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Part 1

AMENDING THE INTERNAL REVENUE CODE OF 1986 TO MODIFY AND MAKE PERMANENT BONUS DEPRECIATION

OCTOBER 28, 2015.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. RYAN of Wisconsin, from the Committee on Ways and Means, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 2510]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 2510) to amend the Internal Revenue Code of 1986 to modify and make permanent bonus depreciation, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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59–006

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. BONUS DEPRECIATION MODIFIED AND MADE PERMANENT.

(a) MADE PERMANENT; APPLICABLE TO QUALIFIED IMPROVEMENT PROPERTY.—

(1) IN GENERAL.—Section 168(k)(2) of the Internal Revenue Code of 1986 is amended to read as follows:

"(2) QUALIFIED PROPERTY.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified property' means property—

"(i)(I) to which this section applies which has a recovery period of 20 years or less,

"(II) which is computer software (as defined in section 167(f)(1)(B)) for which a deduction is allowable under section 167(a) without regard to this subsection,

"(III) which is water utility property, or

"(IV) which is qualified improvement property, and

"(ii) the original use of which commences with the taxpayer.

"(B) EXCEPTION FOR ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified property' shall not include any property to which the alternative depreciation system under subsection (g) applies, determined—

"(i) without regard to paragraph (7) of subsection (g) (relating to election to have system apply), and

"(ii) after application of section 280F(b) (relating to listed property with limited business use).

"(C) SPECIAL RULES.—

"(i) SALE-LEASEBACKS.—For purposes of clause (ii) and subparagraph (A)(ii), if property is—

"(I) originally placed in service by a person, and

"(II) sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in subclause (II).

"(ii) SYNDICATION.—For purposes of subparagraph (A)(ii), if—

"(I) property is originally placed in service by the lessor of such property,

"(II) such property is sold by such lessor or any subsequent purchaser within 3 months after the date such property was originally placed in service (or, in the case of multiple units of property subject to the same lease, within 3 months after the date the final unit is placed in service, so long as the period between the time the first unit is placed in service and the time the last unit is placed in service does not exceed 12 months), and

"(III) the user of such property after the last sale during such 3-month period remains the same as when such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date of such last sale.

"(D) COORDINATION WITH SECTION 280F.—For purposes of section 280F—

"(i) AUTOMOBILES.—In the case of a passenger automobile (as defined in section 280F(d)(5)) which is qualified property, the Secretary shall increase the limitation under section 280F(a)(1)(A)(i) by $8,000.

"(ii) LISTED PROPERTY.—The deduction allowable under paragraph (1) shall be taken into account in computing any recapture amount under section 280F(b)(2).

"(iii) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2015, the $8,000 amount in clause (i) shall be increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the automobile price inflation adjustment determined under section 280F(d)(7)(B)(i) for the calendar year in which such taxable year begins by substituting '2014' for '1987' in subclause (II) thereof.

If any increase under the preceding sentence is not a multiple of $100, such increase shall be rounded to the nearest multiple of $100.

"(E) DEDUCTION ALLOWED IN COMPUTING MINIMUM TAX.—For purposes of determining alternative minimum taxable income under section 55, the deduction under section 167 for qualified property shall be determined without regard to any adjustment under section 56.".

(2) QUALIFIED IMPROVEMENT PROPERTY.—Section 168(k)(3) of such Code is amended to read as follows:

"(3) QUALIFIED IMPROVEMENT PROPERTY.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified improvement property' means any improvement to an interior portion of a building which is nonresidential real property if such improvement is placed in service after the date such building was first placed in service.

"(B) CERTAIN IMPROVEMENTS NOT INCLUDED.—Such term shall not include any improvement for which the expenditure is attributable to—

"(i) the enlargement of the building,

"(ii) any elevator or escalator, or

"(iii) the internal structural framework of the building.".

(b) EXPANSION OF ELECTION TO ACCELERATE AMT CREDITS IN LIEU OF BONUS DEPRECIATION.—Section 168(k)(4) of such Code is amended to read as follows:

"(4) ELECTION TO ACCELERATE AMT CREDITS IN LIEU OF BONUS DEPRECIATION.—

"(A) IN GENERAL.—If a corporation elects to have this paragraph apply for any taxable year—

"(i) paragraphs (1) and (2)(D) shall not apply to any qualified property placed in service during such taxable year,

"(ii) the applicable depreciation method used under this section with respect to such property shall be the straight line method, and

"(iii) the limitation imposed by section 53(c) for such taxable year shall be increased by the bonus depreciation amount which is determined for such taxable year under subparagraph (B).

"(B) BONUS DEPRECIATION AMOUNT.—For purposes of this paragraph—

"(i) IN GENERAL.—The bonus depreciation amount for any taxable year is an amount equal to 20 percent of the excess (if any) of—

"(I) the aggregate amount of depreciation which would be allowed under this section for qualified property placed in service by the taxpayer during such taxable year if paragraph (1) applied to all such property (and, in the case of any such property which is a passenger automobile (as defined in section 280F(d)(5)), if paragraph (2)(D) applied to such automobile), over

"(II) the aggregate amount of depreciation which would be allowed under this section for qualified property placed in service by the taxpayer during such taxable year if paragraphs (1) and (2)(D) did not apply to any such property.

The aggregate amounts determined under subclauses (I) and (II) shall be determined without regard to any election made under subparagraph (A) or subsection (b)(2)(D), (b)(3)(D), or (g)(7).

"(ii) LIMITATION.—The bonus depreciation amount for any taxable year shall not exceed the lesser of—

"(I) 50 percent of the minimum tax credit under section 53(b) for the first taxable year ending after December 31, 2014, or

"(II) the minimum tax credit under section 53(b) for such taxable year determined by taking into account only the adjusted net minimum tax for taxable years ending before January 1, 2015 (determined by treating credits as allowed on a first-in, first-out basis).

"(iii) AGGREGATION RULE.—All corporations which are treated as a single employer under section 52(a) shall be treated—

"(I) as 1 taxpayer for purposes of this paragraph, and

"(II) as having elected the application of this paragraph if any such corporation so elects.

"(C) CREDIT REFUNDABLE.—For purposes of section 6401(b), the aggregate increase in the credits allowable under part IV of subchapter A for any taxable year resulting from the application of this paragraph shall be treated as allowed under subpart C of such part (and not any other subpart).

"(D) OTHER RULES.—

"(i) ELECTION.—Any election under this paragraph may be revoked only with the consent of the Secretary.

"(ii) PARTNERSHIPS WITH ELECTING PARTNERS.—In the case of a corporation which is a partner in a partnership and which makes an election under subparagraph (A) for the taxable year, for purposes of determining such corporation's distributive share of partnership items under section 702 for such taxable year—

"(I) paragraphs (1) and (2)(D) shall not apply to any qualified property placed in service during such taxable year, and

"(II) the applicable depreciation method used under this section with respect to such property shall be the straight line method.

"(iii) CERTAIN PARTNERSHIPS.—In the case of a partnership in which more than 50 percent of the capital and profits interests are owned (directly or indirectly) at all times during the taxable year by 1 corporation (or by corporations treated as 1 taxpayer under subparagraph (B)(iii)), each partner shall compute its bonus depreciation amount under clause (i) of subparagraph (B) by taking into account its distributive share of the amounts determined by the partnership under subclauses (I) and (II) of such clause for the taxable year of the partnership ending with or within the taxable year of the partner.".

