January 1, 2014, the depreciation reserve for the account is \$1,261,000.

(ii) In May 2014, a tornado occurs where the building is located and damages the roof of the building. A decides to replace the entire roof. The roof is replaced in June 2014. The roof is a structural component of the building. Because the roof was damaged as a result of a casualty event described in section 165, the partial disposition rule provided

under paragraph (e)(1)(ii) of this section applies to the roof. Although the office building (including its structural components) is the asset for disposition purposes, the partial disposition rule provides that the retirement of the replaced roof is a disposition under paragraph (e)(1) of this section. This retirement is a qualifying disposition under paragraph (e)(3)(iii)(B)(1) of this section and A elects to apply paragraph (e)(3)(iii) of this section for the retirement of the damaged roof.

(iii) Of the \$20 million cost of the office building, assume \$1 million is the cost of the retired roof.

(iv) For A's 2014 return, the depreciation allowance for the account is computed as follows. As of December 31, 2013, the depreciation allowed or allowable for the retired roof is \$63,050. Thus, as of January 1, 2014, the unadjusted depreciable basis of the account is reduced from \$20,000,000 to \$19,000,000 (\$20,000,000 less the unadjusted depreciable basis of \$1,000,000 for the retired roof), and the depreciation reserve of the account is decreased from \$1,261,000 to \$1,197,950 ( $\$1,261,000$  less the depreciation allowed or allowable of \$63,050 for the retired roof as of December 31, 2013). Consequently, the depreciation allowance for the account in 2014 is \$487,160 ( $\$19,000,000 \times 2.564\%$ ).

(v) For A's 2014 return, gain or loss for the retired roof is determined as follows. The depreciation allowed or allowable in 2014 for the retired roof is \$11,752 ( $(\$1,000,000 \times 2.564\%) \times 5.5/12$ ). Thus, the adjusted depreciable basis of the retired roof under section 1011 is \$925,198 (the adjusted depreciable basis of \$936,950 removed from the account less the depreciation allowed or allowable of \$11,752 in 2014). As a result, the loss recognized in 2014 for the retired roof is \$925,198, which is subject to section 1231.

(vi) If A must capitalize the amount paid for the replacement roof under § 1.263(a)-3, the replacement roof is a separate asset for depreciation purposes pursuant to section 168(i)(6). If A includes the replacement roof in a general asset account, the replacement roof is a separate asset for disposition purposes pursuant to paragraph (e)(2)(viii)(B)(4) of this section. If A includes the replacement roof in a single asset account or a multiple asset account under § 1.168(i)-7, the replacement roof is a separate asset for disposition purposes pursuant to § 1.168(i)-8(c)(4)(ii)(D).

(iv) **Transactions subject to section 168(i)(7)**—(A) *In general.* If a taxpayer transfers one or more assets in a general asset account (or a portion of such asset) in a transaction described in section 168(i)(7)(B) (pertaining to treatment of transferees in certain nonrecognition transactions), the taxpayer (the transferor) and the transferee must apply this paragraph (e)(3)(iv) to the asset (or the portion of such asset) (instead of applying paragraph (e)(2), (e)(3)(ii), or (e)(3)(iii) of this section). The transferee is bound by the transferor's election under paragraph (l) of this section for the portion of the

transferee's basis in the asset (or the portion of such asset) that does not exceed the transferor's adjusted depreciable basis of the general asset account or the asset (or the portion of such asset), as applicable (as determined under paragraph (e)(3)(iv)(B)(2) or paragraph (e)(3)(iv)(C)(2) of this section, as applicable).

(B) *All assets remaining in general asset account are transferred.* If a taxpayer transfers all the assets, the last asset, or the remaining portion of the last asset, in a general asset account in a transaction described in section 168(i)(7)(B)—

(1) The taxpayer (the transferor) must terminate the general asset account on the date of the transfer. The allowable depreciation deduction for the general asset account for the transferor's taxable year in which the section 168(i)(7)(B) transaction occurs is computed by using the depreciation method, recovery period, and convention applicable to the general asset account. This allowable depreciation deduction is allocated between the transferor and the transferee on a monthly basis. This allocation is made in accordance with the rules in § 1.168(d)-1(b)(7)(ii) for allocating the depreciation deduction between the transferor and the transferee;

(2) The transferee must establish a new general asset account for all the assets, the last asset, or the remaining portion of the last asset, in the taxable year in which the section 168(i)(7)(B) transaction occurs for the portion of its basis in the assets that does not exceed the transferor's adjusted depreciable basis of the general asset account in which all the assets, the last asset, or the remaining portion of the last asset, were included. The transferor's adjusted depreciable basis of this general asset account is equal to the adjusted depreciable basis of that account as of the beginning of the transferor's taxable year in which the transaction occurs, decreased by the amount of depreciation allocable to the transferor for the year of the transfer (as determined under paragraph (e)(3)(iv)(B)(1) of this section). The transferee is treated as the transferor for purposes of computing the allowable depreciation deduction for the new general asset account under section 168. The new general asset account must be established in accordance with the rules in paragraph (c) of this section, except that the unadjusted depreciable bases of all the assets, the last asset, or the remaining portion of the last asset, and the greater of the depreciation allowed or allowable for all the assets, the last asset, or the remaining portion of the last asset

(including the amount of depreciation for the transferred assets that is allocable to the transferor for the year of the transfer), are included in the newly established general asset account. Consequently, this general asset account in the year of the transfer will have a beginning balance for both the unadjusted depreciable basis and the depreciation reserve of the general asset account; and

(3) For purposes of section 168 and this section, the transferee treats the portion of its basis in the assets that exceeds the transferor's adjusted depreciable basis of the general asset account in which all the assets, the last asset, or the remaining portion of the last asset, were included (as determined under paragraph (e)(3)(iv)(B)(2) of this section) as a separate asset that the transferee placed in service on the date of the transfer. The transferee accounts for this asset under § 1.168(i)-7 or § 1.168(i)-7T, as applicable, or may make an election under paragraph (l) of this section to include the asset in a general asset account.

(C) *Not all assets remaining in general asset account are transferred.* If a taxpayer transfers an asset in a general asset account in a transaction described in section 168(i)(7)(B) and if paragraph (e)(3)(iv)(B) of this section does not apply to this asset—

(1) The taxpayer (the transferor) must remove the transferred asset from the general asset account in which the asset is included, as of the first day of the taxable year in which the section 168(i)(7)(B) transaction occurs. In addition, the adjustments to the general asset account described in paragraphs (e)(3)(iii)(C)(2) through (4) of this section must be made. The allowable depreciation deduction for the asset for the transferor's taxable year in which the section 168(i)(7)(B) transaction occurs is computed by using the depreciation method, recovery period, and convention applicable to the general asset account in which the asset was included. This allowable depreciation deduction is allocated between the transferor and the transferee on a monthly basis. This allocation is made in accordance with the rules in § 1.168(d)-1(b)(7)(ii) for allocating the depreciation deduction between the transferor and the transferee;

(2) The transferee must establish a new general asset account for the asset in the taxable year in which the section 168(i)(7)(B) transaction occurs for the portion of its basis in the asset that does not exceed the transferor's adjusted depreciable basis of the asset. The transferor's adjusted depreciable basis of

this asset is equal to the adjusted depreciable basis of the asset as of the beginning of the transferor's taxable year in which the transaction occurs, decreased by the amount of depreciation allocable to the transferor for the year of the transfer (as determined under paragraph (e)(3)(iv)(C)(1) of this section). The transferee is treated as the transferor for purposes of computing the allowable depreciation deduction for the new general asset account under section 168. The new general asset account must be established in accordance with the rules in paragraph (c) of this section, except that the unadjusted depreciable basis of the asset, and the greater of the depreciation allowed or allowable for the asset (including the amount of depreciation for the transferred asset that is allocable to the transferor for the year of the transfer), are included in the newly established general asset account. Consequently, this general asset account in the year of the transfer will have a beginning balance for both the unadjusted depreciable basis and the depreciation reserve of the general asset account; and

(3) For purposes of section 168 and this section, the transferee treats the portion of its basis in the asset that exceeds the transferor's adjusted depreciable basis of the asset (as determined under paragraph (e)(3)(iv)(C)(2) of this section) as a separate asset that the transferee placed in service on the date of the transfer. The transferee accounts for this asset under § 1.168(i)-7 or § 1.168(i)-7T, as applicable, or may make an election under paragraph (l) of this section to include the asset in a general asset account.

