

years ending after January 25, 1993. However, a taxpayer may apply the provisions of §§1.179-1 through 1.179-5 to property placed in service by the taxpayer after December 31, 1986, in taxable years ending on or before January 25, 1993. Otherwise, for property placed in service by the taxpayer after December 31, 1986, in taxable years ending on or before January 25, 1993, the final regulations under section 179 as in effect for the year the property was placed in service apply, except to the extent modified by the changes made to section 179 by the Tax Reform Act of 1986 (100 Stat. 2085), the Technical and Miscellaneous Revenue Act of 1988 (102 Stat. 3342) and the Revenue Reconciliation Act of 1990 (104 Stat. 1388-400). For that property, a taxpayer may apply any reasonable method that clearly reflects income in applying the changes to section 179, provided the taxpayer consistently applies the method to the property.

(b) *Section 179 property placed in service by the taxpayer in a taxable year beginning after 2002 and before 2008.* The provisions of §1.179-2(b)(1) and (b)(2)(ii), the second sentence of §1.179-4(a), and the provisions of §1.179-5(c), reflecting changes made to section 179 by the Jobs and Growth Tax Relief Reconciliation Act of 2003 (117 Stat. 752) and the American Jobs Creation Act of 2004 (118 Stat. 1418), apply for property placed in service in taxable years beginning after 2002 and before 2008.

(c) *Application of §1.179-5(d).* Section 1.179-5(d) applies on or after July 12, 2005.

[T.D. 9146, 69 FR 46985, Aug. 4, 2004. Redesignated and amended by T.D. 9209, 70 FR 40192, July 13, 2005]

**§ 1.179A-1 Recapture of deduction for qualified clean-fuel vehicle property and qualified clean-fuel vehicle refueling property.**

(a) *In general.* If a recapture event occurs with respect to a taxpayer's qualified clean-fuel vehicle property or qualified clean-fuel vehicle refueling property, the taxpayer must include the recapture amount in taxable income for the taxable year in which the recapture event occurs.

(b) *Recapture event—(1) Qualified clean-fuel vehicle property—(i) In gen-*

*eral.* A recapture event occurs if, within 3 full years from the date a vehicle of which qualified clean-fuel vehicle property is a part is placed in service, the property ceases to be qualified clean-fuel vehicle property. Property ceases to be qualified clean-fuel vehicle property if—

(A) The vehicle is modified by the taxpayer so that it may no longer be propelled by a clean-burning fuel;

(B) The vehicle is used by the taxpayer in a manner described in section 50(b);

(C) The vehicle otherwise ceases to qualify as property defined in section 179A(c); or

(D) The taxpayer receiving the deduction under section 179A sells or disposes of the vehicle and knows or has reason to know that the vehicle will be used in a manner described in paragraph (b)(1)(i) (A), (B), or (C) of this section.

(ii) *Exception for disposition.* Except as provided in paragraph (b)(1)(i)(D) of this section, a sale or other disposition (including a disposition by reason of an accident or other casualty) of qualified clean-fuel vehicle property is not a recapture event.

(2) *Qualified clean-fuel vehicle refueling property—(i) In general.* A recapture event occurs if, at any time before the end of its recovery period, the property ceases to be qualified clean-fuel vehicle refueling property. Property ceases to be qualified clean-fuel vehicle refueling property if—

(A) The property no longer qualifies as property described in section 179A(d);

(B) The property is no longer used predominantly in a trade or business (property will be treated as no longer used predominantly in a trade or business if 50 percent or more of the use of the property in a taxable year is for use other than in a trade or business);

(C) The property is used by the taxpayer in a manner described in section 50(b); or

(D) The taxpayer receiving the deduction under section 179A sells or disposes of the property and knows or has reason to know that the property will be used in a manner described in paragraph (b)(2)(i) (A), (B), or (C) of this section.

(ii) *Exception for disposition.* Except as provided in paragraph (b)(2)(i)(D) of this section, a sale or other disposition (including a disposition by reason of an accident or other casualty) of qualified clean-fuel vehicle refueling property is not a recapture event.