(c) SPECIAL RULES FOR CERTAIN PLANTS BEARING FRUITS AND NUTS.—Section 168(k) of such Code is amended—

(1) by striking paragraph (5), and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) SPECIAL RULES FOR CERTAIN PLANTS BEARING FRUITS AND NUTS.—

"(A) IN GENERAL.—In the case of any specified plant which is planted, or is grafted to a plant that has already been planted, by the taxpayer in the ordinary course of the taxpayer's farming business (as defined in section 263A(e)(4)) during a taxable year for which the taxpayer has elected the application of this paragraph—

"(i) a depreciation deduction equal to 50 percent of the adjusted basis of such specified plant shall be allowed under section 167(a) for the taxable year in which such specified plant is so planted or grafted, and

"(ii) the adjusted basis of such specified plant shall be reduced by the amount of such deduction.

"(B) SPECIFIED PLANT.—For purposes of this paragraph, the term 'specified plant' means—

"(i) any tree or vine which bears fruits or nuts, and

"(ii) any other plant which will have more than one yield of fruits or nuts and which generally has a period of more than 2 years from the time of planting or grafting to the time at which such plant begins bearing fruits or nuts.

Such term shall not include any property which is planted or grafted outside of the United States.

"(C) ELECTION REVOCABLE ONLY WITH CONSENT.—An election under this paragraph may be revoked only with the consent of the Secretary.

"(D) ADDITIONAL DEPRECIATION MAY BE CLAIMED ONLY ONCE.—If this paragraph applies to any specified plant, such specified plant shall not be treated as qualified property in the taxable year in which placed in service.

"(E) DEDUCTION ALLOWED IN COMPUTING MINIMUM TAX.—Rules similar to the rules of paragraph (2)(E) shall apply for purposes of this paragraph.".

(d) CONFORMING AMENDMENTS.—

(1) Section 168(e)(6) of such Code is amended—

(A) by redesignating subparagraphs (A) and (B) as subparagraphs (D) and (E), respectively,

(B) by striking all that precedes subparagraph (D) (as so redesignated) and inserting the following:

"(6) QUALIFIED LEASEHOLD IMPROVEMENT PROPERTY.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified leasehold improvement property' means any improvement to an interior portion of a building which is nonresidential real property if—

"(i) such improvement is made under or pursuant to a lease (as defined in subsection (h)(7))—

"(I) by the lessee (or any sublessee) of such portion, or

"(II) by the lessor of such portion,

"(ii) such portion is to be occupied exclusively by the lessee (or any sublessee) of such portion, and

"(iii) such improvement is placed in service more than 3 years after the date the building was first placed in service.

"(B) CERTAIN IMPROVEMENTS NOT INCLUDED.—Such term shall not include any improvement for which the expenditure is attributable to—

"(i) the enlargement of the building,

"(ii) any elevator or escalator,

"(iii) any structural component benefitting a common area, or

"(iv) the internal structural framework of the building.

"(C) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

"(i) COMMITMENT TO LEASE TREATED AS LEASE.—A commitment to enter into a lease shall be treated as a lease, and the parties to such commitment shall be treated as lessor and lessee, respectively.

"(ii) RELATED PERSONS.—A lease between related persons shall not be considered a lease. For purposes of the preceding sentence, the term 'related persons' means—

"(I) members of an affiliated group (as defined in section 1504), and

"(II) persons having a relationship described in subsection (b) of section 267; except that, for purposes of this clause, the phrase '80 percent or more' shall be substituted for the phrase 'more than 50 percent' each place it appears in such subsection.", and

(C) by striking "subparagraph (A)" in subparagraph (E) (as so redesignated) and inserting "subparagraph (D)".

(2) Section 168(e)(7)(B) of such Code is amended by striking "qualified leasehold improvement property" and inserting "qualified improvement property".

(3) Section 168(e)(8) of such Code is amended by striking subparagraph (D).

(4) Section 168(k) of such Code is amended by adding at the end the following new paragraph:

"(6) ELECTION OUT.—If a taxpayer makes an election under this paragraph with respect to any class of property for any taxable year, paragraphs (1) and (2)(D) shall not apply to any qualified property in such class placed in service during such taxable year. An election under this paragraph may be revoked only with the consent of the Secretary.".

(5) Section 168(l)(3) of such Code is amended—

(A) by striking "section 168(k)" in subparagraph (A) and inserting "subsection (k)", and

(B) by striking "section 168(k)(2)(D)(i)" in subparagraph (B) and inserting "subsection (k)(2)(B)".

(6) Section 168(l)(4) of such Code is amended by striking "subparagraph (E) of section 168(k)(2)" and all that follows and inserting "subsection (k)(2)(C) shall apply.".

(7) Section 168(l)(5) of such Code is amended by striking "section 168(k)(2)(G)" and inserting "subsection (k)(2)(E)".

(8) Section 263A(c) of such Code is amended by adding at the end the following new paragraph:

"(7) COORDINATION WITH SECTION 168(k)(5).—This section shall not apply to any amount allowed as a deduction by reason of section 168(k)(5) (relating to special rules for certain plants bearing fruits and nuts).".

(9) Section 460(c)(6)(B) of such Code is amended by striking "which—" and all that follows and inserting "which has a recovery period of 7 years or less.".

(10) Section 168(k) of such Code is amended by striking "ACQUIRED AFTER DECEMBER 31, 2007, AND BEFORE JANUARY 1, 2015" in the heading thereof.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to property placed in service after December 31, 2014, in taxable years ending after such date.

(2) EXPANSION OF ELECTION TO ACCELERATE AMT CREDITS IN LIEU OF BONUS DEPRECIATION.—

(A) IN GENERAL.—The amendment made by subsection (b) shall apply to taxable years ending after December 31, 2014.

(B) TRANSITIONAL RULE.—In the case of any taxable year beginning before January 1, 2015, and ending after December 31, 2014, the limitation under section 168(k)(4)(B)(ii) of the Internal Revenue Code of 1986 (as amended by this section) shall be the sum of—

(i) the product of—

(I) the maximum increase amount (within the meaning of section 168(k)(4)(C)(iii) of such Code, as in effect before the amendments made by this section), multiplied by

(II) a fraction the numerator of which is the number of days in the taxable year before January 1, 2015, and the denominator of which is the number of days in the taxable year, plus

(ii) the product of—

(I) such limitation (determined without regard to this subparagraph), multiplied by

(II) a fraction the numerator of which is the number of days in the taxable year after December 31, 2014, and the denominator of which is the number of days in the taxable year.

(3) SPECIAL RULES FOR CERTAIN PLANTS BEARING FRUITS AND NUTS.—The amendments made by subsection (c) (other than paragraph (1) thereof) shall apply to specified plants (as defined in section 168(k)(5)(B) of the Internal Revenue Code of 1986, as amended by this section) planted or grafted after December 31, 2014.

SEC. 2. BUDGETARY EFFECTS.

The budgetary effects of this Act shall not be entered on either PAYGO scorecard maintained pursuant to section 4(d) of the Statutory Pay-As-You-Go Act of 2010.

I. SUMMARY AND BACKGROUND

A. PURPOSE AND SUMMARY

H.R. 2510, reported by the Committee on Ways and Means, provides that businesses may claim an additional first-year depreciation deduction ("bonus depreciation") equal to 50 percent of the cost of qualified property placed in service after December 31, 2014, in taxable years ending after such date. A similar, temporary provision expired for property placed in service after December 31, 2014. H.R. 2510 expands the scope of qualifying property eligible for bonus depreciation to include qualified improvement property, and permits certain plants bearing fruit or nuts to be eligible for bonus depreciation when planted or grafted, rather than when placed in service. H.R. 2510 adjusts for inflation the bonus depreciation deduction for passenger automobiles subject to section 280F.