(v) *Transactions subject to section 1031 or section 1033—(A) Like-kind exchange or involuntary conversion of all assets remaining in a general asset account.* If all the assets, the last asset, or the remaining portion of the last asset, in a general asset account are transferred by a taxpayer in a like-kind exchange (as defined under § 1.168-6(b)(11)) or in an involuntary conversion (as defined under § 1.168-6(b)(12)), the taxpayer must apply this paragraph (e)(3)(v)(A) (instead of applying paragraph (e)(2), (e)(3)(ii), or (e)(3)(iii) of this section). Under this paragraph (e)(3)(v)(A), the general asset account terminates as of the first day of the year of disposition (as defined in § 1.168(i)-6(b)(5)) and—

(1) The amount of gain or loss for the general asset account is determined under section 1001(a) by taking into account the adjusted depreciable basis of the general asset account at the time

of disposition (as defined in § 1.168(i)-6(b)(3)). The depreciation allowance for the general asset account in the year of disposition is determined in the same manner as the depreciation allowance for the relinquished MACRS property (as defined in § 1.168(i)-6(b)(2)) in the year of disposition is determined under § 1.168(i)-6. The recognition and character of gain or loss are determined in accordance with paragraph (e)(3)(ii)(A) of this section (notwithstanding that paragraph (e)(3)(ii) of this section is an optional rule); and

(2) The adjusted depreciable basis of the general asset account at the time of disposition is treated as the adjusted depreciable basis of the relinquished MACRS property.

(B) *Like-kind exchange or involuntary conversion of less than all assets remaining in a general asset account.* If an asset in a general asset account is transferred by a taxpayer in a like-kind exchange or in an involuntary conversion and if paragraph (e)(3)(v)(A) of this section does not apply to this asset, the taxpayer must apply this paragraph (e)(3)(v)(B) (instead of applying paragraph (e)(2), (e)(3)(ii), or (e)(3)(iii) of this section). Under this paragraph (e)(3)(v)(B), general asset account treatment for the asset terminates as of the first day of the year of disposition (as defined in § 1.168(i)-6(b)(5)), and—

(1) The amount of gain or loss for the asset is determined by taking into account the asset's adjusted depreciable basis at the time of disposition (as defined in § 1.168(i)-6(b)(3)). The adjusted depreciable basis of the asset at the time of disposition equals the unadjusted depreciable basis of the asset less the depreciation allowed or allowable for the asset, computed by using the depreciation method, recovery period, and convention applicable to the general asset account in which the asset was included and by including the portion of the additional first year depreciation deduction claimed for the general asset account that is attributable to the relinquished asset. The depreciation allowance for the asset in the year of disposition is determined in the same manner as the depreciation allowance for the relinquished MACRS property (as defined in § 1.168(i)-6(b)(2)) in the year of disposition is determined under § 1.168(i)-6. The recognition and character of the gain or loss are determined in accordance with paragraph (e)(3)(iii)(A) of this section (notwithstanding that paragraph (e)(3)(iii) of this section is an optional rule); and

(2) As of the first day of the year of disposition, the taxpayer must remove the relinquished asset from the general asset account and make the adjustments to the general asset account described in paragraphs (e)(3)(iii)(C)(2) through (4) of this section.

(vi) *Technical termination of a partnership.* In the case of a technical termination of a partnership under section 708(b)(1)(B), the terminated partnership must apply this paragraph (e)(3)(vi) (instead of applying paragraph (e)(2), (e)(3)(ii), or (e)(3)(iii) of this section). Under this paragraph (e)(3)(vi), all of the terminated partnership's general asset accounts terminate as of the date of its termination under section 708(b)(1)(B). The terminated partnership computes the allowable depreciation deduction for each of its general asset accounts for the taxable year in which the technical termination occurs by using the depreciation method, recovery period, and convention applicable to the general asset account. The new partnership is not bound by the terminated partnership's election under paragraph (l) of this section.

(vii) *Anti-abuse rule—(A) In general.* If an asset in a general asset account is disposed of by a taxpayer in a transaction described in paragraph (e)(3)(vii)(B) of this section, general asset account treatment for the asset terminates as of the first day of the taxable year in which the disposition occurs. Consequently, the taxpayer must determine the amount of gain, loss, or other deduction attributable to the disposition in the manner described in paragraph (e)(3)(iii)(A) of this section (notwithstanding that paragraph (e)(3)(iii)(A) of this section is an optional rule) and must make the adjustments to the general asset account described in paragraphs (e)(3)(iii)(C)(1) through (4) of this section.

(B) *Abusive transactions.* A transaction is described in this paragraph (e)(3)(vii)(B) if the transaction is not described in paragraph (e)(3)(iv), (e)(3)(v), or (e)(3)(vi) of this section, and if the transaction is entered into, or made, with a principal purpose of

achieving a tax benefit or result that would not be available absent an election under this section. Examples of these types of transactions include—

(1) A transaction entered into with a principal purpose of shifting income or deductions among taxpayers in a manner that would not be possible absent an election under this section to take advantage of differing effective tax rates among the taxpayers; or

(2) An election made under this section with a principal purpose of disposing of an asset from a general asset account to utilize an expiring net operating loss or credit if the transaction is not a bona fide disposition. The fact that a taxpayer with a net operating loss carryover or a credit carryover transfers an asset to a related person or transfers an asset pursuant to an arrangement where the asset continues to be used (or is available for use) by the taxpayer pursuant to a lease (or otherwise) indicates, absent strong evidence to the contrary, that the transaction is described in this paragraph (e)(3)(vii)(B).

(f) *Assets generating foreign source income—(1) In general.* This paragraph (f) provides the rules for determining the source of any income, gain, or loss recognized, and the appropriate section 904(d) separate limitation category or categories for any foreign source income, gain, or loss recognized on a disposition (within the meaning of paragraph (e)(1) of this section) of an asset in a general asset account that consists of assets generating both United States and foreign source income. These rules apply only to a disposition to which paragraphs (e)(2) (general disposition rules), (e)(3)(ii) (disposition of all assets remaining in a general asset account), (e)(3)(iii) (disposition of an asset in a qualifying disposition), (e)(3)(v) (transactions subject to section 1031 or section 1033), or (e)(3)(vii) (anti-abuse rule) of this section applies. Solely for purposes of applying this paragraph (f), the term *asset* is:

(i) The asset as determined under paragraph (e)(2)(viii) of this section, or

(ii) The portion of such asset that is disposed of in a disposition described in paragraph (e)(1)(ii) of this section.

(2) *Source of ordinary income, gain, or loss—(i) Source determined by allocation and apportionment of depreciation allowed.* The amount of any ordinary income, gain, or loss that is recognized on the disposition of an asset in a general asset account must be apportioned between United States and foreign sources based on the allocation and apportionment of the—

(A) Depreciation allowed for the general asset account as of the end of the taxable year in which the disposition occurs if paragraph (e)(2) of this section applies to the disposition;

(B) Depreciation allowed for the general asset account as of the time of disposition if the taxpayer applies paragraph (e)(3)(ii) of this section to the disposition of all assets, the last asset, or the remaining portion of the last asset, in the general asset account, or if all the assets, the last asset, or the remaining portion of the last asset, in the general asset account are disposed of in a transaction described in paragraph (e)(3)(v)(A) of this section; or

(C) Depreciation allowed for the asset disposed of for only the taxable year in which the disposition occurs if the taxpayer applies paragraph (e)(3)(iii) of this section to the disposition of the asset in a qualifying disposition, if the asset is disposed of in a transaction described in paragraph (e)(3)(v)(B) of this section (like-kind exchange or involuntary conversion), or if the asset is disposed of in a transaction described in paragraph (e)(3)(vii) of this section (anti-abuse rule).

(ii) *Formula for determining foreign source income, gain, or loss.* The amount of ordinary income, gain, or loss recognized on the disposition that shall be treated as foreign source income, gain, or loss must be determined under the formula in this paragraph (f)(2)(ii). For purposes of this formula, the allowed depreciation deductions are determined for the applicable time period provided in paragraph (f)(2)(i) of this section. The formula is:

$$\text{Foreign Source Income, Gain, or Loss from The Disposition of an Asset} = \text{Total Ordinary Income, Gain, or Loss from the Disposition of an Asset} \times \text{Allowed Depreciation Deductions Allocated and Apportioned to Foreign Source Income/Total Allowed Depreciation Deductions for the General Asset Account or for the Asset Disposed of (as applicable).}$$

(3) *Section 904(d) separate categories.* If the assets in the general asset account generate foreign source income in more than one separate category under section 904(d)(1) or another section of the Internal Revenue Code (for example,

income treated as foreign source income under section 904(g)(10)), or under a United States income tax treaty that requires the foreign tax credit limitation to be determined separately for specified types of income, the amount of

“foreign source income, gain, or loss from the disposition of an asset” (as determined under the formula in paragraph (f)(2)(ii) of this section) must be allocated and apportioned to the applicable separate category or

categories under the formula in this paragraph (f)(3). For purposes of this formula, the allowed depreciation

deductions are determined for the applicable time period provided in

paragraph (f)(2)(i) of this section. The formula is:

$$\begin{array}{l} \text{Foreign Source Income, Gain,} \\ \text{or Loss in a Separate} \\ \text{Category} \end{array} = \begin{array}{l} \text{Foreign Source Income, Gain,} \\ \text{or Loss from The Disposition} \\ \text{of an Asset} \end{array} \times \begin{array}{l} \text{Allowed Depreciation Deductions Allocated and Apportioned} \\ \text{to a Separate Category Total/Allowed Depreciation Deductions} \\ \text{and Apportioned to Foreign Source Income.} \end{array}$$

(g) *Assets subject to recapture.* If the basis of an asset in a general asset account is increased as a result of the recapture of any allowable credit or deduction (for example, the basis adjustment for the recapture amount under section 30(d)(2), 50(c)(2), 168(l)(7), 168(n)(4), 179(d)(10), 179A(e)(4), or 1400N(d)(5)), general asset account treatment for the asset terminates as of the first day of the taxable year in which the recapture event occurs. Consequently, the taxpayer must remove the asset from the general asset account as of that day and must make the adjustments to the general asset account described in paragraphs (e)(3)(iii)(C)(2) through (4) of this section.