(c) *Recapture date—(1) Qualified clean-fuel vehicle property.* The recapture date is the actual date of the recapture event unless an event described in paragraph (b)(1)(i)(B) of this section occurs, in which case the recapture date is the first day of the recapture year.

(2) *Qualified clean-fuel vehicle refueling property.* The recapture date is the actual date of the recapture event unless the recapture occurs as a result of an event described in paragraph (b)(2)(i)(B) or (C) of this section, in which case the recapture date is the first day of the recapture year.

(d) *Recapture amount—(1) Qualified clean-fuel vehicle property.* The recapture amount is equal to the benefit of the section 179A deduction allowable multiplied by the recapture percentage. The recapture percentage is—

(i) 100, if the recapture date is within the first full year after the date the vehicle is placed in service;

(ii) 66%, if the recapture date is within the second full year after the date the vehicle is placed in service; or

(iii) 33⅓, if the recapture date is within the third full year after the date the vehicle is placed in service.

(2) *Qualified clean-fuel vehicle refueling property.* The recapture amount is equal to the benefit of the section 179A deduction allowable multiplied by the following fraction. The numerator of the fraction equals the total recovery period for the property minus the number of recovery years prior to, but not including, the recapture year. The denominator of the fraction equals the total recovery period.

(e) *Basis adjustment.* As of the first day of the taxable year in which the recapture event occurs, the basis of the vehicle of which qualified clean-fuel vehicle property is a part or the basis of qualified clean-fuel vehicle refueling property is increased by the recapture amount. For a vehicle or refueling property that is of a character that is subject to an allowance for depreciation, this increase in basis is recover-

able over its remaining recovery period beginning as of the first day of the taxable year in which the recapture event occurs.

(f) *Application of section 1245 for sales and other dispositions.* For purposes of section 1245, the amount of the deduction allowable under section 179A(a) with respect to any property that is (or has been) of a character subject to an allowance for depreciation is treated as a deduction allowed for depreciation under section 167. Therefore, upon a sale or other disposition of depreciable qualified clean-fuel vehicle refueling property or a depreciable vehicle of which qualified clean-fuel vehicle property is a part, section 1245 will apply to any gain recognized to the extent the basis of the depreciable property or vehicle was reduced under section 179A(e)(6) net of any basis increase described in paragraph (e) of this section.

(g) *Examples.* The following examples illustrate the provisions of this section:

*Example 1.* A, a calendar-year taxpayer, purchases and places in service for personal use on January 1, 1995, a clean-fuel vehicle, a portion of which is qualified clean-fuel vehicle property, costing \$25,000. The qualified clean-fuel vehicle property costs \$11,000. On A's 1995 federal income tax return, A claims a section 179A deduction of \$2,000. On January 2, 1996, A sells the vehicle to an unrelated third party who subsequently converts the vehicle into a gasoline-propelled vehicle on October 15, 1996. There is no recapture upon the sale of the vehicle by A provided A did not know or have reason to know that the purchaser intended to convert the vehicle to a gasoline-propelled vehicle.

*Example 2.* B, a calendar-year taxpayer, purchases and places in service for personal use on October 11, 1994, a clean-fuel vehicle costing \$20,000, a portion of which is qualified clean-fuel vehicle property. The qualified clean-fuel vehicle property costs \$10,000. On B's 1994 federal income tax return, B claims a deduction of \$2,000, which reduces B's gross income by \$2,000. The basis of the vehicle is reduced to \$18,000 (\$20,000 - \$2,000). On January 31, 1996, B sells the vehicle to a tax-exempt entity. Because B knowingly sold the vehicle to a tax-exempt entity described in section 50(b) in the second full year from the date the vehicle was placed in service, B must recapture \$1,333 (\$2,000 × 66⅔ percent). This recapture amount increases B's gross income by \$1,333 on B's 1996 federal income tax return and is added to the basis of the motor vehicle as of January 1, 1996, the beginning of the taxable year of recapture.

