§ 1.468A–1T Nuclear decommissioning costs; general rules (temporary).

(a) Introduction. Section 468A provides an elective method for taking into account nuclear decommissioning costs for Federal income tax purposes. In general, an eligible taxpayer that elects the application of section 468A pursuant to the rules contained in §1.468A–7T is allowed a deduction (as determined under §1.468A–2T) for the taxable year in which the taxpayer makes a cash payment to a nuclear decommissioning fund. Taxpayers using an accrual method of accounting that do not elect the application of section 468A are not allowed a deduction for nuclear decommissioning costs prior to the taxable year in which economic performance occurs with respect to such costs (see section 461(h)).

(b) Definitions. The following terms are defined for purposes of section 468A and the regulations:

(1) The term eligible taxpayer means any taxpayer that possesses a qualifying interest in a nuclear power plant (including a nuclear power plant that is under construction).

(2) The term qualifying interest means—

(i) A direct ownership interest; and

(ii) A leasehold interest in any portion of a nuclear power plant if—

(A) The holder of the leasehold interest is primarily liable under Federal or State law for decommissioning such portion of the nuclear power plant; and

(B) No other person establishes a nuclear decommissioning fund with respect to such portion of the nuclear power plant.

(3) A direct ownership interest includes an interest held as a tenant in common or joint tenant, but does not include stock in a corporation that owns a nuclear power plant or an interest in a partnership that owns a nuclear power plant. Thus, in the case of a partnership that owns a nuclear power plant, the election under section 468A must be made by the partnership and not by the partners. In the case of an unincorporated organization described in [T.D. 9374, 72 FR 74177, Dec. 31, 2007]
§ 1.468A–2T Treatment of electing taxpayer (temporary).

(a) In general. An eligible taxpayer that elects the application of section 468A pursuant to the rules contained in §1.468A–7T (an electing taxpayer) is allowed a deduction for the taxable year in which the taxpayer makes a cash payment (or is deemed to make a cash payment as provided in paragraph (c) of this section) to a nuclear decommissioning fund and for any taxable year in which a deduction is allowed for a special transfer described in §1.468A–8T.

(c) Special rules applicable to certain experimental nuclear facilities. (1) The owner of a qualifying interest in an experimental nuclear facility possesses a qualifying interest in a nuclear power plant for purposes of paragraph (b)(1) of this section if—

(i) Such stockholder satisfies the conditions of paragraph (c)(1) of this section; and

(ii) The corporation that directly owns the facility is not engaged in the trade or business of the furnishing or sale of electric energy.

(2) For purposes of this paragraph (c), an experimental nuclear facility is a nuclear power reactor that is used predominantly for the purpose of conducting experimentation and research.

[T.D. 9374, 72 FR 74177, Dec. 31, 2007]

§ 1.468A–2T Treatment of electing taxpayer (temporary).

(a) In general. An eligible taxpayer that elects the application of section 468A pursuant to the rules contained in §1.468A–7T (an electing taxpayer) is allowed a deduction for the taxable year in which the taxpayer makes a cash payment (or is deemed to make a cash payment as provided in paragraph (c) of this section) to a nuclear decommissioning fund and for any taxable year in which a deduction is allowed for a special transfer described in §1.468A–8T.