(h) *Changes in use—(1) Conversion to any personal use.* An asset in a general asset account becomes ineligible for general asset account treatment if a taxpayer uses the asset in any personal activity during a taxable year. Upon a conversion to any personal use, the taxpayer must remove the asset from the general asset account as of the first day of the taxable year in which the change in use occurs (the year of change) and must make the adjustments to the general asset account described in paragraphs (e)(3)(iii)(C)(2) through (4) of this section.

(2) *Change in use results in a different recovery period or depreciation method—(i) No effect on general asset account election.* A change in the use described in § 1.168(i)-4(d) (change in use results in a different recovery period or depreciation method) of an asset in a general asset account shall not cause or permit the revocation of the election made under this section.

(ii) *Asset is removed from the general asset account.* Upon a change in the use described in § 1.168(i)-4(d), the taxpayer must remove the asset from the general asset account as of the first day of the year of change (as defined in § 1.168(i)-4(a)) and must make the adjustments to the general asset account described in paragraphs (e)(3)(iii)(C)(2) through (4) of this section. If, however, the result of the change in use is described in § 1.168(i)-4(d)(3) (change in use results in a shorter recovery period or a more accelerated depreciation method) and the taxpayer elects to treat the asset as though the

change in use had not occurred pursuant to § 1.168(i)-4(d)(3)(ii), no adjustment is made to the general asset account upon the change in use.

(iii) *New general asset account is established—(A) Change in use results in a shorter recovery period or a more accelerated depreciation method.* If the result of the change in use is described in § 1.168(i)-4(d)(3) (change in use results in a shorter recovery period or a more accelerated depreciation method) and adjustments to the general asset account are made pursuant to paragraph (h)(2)(ii) of this section, the taxpayer must establish a new general asset account for the asset in the year of change in accordance with the rules in paragraph (c) of this section, except that the adjusted depreciable basis of the asset as of the first day of the year of change is included in the general asset account. For purposes of paragraph (c)(2) of this section, the applicable depreciation method, recovery period, and convention are determined under § 1.168(i)-4(d)(3)(i).

(B) *Change in use results in a longer recovery period or a slower depreciation method.* If the result of the change in use is described in § 1.168(i)-4(d)(4) (change in use results in a longer recovery period or a slower depreciation method), the taxpayer must establish a separate general asset account for the asset in the year of change in accordance with the rules in paragraph (c) of this section, except that the unadjusted depreciable basis of the asset, and the greater of the depreciation of the asset allowed or allowable in accordance with section 1016(a)(2), as of the first day of the year of change are included in the newly established general asset account. Consequently, this general asset account as of the first day of the year of change will have a beginning balance for both the unadjusted depreciable basis and the depreciation reserve of the general asset account. For purposes of paragraph (c)(2) of this section, the applicable depreciation method, recovery period, and convention are determined under § 1.168(i)-4(d)(4)(ii).

(i) *Redetermination of basis.* If, after the placed-in-service year, the unadjusted depreciable basis of an asset in a general asset account is redetermined due to a transaction other

than that described in paragraph (g) of this section (for example, due to contingent purchase price or discharge of indebtedness), the taxpayer's election under paragraph (l) of this section for the asset also applies to the increase or decrease in basis resulting from the redetermination. For the taxable year in which the increase or decrease in basis occurs, the taxpayer must establish a new general asset account for the amount of the increase or decrease in basis in accordance with the rules in paragraph (c) of this section. For purposes of paragraph (c)(2) of this section, the applicable recovery period for the increase or decrease in basis is the recovery period of the asset remaining as of the beginning of the taxable year in which the increase or decrease in basis occurs, and the increase or decrease in basis is deemed to be placed in service in the same taxable year as the asset.

(j) *Identification of disposed or converted asset—(1) In general.* The rules of this paragraph (j) apply when an asset in a general asset account is disposed of or converted in a transaction described in paragraphs (e)(3)(iii) (disposition of an asset in a qualifying disposition), (e)(3)(iv)(B) (transactions subject to section 168(i)(7)), (e)(3)(v)(B) (transactions subject to section 1031 or section 1033), (e)(3)(vii) (anti-abuse rule), (g) (assets subject to recapture), or (h)(1) (conversion to any personal use) of this section.

(2) *Identifying which asset is disposed of or converted—(i) In general.* For purposes of identifying which asset in a general asset account is disposed of or converted, a taxpayer must identify the disposed of or converted asset by using—

(A) The specific identification method of accounting. Under this method of accounting, the taxpayer can determine the particular taxable year in which the disposed of or converted asset was placed in service by the taxpayer;

(B) A first-in, first-out method of accounting if the taxpayer can readily determine from its records the total dispositions of assets with the same recovery period during the taxable year but the taxpayer cannot readily determine from its records the unadjusted depreciable basis of the disposed of or converted asset. Under this method of accounting, the taxpayer identifies the general asset account with the earliest placed-in-service year that has the same recovery period as the disposed of or converted asset and that has assets at the beginning of the taxable year of the disposition or conversion, and the taxpayer treats the disposed of or converted asset as being from that general asset account. To determine which general asset account has assets at the beginning of the taxable year of the disposition or conversion, the taxpayer reduces the number of assets originally included in the account by the number of assets disposed of or converted in any prior taxable year in a transaction to which this paragraph (j) applies;

(C) A modified first-in, first-out method of accounting if the taxpayer can readily determine from its records the total dispositions of assets with the same recovery period during the taxable year and the unadjusted depreciable basis of the disposed of or converted asset. Under this method of accounting, the taxpayer identifies the general asset account with the earliest placed-in-service year that has the same recovery period as the disposed of or converted asset and that has assets at the beginning of the taxable year of the disposition or conversion with the same unadjusted depreciable basis as the disposed of or converted asset, and the taxpayer treats the disposed of or converted asset as being from that general asset account. To determine which general asset account has assets at the beginning of the taxable year of the disposition or conversion, the taxpayer reduces the number of assets originally included in the account by the number of assets disposed of or converted in any prior taxable year in a transaction to which this paragraph (j) applies;

(D) A mortality dispersion table if the asset is a mass asset accounted for in a separate general asset account in accordance with paragraph (c)(2)(ii)(H) of this section and if the taxpayer can readily determine from its records the total dispositions of assets with the same recovery period during the taxable year. The mortality dispersion table must be based upon an acceptable sampling of the taxpayer's actual disposition and conversion experience

for mass assets or other acceptable statistical or engineering techniques. To use a mortality dispersion table, the taxpayer must adopt recordkeeping practices consistent with the taxpayer's prior practices and consonant with good accounting and engineering practices; or

(E) Any other method as the Secretary may designate by publication in the **Federal Register** or in the Internal Revenue Bulletin (see § 601.601(d)(2) of this chapter) on or after September 19, 2013. See paragraph (j)(2)(iii) of this section regarding the last-in, first-out method of accounting.

(ii) *Disposition of a portion of an asset.* If a taxpayer disposes of a portion of an asset and paragraph (e)(1)(ii) of this section applies to that disposition, the taxpayer may identify the asset by using any applicable method provided in paragraph (j)(2)(i) of this section (after taking into account paragraph (j)(2)(iii) of this section).

(iii) *Last-in, first-out method of accounting.* For purposes of paragraph (j)(2) of this section, a last-in, first-out method of accounting may not be used. Under a last-in, first-out method of accounting, the taxpayer identifies the general asset account with the most recent placed-in-service year that has the same recovery period as the disposed of or converted asset and that has assets at the beginning of the taxable year of the disposition or conversion, and the taxpayer treats the disposed of or converted asset as being from that general asset account.

