

project may be aggregated without regard to the unit in the project with respect to which each expenditure is connected, and an amount equal to the aggregate expenditures for the project divided by the number of units in the project may be entered in the section 263(e) account of each unit in the project.

(f) *Examples.* The provisions of this section may be illustrated by the following examples:

Example 1. M Corporation, a domestic common carrier by railroad, uses the calendar year as its taxable year. M owns and uses several gondola cars to which an election under section 263(e) applies for its taxable years 1970-1972. Gondola car No.1 has a basis (defined in paragraph (b)(1) of this section) of \$10,000. No expenditures properly chargeable to the section 263(e) record are made on gondola car No. 1 in 1970 and 1971, except in January 1971. In January 1971, M at a cost of \$1,500 performed rehabilitation work on gondola car No. 1. Such amount was properly entered in the section 263(e) record for gondola car No.1. Since the expenditures in such record do not exceed an amount equal to 20 percent of the basis of gondola car No. 1 (\$2,000) during any period of 12 calendar months in which January 1971 falls, the expenditures during January 1971 shall be treated as a deductible expense regardless of what the treatment would have been if section 263(e) had not been enacted.

Example 2. Assume the same facts as in *Example 1.* Assume further that for 1970, 1971, and 1972, only the following expenditures in connection with rehabilitation which would, but for section 263(e), be properly chargeable to capital account were deemed included for gondola car No. 2:

(a) December 1970	\$1,500
(b) November 1971	600
(c) December 1971	400
(d) January 1972	1,050

Assume further that gondola car No. 2 has a basis (as defined in paragraph (b) (1) of this section) equal to \$10,000, that M files its tax return by September 15 following each taxable year, and that each rehabilitation was completed in the month in which expenditures in connection with it were incurred. Any expenditures in connection with each gondola car (No. 1 or No. 2) have no effect on the treatment of expenditures in connection with the other gondola car. With respect to gondola car No. 2, the expenditures of December 1970 are treated as deductible repairs at the time M's income tax return for 1970 is filed because, based on the information available when the income tax return for 1970 is filed, such expenditure would be deductible by reason of application of section

263(e) but for the fact that it cannot be established whether the 20-percent limitation in paragraph (d)(1) of this section will be exceeded. Nevertheless, because such expenditures during the period of 12 calendar months including calendar months December 1970 and November 1971 exceed \$2,000, the December 1970 rehabilitation expenditures are not subject to the provisions of section 263(e). Because such rehabilitation expenditures during the period of 12 calendar months including calendar months February 1971 and January 1972 exceed \$2,000, rehabilitation expenditures in 1971 are not subject to the provisions of section 263(e). Similarly, the 1972 rehabilitation expenditures are not subject to the provisions of section 263(e).

[T.D. 7257, 38 FR 4255, Feb. 12, 1973]

§ 1.263(f)-1 Reasonable repair allowance.

(a) For rules regarding the election of the repair allowance authorized by section 263(f), the definition of repair allowance property, and the conditions under which an election may be made, see paragraphs (d) (2) and (f) of §1.167(a)-11. An election may be made under this section for a taxable year only if the taxpayer makes an election under §1.167(a)-11 for such taxable year.

(Sec. 263(f), 85 Stat. 509 (26 U.S.C. 263))

[T.D. 7272, 38 FR 9986, Apr. 23, 1973; 38 FR 12919, May 17, 1973; as amended by T.D. 7593, 44 FR 5421, Jan. 26, 1979]

§ 1.263A-0 Outline of regulations under section 263A.

This section lists the paragraphs in §§1.263A-1 through 1.263A-4 and §§1.263A-7 through 1.263A-15 as follows:

§ 1.263A-1 Uniform Capitalization of Costs.