*Example 3.* X, a calendar-year taxpayer, purchases and places in service for its business use on January 1, 1994, qualified clean-fuel vehicle refueling property costing \$400,000. Assume this property has a 5-year recovery period. On X's 1994 federal income tax return, X claims a deduction of \$100,000, which reduces X's gross income by \$100,000. The basis of the property is reduced to \$300,000 (\$400,000 - \$100,000) prior to any adjustments for depreciation. In 1996, more than 50 percent of the use of the property is other than in X's trade or business.

Because the property is no longer used predominantly in X's business, X must recapture three-fifths of the section 179A deduction or \$60,000 ( $\$100,000 \times (5-2)/5 = \$60,000$ ) and include that amount in gross income on its 1996 federal income tax return. The recapture amount of \$60,000 is added to the basis of the property as of January 1, 1996, the beginning of the taxable year of recapture, and to the extent the property remains depreciable, the adjusted basis is recoverable over the remaining recovery period.

*Example 4.* X, a calendar-year taxpayer, purchases and places in service for business use on January 1, 1994, qualified clean-fuel vehicle refueling property costing \$350,000. Assume this property has a 5-year recovery period. On X's 1994 federal income tax return, X claims a deduction of \$100,000, which reduces X's gross income by \$100,000. The basis of the property is reduced to \$250,000 (\$350,000 - \$100,000) prior to any adjustments for depreciation. In 1995, X converts the property to store and dispense gasoline. Because the property is no longer used as qualified clean-fuel vehicle refueling property in 1995, X must recapture four-fifths of the section 179A deduction or \$80,000 ( $\$100,000 \times (5-1)/5 = \$80,000$ ) and include that amount in gross income on its 1995 federal income tax return. The recapture amount of \$80,000 is added to the basis of the property as of January 1, 1995, the beginning of the taxable year of recapture, and to the extent the property remains depreciable, the adjusted basis is recoverable over the remaining recovery period.

*Example 5.* The facts are the same as in *Example 4*. In 1996, X sells the refueling property for \$351,000, recognizing a gain from this sale. Under paragraph (f) of this section, section 1245 will apply to any gain recognized on the sale of depreciable property to the extent the basis of the property was reduced by the section 179A deduction net of any basis increase from recapture of the section 179A deduction. Accordingly, the gain from the sale of the property is subject to section 1245 to the extent of the depreciation allowance for the property plus the deduction allowed under section 179A (\$100,000), less the previous recapture amount (\$80,000). Any remaining amount of gain may be subject to

other applicable provisions of the Internal Revenue Code.

(h) *Effective date.* This section is effective on October 14, 1994. If the recapture date is before the effective date of this section, a taxpayer may use any reasonable method to recapture the benefit of any deduction allowable under section 179A(a) consistent with section 179A and its legislative history. For this purpose, the recapture date is defined in paragraph (c) of this section.

[T.D.8606, 60 FR 39651, Aug. 3, 1995]

**§ 1.179B-1T Deduction for capital costs incurred in complying with Environmental Protection Agency sulfur regulations (temporary).**

(a) *Scope and definitions*—(1) *Scope.* This section provides the rules for determining the amount of the deduction allowable under section 179B(a) for qualified capital costs paid or incurred by a small business refiner to comply with the highway diesel fuel sulfur control requirements of the Environmental Protection Agency (EPA). This section also provides rules for making elections under section 179B.

(2) *Definitions.* For purposes of section 179B and this section, the following definitions apply:

(i) The *applicable EPA regulations* are the EPA regulations establishing the highway diesel fuel sulfur control program (40 CFR part 80, subpart I).

(ii) The *average daily domestic refinery run* for a refinery is the lesser of—

(A) The total amount of crude oil input (in barrels) to the refinery's domestic processing units during the 1-year period ending on December 31, 2002, divided by 365; or

(B) The total amount of refined petroleum product (in barrels) produced by the refinery's domestic processing units during such 1-year period divided by 365.

(iii) The *aggregate average domestic daily refinery run* for a refiner is the sum of the average daily domestic refinery runs for all refineries that were owned by the refiner or a related person on April 1, 2003.

(iv) *Cooperative owner* is a person that—

(A) Directly holds an ownership interest in a cooperative small business