(3) *Basis of disposed of or converted asset.* Solely for purposes of this paragraph (j)(3), the term *asset* is the asset as determined under paragraph (e)(2)(viii) of this section or the portion of such asset that is disposed of in a disposition described in paragraph (e)(1)(ii) of this section. After identifying which asset in a general asset account is disposed of or converted, the taxpayer may use any reasonable method that is consistently applied to all assets in the same general asset account for purposes of determining the unadjusted depreciable basis of the disposed of or converted asset in that general asset account. Examples of a reasonable method include, but are not limited to, discounting the cost of the replacement asset to its placed-in-service year cost using the Consumer Price Index, a pro rata allocation of the unadjusted depreciable basis of the general asset account based on the replacement cost of the disposed asset and the replacement cost of all of the assets in the general asset account, and a study allocating the cost of the asset to its individual components.

(k) *Effect of adjustments on prior dispositions.* The adjustments to a general asset account under paragraphs (e)(3)(iii), (e)(3)(iv), (e)(3)(v), (e)(3)(vii), (g), or (h) of this section have no effect on the recognition and character of prior dispositions subject to paragraph (e)(2) of this section.

(l) *Election—(1) Irrevocable election.* If a taxpayer makes an election under this paragraph (l), the taxpayer consents to, and agrees to apply, all of the provisions of this section to the assets included in a general asset account. Except as provided in paragraphs (c)(1)(ii)(A), (e)(3), (g), or (h) of this section or except as otherwise expressly provided by other guidance published in the Internal Revenue Bulletin (see § 601.601(d)(2) of this chapter), an election made under this section is irrevocable and will be binding on the taxpayer for computing taxable income for the taxable year for which the election is made and for all subsequent taxable years. An election under this paragraph (l) is made separately by each person owning an asset to which this section applies (for example, by each member of a consolidated group, at the partnership level (and not by the partner separately), or at the S corporation level (and not by the shareholder separately)).

(m) *Effective/applicability date—(1) In general.* This section applies to taxable years beginning on or after January 1, 2014. Except as provided in paragraphs (m)(2), (m)(3), and (m)(4) of this 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) *Early application of this section.* A taxpayer may choose to apply the provisions of this section to taxable years beginning on or after January 1, 2012.

(3) *Early application of regulation project REG–110732–13.* A taxpayer may rely on the provisions of this section in regulation project REG–110732–13 for taxable years beginning on or after January 1, 2012. However, a taxpayer may not rely on the provisions of this section in regulation project REG–110732–13 for taxable years beginning on or after January 1, 2014.

(4) *Optional application of TD 9564.* A taxpayer may choose to apply § 1.168(i)–1T as contained in TD 9564 (76 FR 81060) December 27, 2011, to taxable years beginning on or after January 1, 2012. However, a taxpayer may not apply § 1.168(i)–1T as contained in TD 9564 (76 FR 81060) December 27, 2011, to taxable years beginning on or after January 1, 2014.

(5) *Change in method of accounting.* A change to comply with this section for depreciable assets placed in service in a taxable year ending on or after December 30, 2003, is a change in method of accounting to which the provisions of section 446(e) and the regulations under section 446(e) apply. A taxpayer also may treat a change to comply with this section for depreciable assets placed in service in a taxable year ending before December 30, 2003, as a change in method of accounting to which the provisions of section 446(e) and the regulations under section 446(e) apply. This paragraph (m)(5) does not apply to a change to comply with paragraphs (e)(3)(ii), (e)(3)(iii), or paragraph (l) of this section.

■ **Par. 4.** Section 1.168(i)-7 is amended by:

■ 1. Adding a new sentence at end of paragraph (b).

■ 2. Revising paragraph (e).

The addition and revision read as follows:

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

\* \* \* \* \*

(b) \* \* \* If a taxpayer disposes of a portion of an asset and § 1.168(i)-8(d)(1) applies to that disposition, the taxpayer must account for the disposed portion in a single asset account beginning in the taxable year in which the disposition occurs. See § 1.168(i)-8(h)(3)(i).

\* \* \* \* \*

(e) *Effective/applicability date*—(1) *In general.* This section applies to taxable years beginning on or after January 1, 2014.

(2) *Early application of this section.* A taxpayer may choose to apply the provisions of this section to taxable years beginning on or after January 1, 2012.

(3) *Early application of regulation project REG-110732-13.* A taxpayer may rely on the provisions of this section in regulation project REG-110732-13 for taxable years beginning on or after January 1, 2012. However, a taxpayer may not rely on the provisions of this section in regulation project REG-110732-13 for taxable years beginning on or after January 1, 2014.

(4) *Optional application of TD 9564.* A taxpayer may choose to apply § 1.168(i)-7T as contained in TD 9564 (76 FR 81060) December 27, 2011, to taxable years beginning on or after January 1, 2012. However, a taxpayer may not apply § 1.168(i)-7T as contained in TD 9564 (76 FR 81060) December 27, 2011, to taxable years beginning on or after January 1, 2014.

(5) *Change in method of accounting.* A change to comply with this section for depreciable assets placed in service in a taxable year ending on or after December 30, 2003, is a change in method of accounting to which the provisions of section 446(e) and the regulations under section 446(e) apply. A taxpayer also may treat a change to comply with this section for depreciable assets placed in service in a taxable year ending before December 30, 2003, as a change in method of accounting to which the provisions of section 446(e) and the regulations under section 446(e) apply.

■ **Par. 5.** Section 1.168(i)-8 is added to read as follows:

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

(a) *Scope.* This section provides rules applicable to dispositions of MACRS property (as defined in § 1.168(b)-1(a)(2)) or to depreciable property (as defined in § 1.168(b)-1(a)(1)) that would be MACRS property but for an election made by the taxpayer either to expense all or some of the property's cost under section 179, 179A, 179B, 179C, 179D, or 1400I(a)(1), or any similar provision, or to amortize all or some of the property's cost under section 1400I(a)(2) or any similar provision. This section also applies to dispositions described in paragraph (d)(1) of this section of a portion of such property. Except as provided in § 1.168(i)-1(e)(iii), this section does not apply to dispositions of assets included in a general asset account. For rules applicable to dispositions of assets included in a general asset account, see § 1.168(i)-1(e) or § 1.168(e)-1T, as applicable.

(b) *Definitions.* For purposes of this section—

(1) *Building* has the same meaning as that term is defined in § 1.48-1(e)(1).

(2) *Disposition* occurs when ownership of the asset is transferred or when the asset is permanently withdrawn from use either in the taxpayer's trade or business or in the production of income. A disposition includes the sale, exchange, retirement, physical abandonment, or destruction of an asset. A disposition also occurs when an asset is transferred to a supplies, scrap, or similar account, or when a portion of an asset is disposed of as described in paragraph (d)(1) of this section. If a structural component (or a portion thereof) of a building is disposed of in a disposition described in paragraph (d)(1) of this section, a disposition also includes the disposition of such structural component (or such portion thereof).

(3) *Mass assets* is a mass or group of individual items of depreciable assets—

(i) That are not necessarily homogenous;

(ii) Each of which is minor in value relative to the total value of the mass or group;

(iii) Numerous in quantity;

(iv) Usually accounted for only on a total dollar or quantity basis;

(v) With respect to which separate identification is impracticable; and

(vi) Placed in service in the same taxable year.

(4) *Portion of an asset* is any part of an asset that is less than the entire asset as determined under paragraph (c)(4) of this section.

(5) *Structural component* has the same meaning as that term is defined in § 1.48-1(e)(2).

(6) *Unadjusted depreciable basis of the multiple asset account or pool* is the sum of the unadjusted depreciable bases (as defined in § 1.168(b)-1(a)(3)) of all assets included in the multiple asset account or pool.

(c) *Special rules*—(1) *Manner of disposition.* The manner of disposition (for example, normal retirement, abnormal retirement, ordinary retirement, or extraordinary retirement) is not taken into account in determining whether a disposition occurs or gain or loss is recognized.

(2) *Disposition by transfer to a supplies account.* If a taxpayer made an election under § 1.162-3(d) to treat the cost of any rotatable spare part, temporary spare part, or standby emergency spare part (as defined in § 1.162-3(c)) as a capital expenditure subject to the allowance for depreciation, the taxpayer can dispose of the rotatable, temporary, or standby emergency spare part by transferring it to a supplies account only if the taxpayer has obtained the consent of the Commissioner to revoke the § 1.162-3(d) election. See § 1.162-3(d)(3) for the procedures for revoking a § 1.162-3(d) election.