Similar to a temporary provision that expired for taxable years beginning after December 31, 2014, H.R. 2510 permits taxpayers to claim unused alternative minimum tax ("AMT") credits in lieu of bonus depreciation. H.R. 2510 limits the credits claimed in any taxable year to the lesser of (1) 50 percent of the taxpayer's AMT credit in 2015, or (2) the taxpayer's AMT credits for taxable years ending before 2015 (with the oldest credits taken into account first).

B. BACKGROUND AND NEED FOR LEGISLATION

While the Committee continues actively to pursue comprehensive tax reform as a critical means of promoting economic growth and job creation, the Committee also believes that it is important to provide businesses permanent, immediate tax relief to encourage faster economic growth and job creation. By restoring, making permanent, and expanding the 50-percent bonus depreciation deduction, H.R. 2510 continues an important incentive for businesses and farms that have struggled through the economic challenges of the past seven years to invest in critical business assets. Permanent 50-percent bonus depreciation provides essential certainty for American businesses, allowing them to plan for future investments and lowering the cost of capital. By expanding bonus depreciation to qualified improvement property, H.R. 2510 encourages investment in businesses that have survived the sluggish economic recovery. H.R. 2510 also ensures that businesses' ability to acquire critical business vehicles will keep pace with the cost of such investments in future years by indexing the bonus-depreciation limits for certain passenger automobiles. Finally, by increasing the ability of businesses to access trapped AMT credits, H.R. 2510 provides vital cash for investments in business operations and growth, as well as much-needed job creation and increased wages.

C. Legislative History

Background

H.R. 2510 was introduced on May 21, 2015, and was referred to the Committee on Ways and Means.

Committee action

The Committee on Ways and Means marked up H.R. 2510, a bill to modify and make permanent bonus depreciation, on September 17, 2015, and ordered the bill, as amended, favorably reported (with a quorum being present).

Committee hearings

The need for permanent rules regarding bonus depreciation was discussed at no fewer than seven hearings during the 112th and 113th Congresses:

- Full Committee Hearing on How Business Tax Reform Can Encourage Job Creation (June 2, 2011);
- Full Committee Hearing on the Interaction of Tax and Financial Accounting on Tax Reform (February 8, 2012);
- Full Committee Hearing on the President's Fiscal Year 2013 Budget Proposal with U.S. Department of the Treasury Secretary Timothy F. Geithner (February 15, 2012);
- Select Revenue Measures Subcommittee Hearing on Certain Expiring Tax Provisions (April 26, 2012);
- Full Committee Hearing on Tax Reform and the U.S. Manufacturing Sector (July 19, 2012);
- Full Committee Hearing on Tax Reform and Residential Real Estate (April 25, 2013); and
- Full Committee Hearing on the Benefits of Permanent Tax Policy for America's Job Creators (April 8, 2014).

II. EXPLANATION OF THE BILL

A. Bonus Depreciation Modified and Made Permanent (sec. 168(k) of the Code)

PRESENT LAW

In general

An additional first-year depreciation deduction is allowed equal to 50 percent of the adjusted basis of qualified property acquired and placed in service before January 1, 2015 (January 1, 2016 for certain longer-lived and transportation property).[1]

[1] Sec. 168(k). The additional first-year depreciation deduction is subject to the general rules regarding whether an item must be capitalized under section 263A.

The additional first-year depreciation deduction is allowed for both the regular tax and the alternative minimum tax ("AMT"),[2] but is not allowed in computing earnings and profits.[3] The basis of the property and the depreciation allowances in the year of purchase and later years are appropriately adjusted to reflect the additional first-year depreciation deduction.[4] The amount of the additional first-year depreciation deduction is not affected by a short taxable year.[5] The taxpayer may elect out of additional first-year depreciation for any class of property for any taxable year.[6]

The interaction of the additional first-year depreciation allowance with the otherwise applicable depreciation allowance may be illustrated as follows. Assume that in 2014, a taxpayer purchased new depreciable property and placed it in service.[7] The property's cost is $10,000, and it is five-year property subject to the 200-percent declining balance method and half-year convention. The amount of additional first-year depreciation allowed is $5,000. The remaining $5,000 of the cost of the property is depreciable under the rules applicable to five-year property. Thus, $1,000 also is allowed as a depreciation deduction in 2014.[8] The total depreciation deduction with respect to the property for 2014 is $6,000. The remaining $4,000 adjusted basis of the property generally is recovered through otherwise applicable depreciation rules.

Property qualifying for the additional first-year depreciation deduction must meet all of the following requirements.[9] First, the property must be: (1) property to which the modified accelerated cost recovery system ("MACRS") applies with an applicable recovery period of 20 years or less; (2) water utility property (as defined in section 168(e)(5)); (3) computer software other than computer software covered by section 197; or (4) qualified leasehold improvement property.[10] Second, the original use[11] of the property must commence with the taxpayer.[12] Third, the taxpayer must acquire the property within the applicable time period (as described below). Finally, the property must be placed in service before January 1,

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[2] Sec. 168(k)(2)(G). See also Treas. Reg. sec. 1.168(k)–1(d).

[3] Treas. Reg. sec. 1.168(k)–1(f)(7).

[4] Sec. 168(k)(1)(B).

[5] *Ibid.*

[6] Sec. 168(k)(2)(D)(iii). For the definition of a class of property, see Treas. Reg. sec. 1.168(k)–1(e)(2).

[7] Assume that the cost of the property is not eligible for expensing under section 179 or Treas. Reg. sec. 1.263(a)–1(f).

[8] $1,000 results from the application of the half-year convention and the 200-percent declining balance method to the remaining $5,000.

[9] Requirements relating to actions taken before 2008 are not described herein since they have little (if any) remaining effect.

[10] The additional first-year depreciation deduction is not available for any property that is required to be depreciated under the alternative depreciation system of MACRS. Sec. 168(k)(2)(D)(i).

[11] The term "original use" means the first use to which the property is put, whether or not such use corresponds to the use of such property by the taxpayer. If in the normal course of its business a taxpayer sells fractional interests in property to unrelated third parties, then the original use of such property begins with the first user of each fractional interest (*i.e.*, each fractional owner is considered the original user of its proportionate share of the property). Treas. Reg. sec. 1.168(k)–1(b)(3).

[12] A special rule applies in the case of certain leased property. In the case of any property that is originally placed in service by a person and that is sold to the taxpayer and leased back to such person by the taxpayer within three months after the date that the property was placed in service, the property would be treated as originally placed in service by the taxpayer not earlier than the date that the property is used under the leaseback. If property is originally placed in service by a lessor, such property is sold within three months after the date that the property was placed in service, and the user of such property does not change, then the property is treated as originally placed in service by the taxpayer not earlier than the date of such sale. Sec. 168(k)(2)(E)(ii).