- (a) Introduction.
 - (1) In general.
 - (2) Effective dates.
 - (3) General scope.
 - (i) Property to which section 263A applies.
 - (ii) Property produced.
 - (iii) Property acquired for resale.
 - (iv) Inventories valued at market.
 - (v) Property produced in a farming business.
 - (vi) Creative property.
 - (vii) Property produced or property acquired for resale by foreign persons.
- (b) Exceptions.
 - (1) Small resellers.
 - (2) Long-term contracts.
 - (3) Costs incurred in certain farming businesses.

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- (A) Inventory property.
- (B) Non-inventory property held for sale.
- (C) Certain self-constructed assets.
- (D) Self-constructed assets produced on a repetitive basis.
 - (i) Election to exclude self-constructed assets.
 - (3) General allocation formula.
 - (4) Labor-based allocation ratio.
 - (5) Production cost allocation ratio.
 - (6) Definition of total mixed service costs.
 - (7) Costs allocable to more than one business.
 - (8) De minimis rule.
 - (9) Separate election.
 - (i) [Reserved]
 - (j) Special rules.
 - (1) Costs provided by a related person.
 - (i) In general.
 - (ii) Exceptions.
 - (2) Optional capitalization of period costs.
 - (i) In general.
 - (ii) Period costs eligible for capitalization.
 - (3) Trade or business application.
 - (4) Transfers with a principal purpose of tax avoidance. [Reserved]

§ 1.263A-2 Rules Relating to Property Produced by the Taxpayer.

- (a) In general.
 - (1) Produce.
 - (i) In general.
 - (ii) Ownership.
 - (A) General rule.
 - (B) Property produced for the taxpayer under a contract.
 - (1) In general.
 - (2) Definition of contract.
 - (C) Home construction contracts.
 - (2) Tangible personal property.
 - (i) General rule.
 - (ii) Intellectual or creative property.
 - (A) Intellectual or creative property that is tangible personal property.
 - (1) Books.
 - (2) Sound recordings.
 - (B) Intellectual or creative property that is not tangible personal property.
 - (1) Evidences of value.
 - (2) Property provided incident to services.
 - (3) Costs required to be capitalized by producers.
 - (i) In general.
 - (ii) Pre-production costs.
 - (iii) Post-production costs.
 - (4) Practical capacity concept.
 - (5) Taxpayers required to capitalize costs under this section.
 - (b) Simplified production method.
 - (1) Introduction.
 - (2) Eligible property.
 - (i) In general.
 - (A) Inventory property.
 - (B) Non-inventory property held for sale.
 - (C) Certain self-constructed assets.
 - (D) Self-constructed assets produced on a repetitive basis.

- (ii) Election to exclude self-constructed assets.
- (3) Simplified production method without historic absorption ratio election.
 - (i) General allocation formula.
 - (ii) Definitions.
 - (A) Absorption ratio.
 - (1) Additional section 263A costs incurred during the taxable year.
 - (2) Section 471 costs incurred during the taxable year.
 - (B) Section 471 costs remaining on hand at year end.
 - (iii) LIFO taxpayers electing the simplified production method.
 - (A) In general.
 - (B) LIFO increment.
 - (C) LIFO decrement.
 - (iv) De minimis rule for producers with total indirect costs of \$200,000 or less.
 - (A) In general.
 - (B) Related party and aggregation rules.
 - (v) Examples.
 - (4) Simplified production method with historic absorption ratio election.
 - (i) In general.
 - (ii) Operating rules and definitions.
 - (A) Historic absorption ratio.
 - (B) Test period.
 - (1) In general.
 - (2) Updated test period.
 - (C) Qualifying period.
 - (1) In general.
 - (2) Extension of qualifying period.
 - (iii) Method of accounting.
 - (A) Adoption and use.
 - (B) Revocation of election.
 - (iv) Reporting and recordkeeping requirements.
 - (A) Reporting.
 - (B) Recordkeeping.
 - (v) Transition rules.
 - (vi) Example.
 - (c) Additional simplified methods for producers.
 - (d) Cross reference.