(3) *Leasehold improvements.* This section also applies to—

(i) A lessor of leased property that made an improvement to that property for the lessee of the property, has a depreciable basis in the improvement, and disposes of the improvement before or upon the termination of the lease with the lessee. See section 168(i)(8)(B); and

(ii) A lessee of leased property that made an improvement to that property, has a depreciable basis in the improvement, and disposes of the improvement before or upon the termination of the lease.

(4) *Determination of asset disposed of*—(i) *General rules.* For purposes of

applying this section, the facts and circumstances of each disposition are considered in determining what is the appropriate asset disposed of. The asset for disposition purposes may not consist of items placed in service by the taxpayer on different dates. For purposes of determining what is the appropriate asset disposed of, the unit of property determination under § 1.263(a)–3(e) or in published guidance in the Internal Revenue Bulletin (see § 601.601(d)(2) of this chapter) under section 263(a) does not apply.

(ii) *Special rules.* In addition to the general rules in paragraph (c)(4)(i) of this section, the following rules apply for purposes of applying this section:

(A) Each building (including its structural components) is the asset except as provided in § 1.1250–1(a)(2)(ii) or in paragraph (c)(4)(ii)(B) or paragraph (c)(4)(ii)(D) of this section.

(B) If a building has two or more condominium or cooperative units, each condominium or cooperative unit (including its structural components) is the asset except as provided in § 1.1250–1(a)(2)(ii) or in paragraph (c)(4)(ii)(D) of this section.

(C) If a taxpayer properly includes an item in one of the asset classes 00.11 through 00.4 of Rev. Proc. 87–56 (1987–2 CB 674) (see § 601.601(d)(2) of this chapter) or properly classifies an item in one of the categories under section 168(e)(3) (except for a category that includes buildings or structural components; for example, retail motor fuels outlet, qualified leasehold improvement property, qualified restaurant property, and qualified retail improvement property), each item is the asset provided paragraph (c)(4)(ii)(D) of this section does not apply to the item. For example, each desk is the asset, each computer is the asset, and each qualified smart electric meter is the asset.

(D) If the taxpayer places in service an improvement or addition to an asset after the taxpayer placed the asset in service, the improvement or addition is a separate asset.

(d) *Disposition of a portion of an asset*—(1) *In general.* For purposes of applying this section, a disposition includes a disposition of a portion of an asset as a result of a casualty event described in section 165, a disposition of a portion of an asset for which gain (determined without regard to section 1245 or section 1250) is not recognized in whole or in part under section 1031 or section 1033, a transfer of a portion of an asset in a transaction described in section 168(i)(7)(B), or a sale of a portion of an asset, even if the taxpayer does not make the election under

paragraph (d)(2)(i) of this section for that disposed portion. For other transactions, a disposition includes a disposition of a portion of an asset only if the taxpayer makes the election under paragraph (d)(2)(i) of this section for that disposed portion.

(2) *Partial disposition election*—(i) *In general.* A taxpayer may make an election under this paragraph (d)(2) to apply this section to a disposition of a portion of an asset. If the asset is properly included in one of the asset classes 00.11 through 00.4 of Rev. Proc. 87–56 (1987–2 CB 674) (see § 601.601(d)(2) of this chapter), a taxpayer may make an election under this paragraph (d)(2) to apply this section to a disposition of a portion of such asset only if the taxpayer classifies the replacement portion of the asset under the same asset class as the disposed portion of the asset.

(ii) *Time and manner for making election*—(A) *Time for making election.* Except as provided in paragraph (d)(2)(iii) or paragraph (d)(2)(iv) of this section, a taxpayer must make the election specified in paragraph (d)(2)(i) of this section by the due date (including extensions) of the original Federal tax return for the taxable year in which the portion of an asset is disposed of by the taxpayer.

(B) *Manner of making election.* Except as provided in paragraph (d)(2)(iii) or paragraph (d)(2)(iv) of this section, a taxpayer must make the election specified in paragraph (d)(2)(i) of this section by applying the provisions of this section for the taxable year in which the portion of an asset is disposed of by the taxpayer, by reporting the gain, loss, or other deduction on the taxpayer's timely filed (including extensions) original Federal tax return for that taxable year, and, if the asset is properly included in one of the asset classes 00.11 through 00.4 of Rev. Proc. 87–56 (1987–2 CB 674) (see § 601.601(d)(2) of this chapter), by classifying the replacement portion of such asset under the same asset class as the disposed portion of the asset in the taxable year in which the replacement portion is placed in service by the taxpayer. Except as provided in paragraph (d)(2)(iii) or paragraph (d)(2)(iv)(B) of this section, the election specified in paragraph (d)(2)(i) of this section may not be made through the filing of an application for change in accounting method.

(iii) *Special rule for subsequent Internal Revenue Service adjustment.* This paragraph (d)(2)(iii) applies when a taxpayer deducted the amount paid or incurred for the replacement of a portion of an asset as a repair under

§ 1.162–4, the taxpayer did not make the election specified in paragraph (d)(2)(i) of this section for the disposed portion of that asset within the time and in the manner under paragraph (d)(2)(ii) or paragraph (d)(2)(iv) of this section, and as a result of an examination of the taxpayer's Federal tax return, the Internal Revenue Service disallows the taxpayer's repair deduction for the amount paid or incurred for the replacement of the portion of that asset and instead capitalizes such amount under § 1.263(a)–2 or § 1.263(a)–3. If this paragraph (d)(2)(iii) applies, the taxpayer may make the election specified in paragraph (d)(2)(i) of this section for the disposition of the portion of the asset to which the Internal Revenue Service's adjustment pertains by filing an application for change in accounting method, provided the asset of which the disposed portion was a part is owned by the taxpayer at the beginning of the year of change (as defined for purposes of section 446(e)).

(iv) *Special rules for 2012 or 2013 returns.* If, under paragraph (j)(2) or paragraph (j)(3) of this section, a taxpayer chooses to apply the provisions of this section to a taxable year beginning on or after January 1, 2012, and ending on or before September 19, 2013 (applicable taxable year), and the taxpayer did not make the election specified in paragraph (d)(2)(i) of this section on its timely filed original Federal tax return for the applicable taxable year, including extensions, the taxpayer must make the election specified in paragraph (d)(2)(i) of this section for the applicable taxable year by filing either—

(A) An amended Federal tax return for the applicable taxable year on or before 180 days from the due date including extensions of the taxpayer's Federal tax return for the applicable taxable year, notwithstanding that the taxpayer may not have extended the due date; or

(B) An application for change in accounting method with the taxpayer's timely filed original Federal tax return for the first or second taxable year succeeding the applicable taxable year.

(v) *Revocation.* A taxpayer may revoke the election specified in paragraph (d)(2)(i) of this section only by filing a request for a private letter ruling and obtaining the Commissioner's consent to revoke the election. The Commissioner may grant a request to revoke this election if the taxpayer acted reasonably and in good faith, and the revocation will not prejudice the interests of the Government. See generally § 301.9100–3 of this chapter. The election specified in paragraph (d)(2)(i) of this section may

not be revoked through the filing of an application for change in accounting method.

(e) *Gain or loss on dispositions.* Solely for purposes of this paragraph (e), the term *asset* is an asset within the scope of this section or the portion of such asset that is disposed of in a disposition described in paragraph (d)(1) of this section. Except as provided by section 280B and § 1.280B-1, the following rules apply when an asset is disposed of during a taxable year:

(1) If an asset is disposed of by sale, exchange, or involuntary conversion, gain or loss must be recognized under the applicable provisions of the Internal Revenue Code.

(2) If an asset is disposed of by physical abandonment, loss must be recognized in the amount of the adjusted depreciable basis (as defined in § 1.168(b)-1(a)(4)) of the asset at the time of the abandonment (taking into account the applicable convention). However, if the abandoned asset is subject to nonrecourse indebtedness, paragraph (e)(1) of this section applies to the asset (instead of this paragraph (e)(2)). For a loss from physical abandonment to qualify for recognition under this paragraph (e)(2), the taxpayer must intend to discard the asset irrevocably so that the taxpayer will neither use the asset again nor retrieve it for sale, exchange, or other disposition.

(3) If an asset is disposed of other than by sale, exchange, involuntary conversion, physical abandonment, or conversion to personal use (as, for example, when the asset is transferred to a supplies or scrap account), gain is not recognized. Loss must be recognized in the amount of the excess of the adjusted depreciable basis of the asset at the time of the disposition (taking into account the applicable convention) over the asset's fair market value at the time of the disposition (taking into account the applicable convention).

(f) *Basis of asset disposed of—(1) In general.* The adjusted basis of an asset disposed of for computing gain or loss is its adjusted depreciable basis at the time of the asset's disposition (as determined under the applicable convention for the asset).