2015. An extension of the placed-in-service date of one year (*i.e.*, before January 1, 2016) is provided for certain property with a recovery period of 10 years or longer and certain transportation property.[13]

To qualify, property must be acquired (1) before January 1, 2015, or (2) pursuant to a written binding contract which was entered before January 1, 2015. With respect to property that is manufactured, constructed, or produced by the taxpayer for use by the taxpayer, the taxpayer must begin the manufacture, construction, or production of the property before January 1, 2015.[14] Property that is manufactured, constructed, or produced for the taxpayer by another person under a contract that is entered into prior to the manufacture, construction, or production of the property is considered to be manufactured, constructed, or produced by the taxpayer.[15] For property eligible for the extended placed-in-service date, a special rule limits the amount of costs eligible for the additional first-year depreciation. With respect to such property, only the portion of the basis that is properly attributable to the costs incurred before January 1, 2015 ("progress expenditures") is eligible for the additional first-year depreciation deduction.[16]

The limitation under section 280F on the amount of depreciation deductions allowed with respect to certain passenger automobiles is increased in the first year by $8,000 for automobiles that qualify (and for which the taxpayer does not elect out of the additional first-year deduction).[17] While the underlying section 280F limitation is indexed for inflation,[18] the additional $8,000 amount is not indexed for inflation.

Qualified leasehold improvement property

Qualified leasehold improvement property is any improvement to an interior portion of a building that is nonresidential real property, provided certain requirements are met.[19] The improvement must be made under or pursuant to a lease either by the lessee (or sublessee), or by the lessor, of that portion of the building to be occupied exclusively by the lessee (or sublessee). The improvement must be placed in service more than three years after the date the building was first placed in service. Qualified leasehold improvement property does not include any improvement for which the expenditure is attributable to the enlargement of the building, any elevator or escalator, any structural component benefiting a common area, or the internal structural framework of the building. For these purposes, a binding commitment to enter into a lease is

[13] Property qualifying for the extended placed-in-service date must have an estimated production period exceeding one year and a cost exceeding $1 million. Transportation property generally is defined as tangible personal property used in the trade or business of transporting persons or property. Certain aircraft which is not transportation property, other than for agricultural or firefighting uses, also qualifies for the extended placed-in-service-date, if at the time of the contract for purchase, the purchaser made a nonrefundable deposit of the lesser of 10 percent of the cost or $100,000, and which has an estimated production period exceeding four months and a cost exceeding $200,000.

[14] Sec. 168(k)(2)(E)(i).

[15] Treas. Reg. sec. 1.168(k)–1(b)(4)(iii).

[16] Sec. 168(k)(2)(B)(ii). For purposes of determining the amount of eligible progress expenditures, rules similar to section 46(d)(3) as in effect prior to the Tax Reform Act of 1986 apply.

[17] Sec. 168(k)(2)(F).

[18] See sec. 280F(d)(7).

[19] Sec. 168(k)(3). The additional first-year depreciation deduction is not available for qualified New York Liberty Zone leasehold improvement property as defined in section 1400L(c)(2). Sec. 168(k)(2)(D)(ii).

treated as a lease, and the parties to the commitment are treated as lessor and lessee. A lease between related persons is not considered a lease for this purpose.

Special rule for long-term contracts

In general, in the case of a long-term contract, the taxable income from the contract is determined under the percentage-of-completion method.[20] Solely for purposes of determining the percentage of completion under section 460(b)(1)(A), the cost of qualified property with a MACRS recovery period of seven years or less is taken into account as a cost allocated to the contract as if bonus depreciation had not been enacted for property placed in service before January 1, 2015 (January 1, 2016 in the case of certain longer-lived and transportation property).[21]

Election to accelerate AMT credits in lieu of bonus depreciation

A corporation otherwise eligible for additional first-year depreciation may elect to claim additional AMT credits in lieu of claiming additional depreciation with respect to "eligible qualified property."[22] In the case of a corporation making this election, the straight line method is used for the regular tax and the AMT with respect to eligible qualified property.[23]

Generally, an election under this provision for a taxable year applies to subsequent taxable years. However, each time the provision has been extended, a corporation that has previously made an election has been allowed to elect not to claim additional minimum tax credits, or, if no election had previously been made, to make an election to claim additional credits with respect to property subject to the extension.[24]

A corporation making an election increases the tax liability limitation under section 53(c) on the use of minimum tax credits by the bonus depreciation amount.[25] The aggregate increase in credits allowable by reason of the increased limitation is treated as refundable.[26]

The bonus depreciation amount generally is equal to 20 percent of bonus depreciation for eligible qualified property that could be claimed as a deduction absent an election under this provision.[27] As originally enacted, the bonus depreciation amount for all taxable years was limited to the lesser of (1) $30 million, or (2) 6 percent of the minimum tax credits allocable to the adjusted net minimum tax imposed for taxable years beginning before January 1, 2006.[28] However, extensions of this provision have provided that this limitation applies separately to property subject to each extension.

[20] See sec. 460.

[21] Sec. 460(c)(6). Other dates involving prior years are not described herein.

[22] Sec. 168(k)(4). Eligible qualified property means qualified property eligible for bonus depreciation with minor effective date differences having little (if any) remaining significance.

[23] Sec. 168(k)(4)(A).

[24] Secs. 168(k)(4)(H), (I), (J), and (K).

[25] Sec. 168(k)(4)(B)(ii).

[26] Sec. 168(k)(4)(F).

[27] For this purpose, bonus depreciation is the difference between (i) the aggregate amount of depreciation determined if section 168(k)(1) applied to all eligible qualified property placed in service during the taxable year and (ii) the amount of depreciation that would be so determined if section 168(k)(1) did not so apply. This determination is made using the most accelerated depreciation method and the shortest life otherwise allowable for each property. Sec. 168(k)(4)(C).

[28] Sec. 168(k)(4)(C)(iii).

All corporations treated as a single employer under section 52(a) are treated as one taxpayer for purposes of the limitation, as well as for electing the application of this provision.[29]

In the case of a corporation making an election that is a partner in a partnership, for purposes of determining the electing partner's distributive share of partnership items, bonus depreciation does not apply to any eligible qualified property and the straight line method is used with respect to that property.[30]

Preproductive period costs of orchards, groves, and vineyards

An orchard, vineyard or grove generally produces annual crops of fruits (*e.g.*, apples, avocadoes, or grapes) or nuts (*e.g.*, pecans, pistachios, or walnuts). During the development period of plants, a farmer generally incurs costs to cultivate, spray, fertilize and irrigate the plants to their crop-producing stage (*i.e.*, preproductive period costs).[31] Preproductive period costs may be deducted or capitalized, depending on the preproductive period of the plant,[32] as well as whether the farmer elects to have section 263A not apply.[33] After the plants start producing fruit or nuts, a farmer can depreciate the capitalized costs of the plants (*i.e.*, the acquisition costs of the seeds, seedlings, or plants and their original planting that were capitalized when incurred, as well as the preproductive period costs if section 263A applied).[34] A 10-year recovery period is assigned to any tree or vine bearing fruits or nuts.[35] A seven-year recovery period generally applies to other plants bearing fruits or nuts.[36]

REASONS FOR CHANGE

Bonus depreciation

The Committee believes that modifying and making the additional first-year depreciation deduction permanent provides businesses with the certainty needed to increase purchases of equipment and other assets, and promotes capital investment, modernization, and growth.

Businesses frequently remodel or renovate the interiors of their offices and buildings. The Committee believes that businesses should not be treated differently based on whether the building in which they operate is owned or leased. Because many taxpayers own the building in which they operate their business, the Committee believes that expanding the definition of qualified property to include qualified improvement property generally without regard to whether the improvements are property subject to a lease provides clarity and relief to many businesses.