§ 1.263A-3 Rules Relating to Property Acquired for Resale

- (a) Capitalization rules for property acquired for resale.
 - (1) In general.
 - (2) Resellers with production activities.
 - (i) In general.
 - (ii) Exception for small resellers.
 - (iii) De minimis production activities.
 - (A) In general.
 - (B) Example.
 - (3) Resellers with property produced under a contract.
 - (4) Use of the simplified resale method.
 - (i) In general.
 - (ii) Resellers with de minimis production activities.
 - (iii) Resellers with property produced under a contract.

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- (i) In general.
- (ii) Deemed avoidance of this section.
 - (A) Scope.
 - (B) General rule.
- (iii) Election to use transferor's LIFO layers.
- (iv) Tax avoidance intent not required.
- (v) Related corporation.
- (d) Non-inventory property.
- (1) Need for adjustments.
- (2) Revaluing property.

§ 1.263A-8 Requirement to capitalize interest.

- (a) In general.
 - (1) General rule.
 - (2) Treatment of interest required to be capitalized.
 - (3) Methods of accounting under section 263A(f).
 - (4) Special definitions.
 - (i) Related person.
 - (ii) Placed in service.
 - (b) Designated property.
 - (1) In general.
 - (2) Special rules.
 - (i) Application of thresholds.
 - (ii) Relevant activities and costs.
 - (iii) Production period and cost of production.
 - (3) Excluded property.
 - (4) De minimis rule.
- (i) In general.
- (ii) Determination of total production expenditures.
- (c) Definition of real property.
 - (1) In general.
 - (2) Unsevered natural products of land.
 - (3) Inherently permanent structures.
 - (4) Machinery.
 - (i) Treatment.
 - (ii) Certain factors not determinative.
 - (d) Production.
 - (1) Definition of produce.
 - (2) Property produced under a contract.
 - (i) Customer.
 - (ii) Contractor.
 - (iii) Definition of a contract.
 - (iv) Determination of whether thresholds are satisfied.
 - (A) Customer.
 - (B) Contractor.
 - (v) Exclusion for property subject to long-term contract rules.
 - (3) Improvements to existing property.
 - (i) In general.
 - (ii) Real property.
 - (iii) Tangible personal property.

§ 1.263A-9 The avoided cost method.

- (a) In general.
 - (1) Description.
 - (2) Overview.
- (i) In general.
- (ii) Rules that apply in determining amounts.
- (3) Definitions of interest and incurred.

- (4) Definition of eligible debt.
- (b) Traced debt amount.
 - (1) General rule.
 - (2) Identification and definition of traced debt.
 - (3) Example.
- (c) Excess expenditure amount.
 - (1) General rule.
 - (2) Interest required to be capitalized.
 - (3) Example.
 - (4) Treatment of interest subject to a deferral provision.
- (5) Definitions.
 - (i) Nontraced debt.
 - (A) Defined.
 - (B) Example.
 - (ii) Average excess expenditures.
 - (A) General rule.
 - (B) Example.
 - (iii) Weighted average interest rate.
 - (A) Determination of rate.
 - (B) Interest incurred on nontraced debt.
 - (C) Average nontraced debt.
 - (D) Special rules if taxpayer has no nontraced debt or rate is contingent.
- (6) Examples.
- (7) Special rules where the excess expenditure amount exceeds incurred interest.
 - (i) Allocation of total incurred interest to units.
 - (ii) Application of related person rules to average excess expenditures.
 - (iii) Special rule for corporations.
 - (d) Election not to trace debt.
 - (1) General rule.
 - (2) Example.
 - (e) Election to use external rate.
 - (1) In general.
 - (2) Eligible taxpayer.
 - (f) Selection of computation period and measurement dates and application of averaging conventions.
 - (1) Computation period.
 - (i) In general.
 - (ii) Method of accounting.
 - (iii) Production period beginning or ending during the computation period.
 - (2) Measurement dates.
 - (i) In general.
 - (ii) Measurement period.
 - (iii) Measurement dates on which accumulated production expenditures must be taken into account.
 - (iv) More frequent measurement dates.
- (3) Examples.
- (g) Special rules.
 - (1) Ordering rules.
 - (i) Provisions preempted by section 263A(f).
 - (ii) Deferral provisions applied before this section.
 - (2) Application of section 263A(f) to deferred interest.
 - (i) In general.
 - (ii) Capitalization of deferral amount.
 - (iii) Deferred capitalization.
 - (iv) Substitute capitalization.
 - (A) General rule.