(2) *Assets disposed of are in multiple asset accounts.* If the taxpayer accounts for the asset disposed of in a multiple asset account or pool and it is impracticable from the taxpayer's records to determine the unadjusted depreciable basis (as defined in § 1.168(b)-1(a)(3)) of the asset disposed of, the taxpayer may use any reasonable method that is consistently applied to all assets in the same multiple asset

account or pool for purposes of determining the unadjusted depreciable basis of assets disposed of. Examples of a reasonable method include, but are not limited to, discounting the cost of the replacement asset to its placed-in-service year cost using the Consumer Price Index, a pro rata allocation of the unadjusted depreciable basis of the multiple asset account or pool based on the replacement cost of the disposed asset and the replacement cost of all of the assets in the multiple asset account or pool, and a study allocating the cost of the asset to its individual components. To determine the adjusted depreciable basis of an asset disposed of in a multiple asset account, the depreciation allowed or allowable for the asset disposed of is computed by using the depreciation method, recovery period, and convention applicable to the multiple asset account or pool in which the asset disposed of was included and by including the additional first year depreciation deduction claimed for the asset disposed of.

(3) *Disposition of a portion of an asset.* This paragraph (f)(3) applies only when a taxpayer disposes of a portion of an asset and paragraph (d)(1) of this section applies to that disposition. For computing gain or loss, the adjusted basis of the disposed portion of the asset is the adjusted depreciable basis of that disposed portion at the time of its disposition (as determined under the applicable convention for the asset). The taxpayer may use any reasonable method for purposes of determining the unadjusted depreciable basis (as defined in § 1.168(b)-1(a)(3)) of the disposed portion of the asset. If a taxpayer disposes of more than one portion of the same asset and paragraph (d)(1) of this section applies to more than one of those dispositions, the taxpayer may use any reasonable method that is consistently applied to all portions of the same asset for purposes of determining the unadjusted depreciable basis of each disposed portion of the asset. Examples of a reasonable method include, but are not limited to, discounting the cost of the replacement portion of the asset to its placed-in-service year cost using the Consumer Price Index, a pro rata allocation of the unadjusted depreciable basis of the asset based on the replacement cost of the disposed portion of the asset and the replacement cost of the asset, and a study allocating the cost of the asset to its individual components. To determine the adjusted depreciable basis of the disposed portion of the asset, the depreciation allowed or allowable for the disposed portion is

computed by using the depreciation method, recovery period, and convention applicable to the asset in which the disposed portion was included and by including the portion of the additional first year depreciation deduction claimed for the asset that is attributable to the disposed portion.

(g) *Identification of asset disposed of—(1) In general.* Except as provided in paragraph (g)(2) or paragraph (g)(3) of this section, a taxpayer must use the specific identification method of accounting to identify which asset is disposed of by the taxpayer. Under this method of accounting, the taxpayer can determine the particular taxable year in which the asset disposed of was placed in service by the taxpayer.

(2) *Asset disposed of is in a multiple asset account.* If a taxpayer accounts for the asset disposed of in a multiple asset account or pool and the total dispositions of assets with the same recovery period during the taxable year are readily determined from the taxpayer's records, but it is impracticable from the taxpayer's records to determine the particular taxable year in which the asset disposed of was placed in service by the taxpayer, the taxpayer must identify the asset disposed of by using—

(i) A first-in, first-out method of accounting if the unadjusted depreciable basis of the asset disposed of cannot be readily determined from the taxpayer's records. Under this method of accounting, the taxpayer identifies the multiple asset account or pool with the earliest placed-in-service year that has the same recovery period as the asset disposed of and that has assets at the beginning of the taxable year of the disposition, and the taxpayer treats the asset disposed of as being from that multiple asset account or pool;

(ii) A modified first-in, first-out method of accounting if the unadjusted depreciable basis of the asset disposed of can be readily determined from the taxpayer's records. Under this method of accounting, the taxpayer identifies the multiple asset account or pool with the earliest placed-in-service year that has the same recovery period as the asset disposed of and that has assets at the beginning of the taxable year of the disposition with the same unadjusted depreciable basis as the asset disposed of, and the taxpayer treats the asset disposed of as being from that multiple asset account or pool;

(iii) A mortality dispersion table if the asset disposed of is a mass asset. The mortality dispersion table must be based upon an acceptable sampling of the taxpayer's actual disposition experience for mass assets or other acceptable

statistical or engineering techniques. To use a mortality dispersion table, the taxpayer must adopt recordkeeping practices consistent with the taxpayer's prior practices and consonant with good accounting and engineering practices; or

(iv) Any other method as the Secretary may designate by publication in the **Federal Register** or in the Internal Revenue Bulletin (see § 601.601(d)(2) of this chapter) on or after September 19, 2013. See paragraph (g)(4) of this section regarding the last-in, first-out method of accounting.

(3) *Disposition of a portion of an asset.* If a taxpayer disposes of a portion of an asset and paragraph (d)(1) of this section applies to that disposition, but it is impracticable from the taxpayer's records to determine the particular taxable year in which the asset was placed in service, the taxpayer must identify the asset by using any applicable method provided in paragraph (g)(2) of this section (after taking into account paragraph (g)(4) of this section).

(4) *Last-in, first-out method of accounting.* For purposes of paragraph (g)(2) of this section, a last-in, first-out method of accounting may not be used. Under a last-in, first-out method of accounting, the taxpayer identifies the multiple asset account or pool with the most recent placed-in-service year that has the same recovery period as the asset disposed of and that has assets at the beginning of the taxable year of the disposition, and the taxpayer treats the asset disposed of as being from that multiple asset account or pool.

(h) *Accounting for asset disposed of—*  
(1) *Depreciation ends.* Depreciation ends for an asset at the time of the asset's disposition (as determined under the applicable convention for the asset). See § 1.167(a)–10(b). If the asset disposed of is in a single asset account initially or as a result of § 1.168(i)–8(h)(2)(i) or § 1.168(i)–8(h)(3)(i), the single asset account terminates at the time of the asset's disposition (as determined under the applicable convention for the asset). If a taxpayer disposes of a portion of an asset and paragraph (d)(1) of this section applies to that disposition, depreciation ends for that disposed portion of the asset at the time of the disposition of the disposed portion (as determined under the applicable convention for the asset).

(2) *Asset disposed of in a multiple asset account or pool.* If the taxpayer accounts for the asset disposed of in a multiple asset account or pool, then—

(i) As of the first day of the taxable year in which the disposition occurs, the asset disposed of is removed from the multiple asset account or pool and

is placed into a single asset account. See § 1.168(i)–7(b) or § 1.168(i)–7T(b), as applicable;

(ii) The unadjusted depreciable basis of the multiple asset account or pool must be reduced by the unadjusted depreciable basis of the asset disposed of as of the first day of the taxable year in which the disposition occurs. See paragraph (f)(2) of this section for determining the unadjusted depreciable basis of the asset disposed of;

(iii) The depreciation reserve of the multiple asset account or pool must be reduced by the depreciation allowed or allowable for the asset disposed of as of the end of the taxable year immediately preceding the year of disposition, computed by using the depreciation method, recovery period, and convention applicable to the multiple asset account or pool in which the asset disposed of was included and by including the additional first year depreciation deduction claimed for the asset disposed of; and

(iv) In determining the adjusted depreciable basis of the asset disposed of at the time of disposition (taking into account the applicable convention), the depreciation allowed or allowable for the asset disposed of is computed by using the depreciation method, recovery period, and convention applicable to the multiple asset account or pool in which the asset disposed of was included and by including the additional first year depreciation deduction claimed for the asset disposed of.

(3) *Disposition of a portion of an asset.* This paragraph (h)(3) applies only when a taxpayer disposes of a portion of an asset and paragraph (d)(1) of this section applies to that disposition. In this case—

(i) As of the first day of the taxable year in which the disposition occurs, the disposed portion is placed into a single asset account. See § 1.168(i)–7(b);

(ii) The unadjusted depreciable basis of the asset must be reduced by the unadjusted depreciable basis of the disposed portion of the first day of the taxable year in which the disposition occurs. See paragraph (f)(3) of this section for determining the unadjusted depreciable basis of the disposed portion;

(iii) The depreciation reserve of the asset must be reduced by the depreciation allowed or allowable for the disposed portion as of the end of the taxable year immediately preceding the year of disposition, computed by using the depreciation method, recovery period, and convention applicable to the asset in which the disposed portion was included and by including the portion of the additional first year depreciation

deduction claimed for the asset that is attributable to the disposed portion; and

(iv) In determining the adjusted depreciable basis of the disposed portion at the time of disposition (taking into account the applicable convention), the depreciation allowed or allowable for the disposed portion is computed by using the depreciation method, recovery period, and convention applicable to the asset in which the disposed portion was included and by including the portion of the additional first year depreciation deduction claimed for the asset that is attributable to the disposed portion.