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[29] Sec. 168(k)(4)(C)(iv).

[30] Sec. 168(k)(4)(G)(ii).

[31] See section 263A(e)(3), which defines the "preproductive period" of a plant which will have more than one crop or yield as the period before the first marketable crop or yield from such plant.

[32] See section 263A(d)(1)(A)(ii). Section 263A generally requires certain direct and indirect costs allocable to real or tangible personal property produced by the taxpayer to be included in either inventory or capitalized into the basis of such property, as applicable.

[33] See section 263A(d)(3).

[34] In the case of any tree or vine bearing fruits or nuts, the placed in service date does not occur until the tree or vine first reaches an income-producing stage. Treas. Reg. sec. 1.46–3(d)(2). See also, Rev. Rul. 80–25, 1980–1 C.B. 65, 1980; and Rev. Rul. 69–249, 1969–1 C.B. 31, 1969.

[35] Sec. 168(e)(3)(D)(ii).

[36] Sec. 168(e)(3)(C)(v).

In addition, in order to counteract the negative impact of inflation on the $8,000 increase amount in the section 280F limitation on the first-year depreciation deduction allowed with respect to certain passenger automobiles for which bonus depreciation is claimed, the Committee believes it is appropriate to index the $8,000 amount for automobile price inflation.

Expansion of election to accelerate AMT credits in lieu of bonus depreciation

The Committee believes that expanding the election to accelerate AMT credits in lieu of bonus depreciation enables corporations that would otherwise derive no benefit from bonus depreciation to access capital better in order to expand and invest in new facilities and equipment.

Special rules for certain plants

The Committee believes that allowing growers of certain plants bearing fruit or nuts to elect to claim bonus depreciation in the year of planting or grafting, rather than having to wait until the year in which the plant produces a commercially viable or harvestable crop of fruits or nuts, encourages farmers to invest in long-term crop businesses.

EXPLANATION OF PROVISION

Bonus depreciation

The provision modifies and makes permanent the 50-percent additional first-year depreciation deduction.[37]

The provision allows additional first-year depreciation for qualified improvement property without regard to whether the improvements are property subject to a lease, and also removes the requirement that the improvement must be placed in service more than three years after the date the building was first placed in service.

The $8,000 increase amount in the limitation on the depreciation deductions allowed with respect to certain passenger automobiles is indexed for automobile price inflation (such that both the underlying section 280F limitation and the additional $8,000 amount are indexed for inflation). The increase does not apply to a taxpayer who elects to accelerate AMT credits in lieu of bonus depreciation for a taxable year.

The provision also makes permanent the special rule for the allocation of bonus depreciation to a long-term contract.

Expansion of election to accelerate AMT credits in lieu of bonus depreciation

The provision makes permanent and modifies the election to increase the AMT credit limitation in lieu of bonus depreciation. Under the provision, the bonus depreciation amount for a taxable year (as defined under present law with respect to all qualified property) is limited to the lesser of (1) 50 percent of the minimum

[37] Due to the passage of time since the provision's original enactment, the provision eliminates the various acquisition date requirements as no longer relevant. The provision also repeals as deadwood the provision relating to property acquired during certain pre–2012 periods (or certain pre–2013 periods for certain longer-lived and transportation property).

tax credit for the first taxable year ending after December 31, 2014 (determined before the application of any tax liability limitation), or (2) the minimum tax credit for the taxable year allocable to the adjusted net minimum tax imposed for taxable years ending before January 1, 2015 (determined before the application of any tax liability limitation and determined on a first-in, first-out basis).

The provision also provides that in the case of a partnership having a single corporate partner owning (directly or indirectly) more than 50 percent of the capital and profits interests in the partnership, each partner takes into account its distributive share of partnership depreciation in determining its bonus depreciation amount.

Special rules for certain plants

The provision provides an election for certain plants bearing fruits and nuts. Under the election, 50 percent of the adjusted basis of a specified plant is deductible for regular tax and AMT purposes in the year planted or grafted by the taxpayer, and the adjusted basis is reduced by amount of the deduction.[38] A specified plant is any tree or vine that bears fruits or nuts, and any other plant that will have more than one yield of fruits or nuts and generally has a period of more than two years from planting or grafting to the time it begins bearing fruits or nuts.[39] The election is revocable only with the consent of the Secretary, and if the election is made with respect to any specified plant, such plant is not treated as qualified property eligible for bonus depreciation in the subsequent taxable year in which it is placed in service.

EFFECTIVE DATE

The provision is effective for property placed in service after December 31, 2014, in taxable years ending after such date.

The provision relating to the election to accelerate AMT credits in lieu of claiming bonus depreciation generally applies to taxable years ending after December 31, 2014.[40] For a taxable year beginning before January 1, 2015, and ending after December 31, 2014, a transitional rule applies for purposes of determining the amount eligible for the election to claim additional AMT credits. The transitional rule applies the present-law limitations to property placed in service in 2014 and the revised limitations to property placed in service in 2015.

The provision relating to certain plants bearing fruits and nuts is effective for specified plants planted or grafted after December 31, 2014.

The budgetary effects of the bill are not entered on either PAYGO scorecard maintained under section 4(d) of the Statutory Pay-As-You-Go Act of 2010.

III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means in its con-

[38] Any amount deducted under this election is not subject to capitalization under section 263A.

[39] A specified plant does not include any property that is planted or grafted outside of the United States.

[40] The partnership rule added by the provision applies to property placed in service after December 31, 2014.

sideration of H.R. 2510, a bill to modify and make permanent bonus depreciation, on September 17, 2015.

The Chairman's amendment in the nature of a substitute was adopted by a voice vote (with a quorum being present).

The bill, H.R. 2510, was ordered favorably reported as amended to the House of Representatives by a roll call vote of 24 yeas to 13 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Ryan	X			Mr. Levin		X	
Mr. Johnson	X			Mr. Rangel		X	
Mr. Brady	X			Mr. McDermott		X	
Mr. Nunes	X			Mr. Lewis		X	
Mr. Tiberi	X			Mr. Neal		X	
Mr. Reichert	X			Mr. Becerra			
Mr. Boustany	X			Mr. Doggett		X	
Mr. Roskam	X			Mr. Thompson			
Mr. Price	X			Mr. Larson		X	
Mr. Buchanan	X			Mr. Blumenauer		X	
Mr. Smith (NE)	X			Mr. Kind		X	
Ms. Jenkins	X			Mr. Pascrell		X	
Mr. Paulsen	X			Mr. Crowley		X	
Mr. Marchant	X			Mr. Davis		X	
Ms. Black	X			Ms. Sanchez		X	
Mr. Reed	X						
Mr. Young	X						
Mr. Kelly	X						
Mr. Renacci	X						
Mr. Meehan	X						
Ms. Noem	X						
Mr. Holding	X						
Mr. Smith (MO)	X						
Mr. Dold	X						

IV. BUDGET EFFECTS OF THE BILL

A. Committee Estimate of Budgetary Effects

In compliance with clause 3(d) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the bill, H.R. 2510, as reported.

The bill, as reported, is estimated to have the following effect on Federal budget receipts for fiscal years 2016–2025:

FISCAL YEARS

[Millions of Dollars]

2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2016–20	2016–25
−97,532	−43,362	−33,977	−26,345	−20,657	−16,827	−12,043	−9,731	−9,878	−10,307	−221,872	−280,659

NOTE: Details do not add to totals due to rounding.