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(B) Capitalization of amount carried forward.

(C) Method of accounting.

(v) Examples.

(3) Simplified inventory method.

(i) In general.

(ii) Segmentation of inventory.

(A) General rule.

(B) Example.

(iii) Aggregate interest capitalization amount.

(A) Computation period and weighted average interest rate.

(B) Computation of the tentative aggregate interest capitalization amount.

(C) Coordination with other interest capitalization computations.

(1) In general.

(2) Deferred interest.

(3) Other coordinating provisions.

(D) Treatment of increases or decreases in the aggregate interest capitalization amount.

(E) Example.

(iv) Method of accounting.

(4) Financial accounting method disregarded.

(5) Treatment of intercompany transactions.

(i) General rule.

(ii) Special rule for consolidated group with limited outside borrowing.

(iii) Example.

(6) Notional principal contracts and other derivatives. [Reserved]

(7) 15-day repayment rule.

§ 1.263A-10 Unit of property.

(a) In general.

(b) Units of real property.

(1) In general.

(2) Functional interdependence.

(3) Common features.

(4) Allocation of costs to unit.

(5) Treatment of costs when a common feature is included in a unit of real property.

(i) General rule.

(ii) Production activity not undertaken on benefitted property.

(A) Direct production activity not undertaken.

(1) In general.

(2) Land attributable to a benefitted property.

(B) Suspension of direct production activity after clearing and grading undertaken.

(1) General rule.

(2) Accumulated production expenditures.

(iii) Common feature placed in service before the end of production of a benefitted property.

(iv) Benefitted property sold before production completed on common feature.

(v) Benefitted property placed in service before production completed on common feature.

(6) Examples.

(c) Units of tangible personal property.

(d) Treatment of installations.

§ 1.263A-11 Accumulated production expenditures.

(a) General rule.

(b) When costs are first taken into account.

(1) In general.

(2) Dedication rule for materials and supplies.

(c) Property produced under a contract.

(1) Customer.

(2) Contractor.

(d) Property used to produce designated property.

(1) In general.

(2) Example.

(3) Excluded equipment and facilities.

(e) Improvements.

(1) General rule.

(2) De minimis rule.

(f) Mid-production purchases.

(g) Related person costs.

(h) Installation.

§ 1.263A-12 Production period.

(a) In general.

(b) Related person activities.

(c) Beginning of production period.

(1) In general.

(2) Real property.

(3) Tangible personal property.

(d) End of production period.

(1) In general.

(2) Special rules.

(3) Sequential production or delivery.

(4) Examples.

(e) Physical production activities.

(1) In general.

(2) Illustrations.

(f) Activities not considered physical production.

(1) Planning and design.

(2) Incidental repairs.

(g) Suspension of production period.

(1) In general.

(2) Special rule.

(3) Method of accounting.

(4) Example.

§ 1.263A-13 Oil and gas activities.

(a) In general.

(b) Generally applicable rules.

(1) Beginning of production period.

(i) Onshore activities.

(ii) Offshore activities.

(2) End of production period.

(3) Accumulated production expenditures.

(i) Costs included.

(ii) Improvement unit.

(c) Special rules when definite plan not established.

(1) In general.

(2) Oil and gas units.