(i) *Examples.* The application of this section is illustrated by the following examples. For purposes of these examples, assume that section 168 as in effect on September 19, 2013, applies to taxable years beginning on or after January 1, 2014.

*Example 1.* A owns an office building with four elevators. A replaces one of the elevators. The elevator is a structural component of the office building. In accordance with paragraph (c)(4)(ii)(A) of this section, the office building (including its structural components) is the asset for disposition purposes. A does not make the partial disposition election provided under paragraph (d)(2) of this section for the elevator. Thus, the retirement of the replaced elevator is not a disposition. As a result, depreciation continues for the cost of the building (including the cost of the retired elevator and the building's other structural components), and A does not recognize a loss for this retired elevator. If A must capitalize the amount paid for the replacement elevator pursuant to § 1.263(a)–3, the replacement elevator is a separate asset for disposition purposes pursuant to paragraph (c)(4)(ii)(D) of this section and for depreciation purposes pursuant to section 168(i)(6).

*Example 2.* The facts are the same as in *Example 1*, except A accounts for each structural component of the office building as a separate asset in its fixed asset system. Although A treats each structural component as a separate asset in its records, the office building (including its structural components) is the asset for disposition purposes in accordance with paragraph (c)(4)(ii)(A) of this section. Accordingly, the result is the same as in *Example 1*.

*Example 3.* The facts are the same as in *Example 1*, except A makes the partial disposition election provided under paragraph (d)(2) of this section for the elevator. Although the office building (including its structural components) is the asset for disposition purposes, the result of A making the partial disposition election for the elevator is that the retirement of the replaced elevator is a disposition. Thus, depreciation for the retired elevator ceases at the time of its retirement (taking into account the applicable convention), and A recognizes a loss upon this retirement. Further, A must capitalize the amount paid for the replacement elevator pursuant to § 1.263(a)–3(k)(1)(i), and the replacement elevator is a

separate asset for disposition purposes pursuant to paragraph (c)(4)(ii)(D) of this section and for depreciation purposes pursuant to section 168(i)(6).

*Example 4.* B, a calendar-year commercial airline company, owns several aircraft that are used in the commercial carrying of passengers and described in asset class 45.0 of Rev. Proc. 87-56. B replaces the existing engines on one of the aircraft with new engines. Assume each aircraft is a unit of property as determined under § 1.263(a)-3(e)(3) and each engine of an aircraft is a major component or substantial structural part of the aircraft as determined under § 1.263(a)-3(k)(6). Assume also that B treats each aircraft as the asset for disposition purposes in accordance with paragraph (c)(4) of this section. B makes the partial disposition election provided under paragraph (d)(2) of this section for the engines in the aircraft. Although the aircraft is the asset for disposition purposes, the result of B making the partial disposition election for the engines is that the retirement of the replaced engines is a disposition. Thus, depreciation for the retired engines ceases at the time of their retirement (taking into account the applicable convention), and B recognizes a loss upon this retirement. Further, B must capitalize the amount paid for the replacement engines pursuant to § 1.263(a)-3(k)(1)(i), and the replacement engines are a separate asset for disposition purposes pursuant to paragraph (c)(4)(ii)(D) of this section and for depreciation purposes pursuant to section 168(i)(6).

*Example 5.* The facts are the same as in *Example 4*, except B does not make the partial disposition election provided under paragraph (d)(2) of this section for the engines. Thus, the retirement of the replaced engines on one of the aircraft is not a disposition. As a result, depreciation continues for the cost of the aircraft (including the cost of the retired engines), and B does not recognize a loss for these retired engines. If B must capitalize the amount paid for the replacement engines pursuant to § 1.263(a)-3, the replacement engines are a separate asset for disposition purposes pursuant to paragraph (c)(4)(ii)(D) of this section and for depreciation purposes pursuant to section 168(i)(6).

*Example 6.* C, a corporation, owns several trucks that are used in its trade or business and described in asset class 00.241 of Rev. Proc. 87-56. C replaces the engine on one of the trucks with a new engine. Assume each truck is a unit of property as determined under § 1.263(a)-3(e)(3) and each engine is a major component or substantial structural part of the truck as determined under § 1.263(a)-3(k)(6). Because the trucks are described in asset class 00.241 of Rev. Proc. 87-56, C must treat each truck as the asset for disposition purposes. C does not make the partial disposition election provided under paragraph (d)(2) of this section for the engine. Thus, the retirement of the replaced engine on the truck is not a disposition. As a result, depreciation continues for the cost of the truck (including the cost of the retired engine), and C does not recognize a loss for this retired engine. If C must capitalize the amount paid for the replacement engine

pursuant to § 1.263(a)-3, the replacement engine is a separate asset for disposition purposes pursuant to paragraph (c)(4)(ii)(D) of this section and for depreciation purposes pursuant to section 168(i)(6).

*Example 7.* D owns a retail building. D replaces 60 percent of the roof of this building. In accordance with paragraph (c)(4)(ii)(A) of this section, the retail building (including its structural components) is the asset for disposition purposes. Assume D must capitalize the costs incurred for replacing 60 percent of the roof pursuant to § 1.263(a)-3(k)(1)(vi). D makes the partial disposition election provided under paragraph (d)(2) of this section for the 60 percent of the replaced roof. Thus, the retirement of 60 percent of the roof is a disposition. As a result, depreciation for 60 percent of the roof ceases at the time of its retirement (taking into account the applicable convention), and D recognizes a loss upon this retirement. Further, D must capitalize the amount paid for the 60 percent of the roof pursuant to § 1.263(a)-3(k)(1)(i) and (vi) and the replacement 60 percent of the roof is a separate asset for disposition purposes pursuant to paragraph (c)(4)(ii)(D) of this section and for depreciation purposes pursuant to section 168(i)(6).

*Example 8.* (i) The facts are the same as in *Example 7*. Ten years after replacing 60 percent of the roof, D replaces 55 percent of the roof of the building. In accordance with paragraph (c)(4)(ii)(A) and (D) of this section, for disposition purposes, the retail building (including its structural components) except the replacement 60 percent of the roof is an asset and the replacement 60 percent of the roof is a separate asset. Assume D must capitalize the costs incurred for replacing 55 percent of the roof pursuant to § 1.263(a)-3(k)(1)(vi). D makes the partial disposition election provided under paragraph (d)(2) of this section for the 55 percent of the replaced roof. Thus, the retirement of 55 percent of the roof is a disposition.

(ii) However, D cannot determine from its records whether the replaced 55 percent is part of the 60 percent of the roof replaced ten years ago or whether the replaced 55 percent is part of the remaining 40 percent of the original roof. Pursuant to paragraph (g)(3) of this section, D identifies which asset it disposed of by using the first-in, first-out method of accounting. As a result, D disposed of the remaining 40 percent of the original roof and 25 percent of the 60 percent of the roof replaced ten years ago.

(iii) Thus, depreciation for the remaining 40 percent of the original roof ceases at the time of its retirement (taking into account the applicable convention), and D recognizes a loss upon this retirement. Further, depreciation for 25 percent of the 60 percent of the roof replaced ten years ago ceases at the time of its retirement (taking into account the applicable convention), and D recognizes a loss upon this retirement. Also, D must capitalize the amount paid for the 55 percent of the roof pursuant to § 1.263(a)-3(k)(1)(i) and (vi), and the replacement 55 percent of the roof is a separate asset for disposition purposes pursuant to paragraph (c)(4)(ii)(D) of this section and for depreciation purposes pursuant to section 168(i)(6).

*Example 9.* (i) On July 1, 2011, E, a calendar-year taxpayer, purchased and placed in service a multi-story office building that costs \$20,000,000. The cost of each structural component of the building was not separately stated. E accounts for the building in its records as a single asset with a cost of \$20,000,000. E depreciates the building as nonresidential real property and uses the optional depreciation table that corresponds with the general depreciation system, the straight-line method, a 39-year recovery period, and the mid-month convention. As of January 1, 2014, the depreciation reserve for the building is \$1,261,000.

(ii) On June 30, 2014, E replaces one of the office building's elevators. E did not dispose of any other structural components of this building in 2014. E makes the partial disposition election provided under paragraph (d)(2) of this section for this elevator. Although the office building (including its structural components) is the asset for disposition purposes, the result of E making the partial disposition election for the elevator is that the retirement of the replaced elevator is a disposition. Because E cannot identify the cost of the structural components of the office building from its records, E determines the cost of any disposed structural component of this building by discounting the cost of the replacement structural component to its placed-in-service year cost using the Consumer Price Index. Using this reasonable method, E determines the cost of the retired elevator by discounting the cost of the replacement elevator to its cost in 2011 (the placed-in-service year) using the Consumer Price Index, resulting in \$150,000 of the \$20,000,000 purchase price for the building to be the cost of the retired elevator. Using the optional depreciation table that corresponds with the general depreciation system, the straight-line method, a 39-year recovery period, and the mid-month convention, the depreciation allowed or allowable for the retired elevator as of December 31, 2013, is \$9,457.50.