B. Statement Regarding New Budget Authority and Tax Expenditures Budget Authority

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill involves no new or increased budget authority. The Committee further states that the revenue-reducing tax provisions involve increased tax expenditures. (See amounts in table in Part IV.A., above.)

C. Cost Estimate Prepared by the Congressional Budget Office

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the CBO, the following statement by CBO is provided.

U.S. Congress,
Congressional Budget Office,
Washington, DC, October 28, 2015.

Hon. Paul Ryan,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2510, A Bill to Amend the Internal Revenue Code of 1986 to Modify and Make Permanent Bonus Depreciation.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Peter Huether.

Sincerely,

Keith Hall.

Enclosure.

H.R. 2510—A Bill to Amend the Internal Revenue Code of 1986 to Modify and Make Permanent Bonus Depreciation

Summary: H.R. 2510 would amend the Internal Revenue Code to permanently provide an additional first-year depreciation deduction of 50 percent of the adjusted basis of qualified property, effective January 1, 2015. Under current law that additional deduction expired for most property placed in service after December 31, 2014. The bill would also expand the definition of qualified property and make other modifications to that deduction.

Because of the magnitude of its budgetary effects, this bill is "major legislation," as defined in section 3112 of S. Con. Res. 11, the Concurrent Resolution on the Budget for Fiscal Year 2016. Hence, the cost estimate prepared by CBO and the staff of the Joint Committee on Taxation (JCT) incorporates the federal budgetary effects of changes in economic output and other macroeconomic variables that would result from enacting the legislation.

JCT estimates that enacting the bill would increase deficits by about $267 billion over the 2016–2025 period. That estimate includes two components. First, excluding macroeconomic feedback effects, JCT estimates that the bill would increase deficits by about $281 billion over the 2016–2025 period. In addition, the macroeconomic feedback would reduce deficits by about $14 billion over that period, JCT estimates.[1] Most of the effects on deficits would result from changes in revenues. In addition, JCT estimates that enacting the legislation would decrease revenues and increase the on-budget deficit by at least $5 billion in one or more of the four consecutive 10-year periods beginning in 2026. That estimate includes macroeconomic feedback.

Enacting the legislation would affect direct spending and revenues; therefore, pay-as-you-go procedures apply.

JCT has determined that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated Cost to the Federal Government: The estimated budgetary impacts of the bill are shown in Table 1.

[1] For more details, see Joint Committee on Taxation, *A Report to the Congressional Budget Office of H.R. 2510, "Macroeconomic Effects of the Bonus Depreciation Modified and Made Permanent," as Ordered to be Reported by the House Committee on Ways and Means* (JCX–134–15), October 27, 2015.

TABLE 1—SUMMARY OF ESTIMATED EFFECTS ON DIRECT SPENDING AND REVENUES OF A BILL TO AMEND THE INTERNAL REVENUE CODE OF 1986 TO MODIFY AND MAKE PERMANENT BONUS DEPRECIATION

	By fiscal year, in billions of dollars—											
	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2016–2020	2016–2025
ESTIMATED CHANGES WITHOUT MACROECONOMIC FEEDBACK												
Effects on Outlays	0	0	0	0	0	0	0	0	0	0	0	0
Effects on Revenues	−97.5	−43.4	−34.0	−26.3	−20.7	−16.8	−12.0	−9.7	−9.9	−10.3	−221.9	−280.7
On-budget	−97.5	−43.4	−34.0	−26.3	−20.7	−16.8	−12.0	−9.7	−9.9	−10.3	−221.9	−280.7
Off-budget	0	0	0	0	0	0	0	0	0	0	0	0
Effects on the Deficit [a]	97.5	43.4	34.0	26.3	20.7	16.8	12.0	9.7	9.9	10.3	221.9	280.7
On-budget	97.5	43.4	34.0	26.3	20.7	16.8	12.0	9.7	9.9	10.3	221.9	280.7
Off-budget	0	0	0	0	0	0	0	0	0	0	0	0
ESTIMATED BUDGETARY IMPACT OF MACROECONOMIC FEEDBACK												
Effects on Outlays	1.2	2.0	2.2	2.3	2.2	2.1	1.8	1.5	1.1	0.6	9.9	17.0
Effects on Revenues	2.2	2.5	2.3	2.4	2.5	2.8	3.1	3.6	4.3	5.0	11.9	30.7
On-budget	1.4	0.8	0.5	0.7	0.6	1.0	1.1	1.3	1.9	2.5	4.0	11.8
Off-budget	0.8	1.7	1.8	1.7	1.9	1.8	2.0	2.3	2.4	2.5	7.9	18.9
Effects on the Deficit [a]	−0.9	−0.5	−0.1	−0.1	−0.3	−0.7	−1.3	−2.1	−3.2	−4.4	−2.0	−13.7
On-budget	−0.2	1.2	1.7	1.6	1.6	1.1	0.7	0.2	−0.8	−1.9	5.9	5.2
Off-budget	−0.8	−1.7	−1.8	−1.7	−1.9	−1.8	−2.0	−2.3	−2.4	−2.5	−7.9	−18.9
TOTAL ESTIMATED CHANGES, INCLUDING MACROECONOMIC FEEDBACK												
Effects on Outlays	1.2	2.0	2.2	2.3	2.2	2.1	1.8	1.5	1.1	0.6	9.9	17.0
Effects on Revenues	−95.4	−40.8	−31.7	−23.9	−18.2	−14.1	−8.9	−6.1	−5.6	−5.3	−210.0	−249.9
On-budget	−96.1	−42.6	−33.5	−25.6	−20.0	−15.9	−10.9	−8.4	−8.0	−7.8	−217.8	−268.8
Off-budget	0.8	1.7	1.8	1.7	1.9	1.8	2.0	2.3	2.4	2.5	7.9	18.9
Effects on the Deficit [a]	96.6	42.8	33.9	26.2	20.4	16.1	10.7	7.6	6.7	5.9	219.9	267.0
On-budget	97.4	44.6	35.7	27.9	22.2	17.9	12.7	9.9	9.1	8.4	227.8	285.8
Off-budget	−0.8	−1.7	−1.8	−1.7	−1.9	−1.8	−2.0	−2.3	−2.4	−2.5	−7.9	−18.9

Source: Staff of the Joint Committee on Taxation.

[a] Positive numbers indicate increases in the deficit, and negative numbers indicate reductions in the deficit.

Note: Components may not sum to totals because of rounding.

Basis of Estimate: H.R. 2510 would extend the additional first-year depreciation deduction that expired for most property placed in service after December 31, 2014. H.R. 2510 would also expand the definition of qualified property to include certain qualified improvement property and provide a special election for certain plants bearing nuts or fruits. In addition, the legislation would permanently extend an increase in the limitation on depreciation deductions allowed in the first year with respect to certain passenger automobiles, and index that increase for automobile price inflation. Finally, the legislation would expand and make permanent recently expired provisions that allowed corporations to claim additional credits against the alternative minimum tax instead of claiming the additional first-year depreciation deduction.

JCT estimates that the bill would increase deficits by about $281 billion over the 2016–2025 period, excluding the effects of macroeconomic feedback. Reductions in revenues account for all of that effect.

JCT expects that the bill would reduce the cost of capital and thereby increase the capital stock over the 2016–2025 period. As a result, JCT estimates that gross domestic product (GDP) would be higher, increasing revenues by about $31 billion over the 2016–2025 period. At the same time, a small increase in interest rates from higher federal debt would increase the cost of federal debt service by about $17 billion over the 2016–2025 period. The net effect of the macroeconomic feedback would be to reduce deficits by about $14 billion over the 10-year period.

