

after December 31, 1984, is treated as other 5-year recovery property under section 168.

(3) *RRB replacement property defined.* RRB replacement property, for purposes of section 168, means replacement track material (including rail, ties, other track material, and ballast) installed by a railroad (including a railroad switching or terminal company) if—

(i) The replacement is made pursuant to a scheduled program for replacement.

(ii) The replacement is made pursuant to observations by maintenance-of-way personnel of specific track material needing replacement.

(iii) The replacement is made pursuant to the detection by a rail-test car of specific track material needing replacement, or

(iv) The replacement is made as a result of a casualty.

Replacements made as a result of a casualty shall be RRB replacement property only to the extent that, in the case of each casualty, the replacement cost with respect to the replacement track material exceeds \$50,000.

(4) *Recovery of adjusted basis of RRB property as of December 31, 1980.* The taxpayer shall recover the adjusted basis of RRB property (as defined in section 168(g)(6)) as of December 31, 1980, over a period of not less than 5 years and not more than 50 years, using a rate of recovery consistent with any method described in section 167(b), including the method described in section 167(b)(2), switching to the method described in section 167(b)(3) at a time to maximize the deduction. For purposes of determining the recovery allowance under this subparagraph, salvage value shall be disregarded and, in the case of a taxpayer that depreciated RRB property placed in service before January 1, 1981, using the RRB method consistently for all periods after February 28, 1913, the adjusted basis of RRB property is the adjusted basis for purposes of determining the deduction for retirements under the RRB method, with no adjustment for depreciation sustained prior to March 1, 1913.

(5) *RRB property (which is not RRB replacement property) placed in service after December 31, 1980.* Property placed

in service by the taxpayer after December 31, 1980, which is not RRB replacement property and which, under the taxpayer's method of depreciation as of December 31, 1980, would have been depreciated by the taxpayer under the RRB method, is treated as other property under section 168.

(b)-(f) [Reserved]

[T.D. 8116, 51 FR 46619, Dec. 24, 1986]

§ 1.168(a)-1 Modified accelerated cost recovery system.

(a) Section 168 determines the depreciation allowance for tangible property that is of a character subject to the allowance for depreciation provided in section 167(a) and that is placed in service after December 31, 1986 (or after July 31, 1986, if the taxpayer made an election under section 203(a)(1)(B) of the Tax Reform Act of 1986; 100 Stat. 2143). Except for property excluded from the application of section 168 as a result of section 168(f) or as a result of a transitional rule, the provisions of section 168 are mandatory for all eligible property. The allowance for depreciation under section 168 constitutes the amount of depreciation allowable under section 167(a). The determination of whether tangible property is property of a character subject to the allowance for depreciation is made under section 167 and the regulations under section 167.

(b) This section is applicable on and after February 27, 2004.

[T.D. 9314, 72 FR 9248, Mar. 1, 2007]

§ 1.168(b)-1 Definitions.

(a) *Definitions.* For purposes of section 168 and the regulations under section 168, the following definitions apply:

(1) *Depreciable property* is property that is of a character subject to the allowance for depreciation as determined under section 167 and the regulations under section 167.

(2) *MACRS property* is tangible, depreciable property that is placed in service after December 31, 1986 (or after July 31, 1986, if the taxpayer made an election under section 203(a)(1)(B) of the Tax Reform Act of 1986; 100 Stat. 2143) and subject to section 168, except

for property excluded from the application of section 168 as a result of section 168(f) or as a result of a transitional rule.

(3) *Unadjusted depreciable basis* is the basis of property for purposes of section 1011 without regard to any adjustments described in section 1016(a)(2) and (3). This basis reflects the reduction in basis for the percentage of the taxpayer's use of property for the taxable year other than in the taxpayer's trade or business (or for the production of income), for any portion of the basis the taxpayer properly elects to treat as an expense under section 179, section 179C, section 181, or any similar provision, and for any adjustments to basis provided by other provisions of the Internal Revenue Code and the regulations under the Code (other than section 1016(a)(2) and (3)) (for example, a reduction in basis by the amount of the disabled access credit pursuant to section 44(d)(7)). For property subject to a lease, see section 167(c)(2).

(4) *Adjusted depreciable basis* is the unadjusted depreciable basis of the property, as defined in § 1.168(b)-1(a)(3), less the adjustments described in section 1016(a)(2) and (3).

(5) *Qualified improvement property.* (i) Is any improvement that is section 1250 property to an interior portion of a building, as defined in § 1.48-1(e)(1), that is nonresidential real property, as defined in section 168(e)(2)(B), if the improvement is placed in service by the taxpayer after the date the building was first placed in service by any person and if—

(A) For purposes of section 168(e)(6), the improvement is placed in service by the taxpayer after December 31, 2017;

(B) For purposes of section 168(k)(3) as in effect on the day before amendment by section 13204(a)(4)(B) of the Tax Cuts and Jobs Act, Public Law 115-97 (131 Stat. 2054 (December 22, 2017)) (“Act”), the improvement is acquired by the taxpayer before September 28, 2017, the improvement is placed in service by the taxpayer before January 1, 2018, and the improvement meets the original use requirement in section 168(k)(2)(A)(ii) as in effect on the day before amendment by section 13201(c)(1) of the Act; or

(C) For purposes of section 168(k)(3) as in effect on the day before amendment by section 13204(a)(4)(B) of the Act, the improvement is acquired by the taxpayer after September 27, 2017; the improvement is placed in service by the taxpayer after September 27, 2017, and before January 1, 2018; and the improvement meets the requirements in section 168(k)(2)(A)(ii) as amended by section 13201(c)(1) of the Act; and

(ii) Does not include any qualified improvement for which an expenditure is attributable to—

(A) The enlargement, as defined in § 1.48-12(c)(10), of the building;

(B) Any elevator or escalator, as defined in § 1.48-1(m)(2); or

(C) The internal structural framework, as defined in § 1.48-12(b)(3)(iii), of the building.

(b) *Applicability date*—(1) *In general.* Except as provided in paragraph (b)(2) of this section, this section is applicable on or after February 27, 2004.

(2) *Application of paragraph (a)(5) of this section and addition of “section 181” in paragraph (a)(3) of this section*—(i) *In general.* Except as provided in paragraphs (b)(2)(ii) and (iii) of this section, paragraph (a)(5) of this section and the language “section 181,” in the second sentence in paragraph (a)(3) of this section are applicable on or after September 24, 2019.

(ii) *Early application of paragraph (a)(5) of this section and addition of “section 181” in paragraph (a)(3) of this section.* A taxpayer may choose to apply paragraph (a)(5) of this section and the language “section 181,” in the second sentence in paragraph (a)(3) of this section for the taxpayer's taxable years ending on or after September 28, 2017.

(iii) *Early application of regulation project REG-104397-18.* A taxpayer may rely on the provisions of paragraph (a)(5) of this section in regulation project REG-104397-18 (2018-41 I.R.B 558) (see § 601.601(d)(2)(ii)(b) of this chapter) for the taxpayer's taxable years ending on or after September 28, 2017, and ending before the taxpayer's taxable year that includes September 24, 2019.

[T.D. 9314, 72 FR 9248, Mar. 1, 2007, as amended by T.D. 9874, 84 FR 50126, Sept. 24, 2019]