(iii) For E's 2014 Federal tax return, the loss for the retired elevator is determined as follows. The depreciation allowed or allowable for 2014 for the retired elevator is \$1,763 ((unadjusted depreciable basis of \$150,000 × depreciation rate of 2.564% for 2014) × 5.5/12 months). Thus, the adjusted depreciable basis of the retired elevator is \$138,779.50 (the adjusted depreciable basis of \$140,542.50 removed from the building cost less the depreciation allowed or allowable of \$1,763 for 2014). As a result, E recognizes a loss of \$138,779.50 for the retired elevator in 2014, which is subject to section 1231.

(iv) For E's 2014 Federal tax return, the depreciation allowance for the building is computed as follows. As of January 1, 2014, the unadjusted depreciable basis of the building is reduced from \$20,000,000 to \$19,850,000 (\$20,000,000 less the unadjusted depreciable basis of \$150,000 for the retired elevator), and the depreciation reserve of the building is reduced from \$1,261,000 to \$1,251,542.50 (\$1,261,000 less the depreciation allowed or allowable of \$9,457.50 for the retired elevator as of

December 31, 2013). Consequently, the depreciation allowance for the building for 2014 is \$508,954 ( $\$19,850,000 \times$  depreciation rate of 2.564% for 2014).

(v) E also must capitalize the amount paid for the replacement elevator pursuant to § 1.263(a)–3(k)(1)(i). The replacement elevator is a separate asset for tax disposition purposes pursuant to paragraph (c)(4)(ii)(D) of this section and for depreciation purposes pursuant to section 168(i)(6).

**Example 10.** (i) Since 2005, F, a calendar year taxpayer, has accounted for items of MACRS property that are mass assets in pools. Each pool includes only the mass assets that have the same depreciation method, recovery period, and convention, and are placed in service by F in the same taxable year. None of the pools are general asset accounts under section 168(i)(4) and the regulations under section 168(i)(4). F identifies any dispositions of these mass assets by specific identification.

(ii) During 2014, F sells 10 items of mass assets with a 5-year recovery period each for \$100. Under the specific identification method, F identifies these mass assets as being from the pool established by F in 2012 for mass assets with a 5-year recovery period. Assume F depreciates this pool using the optional depreciation table that corresponds with the general depreciation system, the 200-percent declining balance method, a 5-year recovery period, and the half-year convention. F elected not to deduct the additional first year depreciation provided by section 168(k) for 5-year property placed in service during 2012. As of January 1, 2014, this pool contains 100 similar items of mass assets with a total cost of \$25,000 and a total depreciation reserve of \$13,000. Because all the items of mass assets in the pool are similar, F allocates the cost and depreciation allowed or allowable for the pool ratably among each item in the pool. Using this reasonable method (because all the items of mass assets in the pool are similar), F allocates a cost of \$250 ( $\$25,000 \times (1/100)$ ) to each disposed of mass asset and depreciation allowed or allowable of \$130 ( $\$13,000 \times (1/100)$ ) to each disposed of mass asset. The depreciation allowed or allowable in 2014 for each disposed of mass asset is \$24 ( $(\$250 \times 19.2\%)/2$ ). As a result, the adjusted depreciable basis of each disposed of mass asset under section 1011 is \$96 ( $\$250 - \$130 - \$24$ ). Thus, F recognizes a gain of \$4 for each disposed of mass asset in 2014, which is subject to section 1245.

(iii) Further, as of January 1, 2014, the unadjusted depreciable basis of the 2012 pool of mass assets with a 5-year recovery period is reduced from \$25,000 to \$22,500 (\$25,000 less the unadjusted depreciable basis of \$2,500 for the 10 disposed of items), and the depreciation reserve of this 2012 pool is reduced from \$13,000 to \$11,700 (\$13,000 less the depreciation allowed or allowable of \$1,300 for the 10 disposed of items as of December 31, 2013). Consequently, as of January 1, 2014, the 2012 pool of mass assets with a 5-year recovery period has 90 items with a total cost of \$22,500 and a depreciation reserve of \$11,700. Thus, the depreciation allowance for this pool for 2014 is \$4,320 ( $\$22,500 \times 19.2\%$ ).

**Example 11.** (i) The facts are the same as in *Example 10*. Because of changes in F's recordkeeping in 2015, it is impracticable for F to continue to identify disposed of mass assets using specific identification and to determine the unadjusted depreciable basis of the disposed of mass assets. As a result, F files a Form 3115, Application for Change in Accounting Method, to change to a first-in, first-out method beginning with the taxable year beginning on January 1, 2015, on a modified cut-off basis. See § 1.446–1(e)(2)(ii)(d)(2)(vii). Under the first-in, first-out method, the mass assets disposed of in a taxable year are deemed to be from the pool with the earliest placed-in-service year that has assets as of the beginning of the taxable year of the disposition with the same recovery period as the asset disposed of. The Commissioner of Internal Revenue consents to this change in method of accounting.

(ii) During 2015, F sells 20 items of mass assets with a 5-year recovery period each for \$50. As of January 1, 2015, the 2008 pool is the pool with the earliest placed-in-service year for mass assets with a 5-year recovery period, and this pool contains 25 items of mass assets with a total cost of \$10,000 and a total depreciation reserve of \$10,000. Thus, F allocates a cost of \$400 ( $\$10,000 \times (1/25)$ ) to each disposed of mass asset and depreciation allowed or allowable of \$400 to each disposed of mass asset. As a result, the adjusted depreciable basis of each disposed of mass asset is \$0. Thus, F recognizes a gain of \$50 for each disposed of mass asset in 2015, which is subject to section 1245.

(iii) Further, as of January 1, 2015, the unadjusted depreciable basis of the 2008 pool of mass assets with a 5-year recovery period is reduced from \$10,000 to \$2,000 ( $\$10,000$  less the unadjusted depreciable basis of \$8,000 for the 20 disposed of items ( $\$400 \times 20$ )), and the depreciation reserve of this 2008 pool is reduced from \$10,000 to \$2,000 ( $\$10,000$  less the depreciation allowed or allowable of \$8,000 for the 20 disposed of items as of December 31, 2014). Consequently, as of January 1, 2015, the 2008 pool of mass assets with a 5-year recovery period has 5 items with a total cost of \$2,000 and a depreciation reserve of \$2,000.

(j) *Effective/applicability date*—(1) *In general.* This section applies to taxable years beginning on or after January 1, 2014.

(2) *Early application of this section.* A taxpayer may choose to apply the provisions of this section to taxable years beginning on or after January 1, 2012.

(3) *Early application of regulation project REG–110732–13.* A taxpayer may rely on the provisions of this section in regulation project REG–110732–13 for taxable years beginning on or after January 1, 2012. However, a taxpayer may not rely on the provisions of this section in regulation project REG–110732–13 for taxable years beginning on or after January 1, 2014.

(4) *Optional application of TD 9564.* A taxpayer may choose to apply

§ 1.168(i)–8T as contained in TD 9564 (76 FR 81060) December 27, 2011, to taxable years beginning on or after January 1, 2012. However, a taxpayer may not apply § 1.168(i)–8T as contained in TD 9564 (76 FR 81060) December 27, 2011, to taxable years beginning on or after January 1, 2014.

(5) *Change in method of accounting.* A change to comply with this section for depreciable assets placed in service in a taxable year ending on or after December 30, 2003, is a change in method of accounting to which the provisions of section 446(e) and the regulations under section 446(e) apply. A taxpayer also may treat a change to comply with this section for depreciable assets placed in service in a taxable year ending before December 30, 2003, as a change in method of accounting to which the provisions of section 446(e) and the regulations under section 446(e) apply. This paragraph (j)(5) does not apply to a change to comply with paragraph (d)(2) of this section (except as provided in paragraph (d)(2)(iii) or (d)(2)(iv)(B) of this section).

**Beth Tucker,**

*Deputy Commissioner for Operations Support.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG–2012–1045]

RIN 1625AA00

### Safety Zone; Military Munitions Recovery, Raritan River, Raritan, NJ

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a permanent safety zone within the waters of the Raritan River upstream of the Perth Amboy Railroad Bridge. This proposed safety zone is necessary to provide for the protection of the maritime public and safety of navigation during removal of underwater explosive hazards in the Raritan River. This action is intended to protect the public from the dangers posed by underwater explosives by restricting unauthorized persons and vessels from traveling through or conducting underwater activities within a portion of the Raritan River while military munitions are rendered safe,