Long-Term Impacts: JCT estimates that enacting the legislation would decrease revenues and increase the on-budget deficit by at least $5 billion in one or more of the four consecutive 10-year periods beginning in 2026. That estimate includes macroeconomic feedback.

JCT has estimated the following long-term effects:

"In the second and third decades after enactment, because the bill is expected to result in continuing increases in Federal debt, it is expected to make private borrowing more expensive, reducing investment incentives, and thus reducing the rate of increase in capital stock, GDP, and associated revenues relative to those effects within the budget period. The extent to which this crowding out of private investment incentives could eventually lead to the macroeconomic effects of the proposal reducing revenues relative to the conventional estimate is too uncertain to enable a prediction on the sign of the macroeconomic revenue feedback effects in the second or third decades after enactment and beyond."

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in revenues and outlays that are subject to those pay-as-you-go procedures are shown in the following table, with and without the macroeconomic feedback. Only on-budget changes to outlays or revenues are subject to pay-as-you-go procedures.

TABLE 2—CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR A BILL TO AMEND THE INTERNAL REVENUE CODE OF 1986 TO MODIFY AND MAKE PERMANENT BONUS DEPRECIATION, AS ORDERED REPORTED BY THE HOUSE WAYS AND MEANS COMMITTEE ON SEPTEMBER 17, 2015

	By fiscal year, in millions of dollars—											
	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2016–2020	2016–2025
NET INCREASE IN THE ON-BUDGET DEFICIT EXCLUDING MACROECONOMIC FEEDBACK												
Statutory Pay-As-You-Go Effects	97,532	43,362	33,977	26,345	20,657	16,827	12,043	9,731	9,878	10,307	221,872	280,659
Memorandum:												
Changes in Revenues	−97,532	−43,362	−33,977	−26,345	−20,657	−16,827	−12,043	−9,731	−9,878	−10,307	−221,872	−280,659
Changes in Outlays	0	0	0	0	0	0	0	0	0	0	0	0
NET INCREASE IN THE ON-BUDGET DEFICIT INCLUDING MACROECONOMIC FEEDBACK												
Statutory Pay-As-You-Go Effects	97,356	44,575	35,704	27,919	22,229	17,915	12,699	9,894	9,126	8,423	227,781	285,840
Memorandum:												
Changes in Revenues	−96,135	−42,588	−33,466	−25,646	−20,011	−15,851	−10,901	−8,402	−8,007	−7,807	−217,844	−268,815
Changes in Outlays	1,221	1,987	2,238	2,273	2,218	2,064	1,798	1,492	1,119	616	9,937	17,025

Source: Staff of the Joint Committee on Taxation.
Note: Components may not sum to totals because of rounding.

Intergovernmental and private-sector impact: JCT has determined that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

Estimate prepared by: Federal Revenues: Peter Huether and staff of the Joint Committee on Taxation; Macroeconomic Feedback: Staff of the Joint Committee on Taxation.

Estimate approved by: David Weiner, Assistant Director for Tax Analysis.

D. Macroeconomic Impact Analysis

In compliance with clause 3(h)(2) of rule XIII of the Rules of the House of Representatives, and pursuant to S. Con. Res. 11 (Concurrent Resolution on the Budget for Fiscal Year 2016) section 3112, the staff of the Joint Committee on Taxation provides the following analysis of H.R. 2510, as reported by the House Committee on Ways and Means on September 17, 2015.

Overview

The following discussion analyzes the macroeconomic effects of the bill. The estimate of the macroeconomic revenue feedback effects of this legislation and the following supplementary analysis were produced using the Joint Committee on Taxation staff's Macroeconomic Equilibrium Growth model to simulate the macroeconomic effects of the bill. This analysis is presented relative to the 2015 economic and receipts baseline ("present law"), published by the Congressional Budget Office ("CBO") in January, 2015.[41]

The bill amends section 168(k) to make permanent "bonus depreciation," a first-year depreciation deduction equal to 50 percent of the adjusted basis of qualified property, generally effective for property placed in service after December 31, 2014. The bill also provides that a corporation eligible for bonus depreciation may elect to claim additional AMT credits in lieu of claiming the additional depreciation deduction. This bill is projected to reduce the after-tax cost of capital, thus providing an incentive for additional savings and investment. Within the budget window, the primary effect of the bill on the economy is a projected increase in the stock of capital of about 0.4 percent during the first half of the budget period (2016–2019) and about 1.2 percent in the second half of the budget period (2020–2025). This increase in the capital stock is projected to result in an increase in Gross Domestic Product ("GDP") of about 0.2 percent during the budget period, and in receipts of about 0.1 percent during that period. These changes in investment are projected to be mirrored by small changes in hours worked and wages. The effects on wages increase over time, as the build-up of capital stock increases worker productivity. Because the size of these effects depends on how strongly investors respond to the incentives, and to a lesser extent for this bill, on the actions of the Federal Reserve Board, the exact magnitude of these effects is subject to some uncertainty. In the longer run, increasing deficits are expected to reduce the investment incentives provided by the proposal.

[41] Congressional Budget Office, *The Budget and Economic Outlook: Fiscal Years 2015–2025*, January 26, 2015.

Budgetary effects

The growth generated by the increase in capital stock is projected to reduce the revenue loss from the proposal by about $30.7 billion over the 2016–2025 budget period. This revenue "feedback" begins slowly as it takes time for the effects of increasing capital stock to affect economic growth. At the same time, an increase in interest rates generated by the increase in Federal debt is expected to increase the cost of Federal debt service by about $17 billion over the budget window. Because the bill is projected to have a negligible effect on employment and consumption, it is projected to have a negligible effect on other outlays. Overall, the budgetary effects of changes in economic growth are projected to reduce the deficit by $13.7 billion during the budget window. Details of the estimate appear on Table 1.

ESTIMATED BUDGET EFFECTS OF H.R. 2510,
A BILL TO MODIFY AND MAKE PERMANENT BONUS DEPRECIATION,
AS REPORTED BY THE COMMITTEE ON WAYS AND MEANS

Fiscal Years 2016 - 2025

[Millions of Dollars]

Provision	Effective	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2016-20	2016-25
Modify and Make Permanent Bonus Depreciation	[1]	-97,532	-43,362	-33,977	-26,345	-20,657	-16,827	-12,043	-9,731	-9,878	-10,307	-221,872	-280,659
Additional Effects Resulting from Macroeconomic Analysis [2] [3]......................		943	531	77	143	282	701	1,313	2,148	3,168	4,402	1,977	13,709
NET TOTAL		-96,589	-42,831	-33,900	-26,202	-20,375	-16,126	-10,730	-7,583	-6,710	-5,905	-219,895	-266,950

Joint Committee on Taxation

NOTE: Details may not add to totals due to rounding.

[1] Additional first-year depreciation for 50% of basis of qualified property made permanent is effective for property placed in service after December 31, 2014, in taxable years ending after such date. Election to accelerate AMT credits in lieu of bonus depreciation expanded and made permanent is effective for taxable years ending after December 31, 2014. Special rules for certain plants bearing fruits and nuts is effective for specified plants planted or grafted after December 31, 2014.

