

this section must secure the consent of the Commissioner in accordance with §1.446-1(e) and follow the administrative procedures issued under §1.446-1(e)(3)(ii) for obtaining the Commissioner's consent to change its accounting method.

(j) *Effective/applicability date*—(1) *In general.* This section generally applies to amounts paid or incurred in taxable years beginning on or after January 1, 2014. However, a taxpayer may apply paragraph (e) of this section (the optional method of accounting for rotatable and temporary spare parts) to taxable years beginning on or after January 1, 2014. Except as provided in paragraphs (j)(2) and (j)(3) of this section, §1.162-3 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*—(i) *In general.* Except for paragraph (e) of this section, a taxpayer may choose to apply this section to amounts paid or incurred in taxable years beginning on or after January 1, 2012. A taxpayer may choose to apply paragraph (e) of this section (the optional method of accounting for rotatable and temporary spare parts) to taxable years beginning on or after January 1, 2012.

(ii) *Transition rule for election to capitalize materials and supplies on 2012 and 2013 returns.* If under paragraph (j)(2)(i) of this section, a taxpayer chooses to make the election to capitalize and depreciate certain materials and supplies under paragraph (d) of this section for its 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)(3) of this section on its timely filed original Federal tax return for the applicable taxable year, the taxpayer must make the election specified in paragraph (d)(3) of this section for the applicable taxable year by filing 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.

(3) *Optional application of TD 9564.* Except for §1.162-3T(e), a taxpayer may choose to apply §1.162-3T as contained in TD 9564 (76 FR 81060) December 27, 2011, to amounts paid or incurred (to acquire or produce property) in taxable years beginning on or after January 1, 2012, and before January 1, 2014. In applying §1.162-3T(d)(3), as contained in 26 CFR part 1, revised as of April 1, 2013, a taxpayer makes the election under §1.162-3T(d) by capitalizing the amounts paid to acquire or produce a material or supply in the taxable year the amounts are paid and by beginning to depreciate the costs when the asset is placed in service by the taxpayer for purposes of determining depreciation under the applicable provisions of the Internal Revenue Code and the Treasury Regulations. The election under §1.162-3T(d), as contained in 26 CFR part 1, revised as of April 1, 2013, does not apply to an asset or a portion thereof placed in service and disposed of in the same taxable year. A taxpayer may choose to apply §1.162-3T(e) (the optional method of accounting for rotatable and temporary spare parts) as contained in TD 9564 (76 FR 81060) December 27, 2011, to taxable years beginning on or after January 1, 2012, and before January 1, 2014.

[T.D. 9636, 78 FR 57701, Sept. 19, 2013, as amended at 79 FR 42190, July 21, 2014]

§ 1.162-4 Repairs.

(a) *In general.* A taxpayer may deduct amounts paid for repairs and maintenance to tangible property if the amounts paid are not otherwise required to be capitalized. Optionally, §1.263(a)-3(n) provides an election to capitalize amounts paid for repair and maintenance consistent with the taxpayer's books and records.

(b) *Accounting method changes.* A change to comply with this section is a change in method of accounting to which the provisions of sections 446 and 481 and the accompanying regulations apply. A taxpayer seeking to change to a method of accounting permitted in this section must secure the consent of the Commissioner in accordance with §1.446-1(e) and follow the administrative procedures issued under §1.446-

§ 1.162-5

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1(e)(3)(ii) for obtaining the Commissioner's consent to change its accounting method.

(c) *Effective/applicability date*—(1) *In general.* This section applies to taxable years beginning on or after January 1, 2014. Except as provided in paragraphs (c)(2) and (c)(3) of this section, § 1.162-4 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 this section to taxable years beginning on or after January 1, 2012.

(3) *Optional application of TD 9564.* A taxpayer may choose to apply § 1.162-4T as contained in TD 9564 (76 FR 81060), December 27, 2011, to taxable years beginning on or after January 1, 2012, and before January 1, 2014.

[T.D. 9636, 78 FR 57705, Sept. 19, 2013, as amended at 79 FR 42191, July 21, 2014]

§ 1.162-5 Expenses for education.

(a) *General rule.* Expenditures made by an individual for education (including research undertaken as part of his educational program) which are not expenditures of a type described in paragraph (b) (2) or (3) of this section are deductible as ordinary and necessary business expenses (even though the education may lead to a degree) if the education—

(1) Maintains or improves skills required by the individual in his employment or other trade or business, or

(2) Meets the express requirements of the individual's employer, or the requirements of applicable law or regulations, imposed as a condition to the retention by the individual of an established employment relationship, status, or rate of compensation.

(b) *Nondeductible educational expenditures*—(1) *In general.* Educational expenditures described in subparagraphs (2) and (3) of this paragraph are personal expenditures or constitute an inseparable aggregate of personal and capital expenditures and, therefore, are not deductible as ordinary and necessary business expenses even though the education may maintain or improve skills required by the individual in his employment or other trade or business or may meet the express re-

quirements of the individual's employer or of applicable law or regulations.

(2) *Minimum educational requirements.*

(i) The first category of nondeductible educational expenses within the scope of subparagraph (1) of this paragraph are expenditures made by an individual for education which is required of him in order to meet the minimum educational requirements for qualification in his employment or other trade or business. The minimum education necessary to qualify for a position or other trade or business must be determined from a consideration of such factors as the requirements of the employer, the applicable law and regulations, and the standards of the profession, trade, or business involved. The fact that an individual is already performing service in an employment status does not establish that he has met the minimum educational requirements for qualification in that employment. Once an individual has met the minimum educational requirements for qualification in his employment or other trade or business (as in effect when he enters the employment or trade or business), he shall be treated as continuing to meet those requirements even though they are changed.

(ii) The minimum educational requirements for qualification of a particular individual in a position in an educational institution is the minimum level of education (in terms of aggregate college hours or degree) which under the applicable laws or regulations, in effect at the time this individual is first employed in such position, is normally required of an individual initially being employed in such a position. If there are no normal requirements as to the minimum level of education required for a position in an educational institution, then an individual in such a position shall be considered to have met the minimum educational requirements for qualification in that position when he becomes a member of the faculty of the educational institution. The determination of whether an individual is a member of the faculty of an educational institution must be made on the basis of