(i) First productive well unit.

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- (ii) Subsequent units.
- (3) Beginning of production period.
 - (i) First productive well unit.
 - (ii) Subsequent wells.
- (4) End of production period.
- (5) Accumulated production expenditures.
 - (i) First productive well unit.
 - (ii) Subsequent well unit.
- (6) Allocation of interest capitalized with respect to first productive well unit.
- (7) Examples.

§ 1.263A-14 Rules for related persons.

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

- (a) Effective dates.
- (b) Transitional rule for accumulated production expenditures.
 - (1) In general.
 - (2) Property used to produce designated property.
- (c) Anti-abuse rule.

[T.D. 8482, 58 FR 42207, Aug. 9, 1993, as amended by T.D. 8584, 59 FR 67196, Dec. 29, 1994; 60 FR 16574, Mar. 31, 1995; T.D. 8728, 62 FR 42054, Aug. 5, 1997; T.D. 8897, 65 FR 50643, Aug. 21, 2000]

§ 1.263A-1 Uniform capitalization of costs.

(a) *Introduction*—(1) *In general.* The regulations under §§ 1.263A-1 through 1.263A-6 provide guidance to taxpayers that are required to capitalize certain costs under section 263A. These regulations generally apply to all costs required to be capitalized under section 263A except for interest that must be capitalized under section 263A(f) and the regulations thereunder. Statutory or regulatory exceptions may provide that section 263A does not apply to certain activities or costs; however, those activities or costs may nevertheless be subject to capitalization requirements under other provisions of the Internal Revenue Code and regulations.

(2) *Effective dates.* (i) In general, this section and §§ 1.263A-2 and 1.263A-3 apply to costs incurred in taxable years beginning after December 31, 1993. In the case of property that is inventory in the hands of the taxpayer, however, these sections are effective for taxable years beginning after December 31, 1993. Changes in methods of accounting necessary as a result of the rules in this section and §§ 1.263A-2 and 1.263A-3 must be made under terms and conditions prescribed by the Commissioner. Under these terms and conditions, the

principles of § 1.263A-7 must be applied in revaluing inventory property.

(ii) For taxable years beginning before January 1, 1994, taxpayers must take reasonable positions on their federal income tax returns when applying section 263A. For purposes of this paragraph (a)(2)(iii), a reasonable position is a position consistent with the temporary regulations, revenue rulings, revenue procedures, notices, and announcements concerning section 263A applicable in taxable years beginning before January 1, 1994. See § 601.601(d)(2)(ii)(b) of this chapter.

(3) *General scope*—(i) *Property to which section 263A applies.* Taxpayers subject to section 263A must capitalize all direct costs and certain indirect costs properly allocable to—

(A) Real property and tangible personal property produced by the taxpayer; and

(B) Real property and personal property described in section 1221(1), which is acquired by the taxpayer for resale.

(ii) *Property produced.* Taxpayers that produce real property and tangible personal property (producers) must capitalize all the direct costs of producing the property and the property's properly allocable share of indirect costs (described in paragraphs (e)(2)(i) and (3) of this section), regardless of whether the property is sold or used in the taxpayer's trade or business. See § 1.263A-2 for rules relating to producers.

(iii) *Property acquired for resale.* Retailers, wholesalers, and other taxpayers that acquire property described in section 1221(1) for resale (resellers) must capitalize the direct costs of acquiring the property and the property's properly allocable share of indirect costs (described in paragraphs (e)(2)(ii) and (3) of this section). See § 1.263A-3 for rules relating to resellers. See also section 263A(b)(2)(B), which excepts from section 263A personal property acquired for resale by a small reseller.

(iv) *Inventories valued at market.* Section 263A does not apply to inventories valued at market under either the market method or the lower of cost or market method if the market valuation used by the taxpayer generally equals the property's fair market value. For purposes of this paragraph (a)(3)(iv), the term fair market value means the