	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2016-20	2016-25
[2] Estimate includes the following effects on outlays due to increased interest rates on the Federal debt........	1,221	1,987	2,238	2,273	2,218	2,064	1,798	1,492	1,119	616	9,937	17,025

	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2016-20	2016-25
[3] Estimate includes the following off-budget effects........	767	1,744	1,804	1,717	1,854	1,789	1,969	2,311	2,416	2,518	7,886	18,890

Second and third decade effects

In the second and third decades after enactment, because the bill is expected to result in continuing increases in Federal debt, it is expected to make private borrowing more expensive, reducing investment incentives, and thus reducing the rate of increase in capital stock, GDP, and associated revenues relative to those effects within the budget period. The extent to which this crowding out of private investment incentives could eventually lead to the macroeconomic effects of the bill reducing revenues relative to the conventional estimate is too uncertain to enable a prediction on the sign of the macroeconomic revenue feedback effects in the second or third decades after enactment and beyond.

Data, models, and assumptions used in the analysis

We analyzed the proposal using the Joint Committee staff macroeconomic equilibrium growth model ("MEG").[42] While the model is based on economic data from the National Income and Product Accounts, taxable income is adjusted to reflect taxable income as measured by reporting on tax returns. The MEG model is based on the standard, neoclassical assumption that the amount of output is determined by the availability of labor and capital, and in the long run demand for labor and capital equals the amount supplied by households. Individuals are assumed to make decisions based on observed characteristics of the economy, including wages, prices, interest rates, tax rates, and government spending levels. Individuals in the MEG model do not anticipate future changes in the economy or government finances; thus, this type of model is often referred to as a "myopic" behavior model.

Monetary policy conducted by the Federal Reserve Board is explicitly modeled, with lagged price adjustments allowing for the economy to be temporarily out of equilibrium in response to fiscal and monetary policy changes. Under an "Aggressive Fed" policy, it is assumed that the Federal Reserve Board would work to counteract any demand incentives resulting from fiscal policy. "Neutral Fed" simulations assume that the Federal Reserve Board targets a fixed monetary growth rate, and does not try to counteract fiscal policy. The macroeconomic revenue effects provided in the estimate were generated using the assumption that the Federal Reserve Board would be neutral toward the policy in the beginning of the budget period, consistent with current Federal Reserve policy, and gradually begin to counteract the expansionary effects of growing deficits over the budget period.

Labor supply decisions are modeled separately for four groups: low income primary earners, low income secondary earners, other primary earners, and other secondary earners. Firms make investment decisions based on an expected after-tax rate of return. The simulation used for this estimate includes the high substitution elasticity parameters for labor supply as reported in Table 2, below.

[42] A detailed description of the MEG model and its behavioral parameters may be found in: Joint Committee on Taxation, *Macroeconomic Analysis of Various Proposals to Provide $500 Billion in Tax Relief,* (JCX–4–05), March 1, 2005, and Joint Committee on Taxation, *Overview of the Work of the Staff of the Joint Committee on Taxation to Model the Macroeconomic Effects of Proposed Tax Legislation to Comply with House Rule XIII.3(h)(2),* (JCX–105–03), December 22, 2003.

Information about the effects of the proposal on individual and business average tax rates and effective marginal tax rates, and on after-tax returns to capital and labor is obtained from various JCT tax models[43] (used in the production of conventional revenue estimates) to characterize the effects of the bill within the MEG model. Changes in deductions, credits and exclusions can impact effective marginal tax rates as well as average tax rates. Table 2 provides a summary of key behavioral parameters in the MEG model.

TABLE 2.—KEY PARAMETER ASSUMPTIONS IN THE MEG MODEL

Labor supply elasticities in disaggregated labor supply	Income	High Elasticity Substitution	Low Elasticity Substitution
Low income primary	−0.1	0.2	0.15
Other primary	−0.1	0.1	0.1
Low income secondary	−0.3	0.8	0.4
Other secondary	−0.2	0.6	0.3
Wage-weighted population average with baseline rates	−0.1	0.2	0.1
Savings/consumption parameters			
Rate of time preference		0.015	
Intertemporal elasticity of substitution		0.35	
Derived long-run savings elasticity to the after tax rate of return on capital		0.25	

V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee advises that it was as a result of the Committee's review of the provisions of H.R. 2510 that the Committee concluded that it is appropriate to report the bill, as amended, favorably to the House of Representatives with the recommendation that the bill do pass.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill contains no measure that authorizes funding, so no statement of general performance goals and objectives for which any measure authorizes funding is required.

C. INFORMATION RELATING TO UNFUNDED MANDATES

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104–4).

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has deter-

[43] Descriptions of the JCT conventional estimating models may be found in JCX–46–11, *Testimony of the Staff of the Joint Committee on Taxation before the House Committee on Ways and Means Regarding Economic Modeling,* September 21, 2011, JCX–75–15, *Estimating Changes in the Federal Individual Income tax: Description of the Individual Tax Model,* April 24, 2015, and other documents at *www.jct.gov* under "Estimating Methodology."

mined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

D. Applicability of House Rule XXI 5(b)

Rule XXI 5(b) of the Rules of the House of Representatives provides, in part, that "A bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase may not be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting, a quorum being present." The Committee has carefully reviewed the bill, and states that the bill does not involve any Federal income tax rate increases within the meaning of the rule.

E. Tax Complexity Analysis

The following statement is made pursuant to clause 3(h)(1) of rule XIII of the Rules of the House of Representatives. Section 4022(b) of the Internal Revenue Service Restructuring and Reform Act of 1998 (the "IRS Reform Act") requires the staff of the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Treasury Department) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the Senate Committee on Finance, the House Committee on Ways and Means, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code and has widespread applicability to individuals or small businesses. For each such provision identified by the staff of the Joint Committee on Taxation a summary description of the provision is provided along with an estimate of the number and type of affected taxpayers, and a discussion regarding the relevant complexity and administrative issues.

Following the analysis of the staff of the Joint Committee on Taxation are the comments of the IRS and Treasury regarding each of the provisions included in the complexity analysis.

1. BONUS DEPRECIATION MODIFIED AND MADE PERMANENT

Summary description of the provisions

Bonus depreciation

The bill modifies and makes permanent the 50-percent additional first-year depreciation deduction.

The bill allows additional first-year depreciation for qualified improvement property without regard to whether the improvements are property subject to a lease, and also removes the requirement that the improvement must be placed in service more than three years after the date the building was first placed in service.

The $8,000 increase amount in the limitation on the depreciation deductions allowed with respect to certain passenger automobiles is indexed for automobile price inflation. The increase does not apply to a taxpayer who elects to accelerate AMT credits in lieu of bonus depreciation for a taxable year.

The bill also makes permanent the special rule for the allocation of bonus depreciation to a long-term contract.

Expansion of election to accelerate AMT credits in lieu of bonus depreciation

The bill makes permanent and modifies the election to increase the AMT credit limitation in lieu of bonus depreciation. Under the bill, the bonus depreciation amount for a taxable year (as defined under present law with respect to all qualified property) is limited to the lesser of (1) 50 percent of the minimum tax credit for the first taxable year ending after December 31, 2014 (determined before the application of any tax liability limitation), or (2) the minimum tax credit for the taxable year allocable to the adjusted net minimum tax imposed for taxable years ending before January 1, 2015 (determined before the application of any tax liability limitation and determined on a first-in, first-out basis).

The bill also provides that in the case of a partnership having a single corporate partner owning (directly or indirectly) more than 50 percent of the capital and profits interests in the partnership, each partner takes into account its distributive share of partnership depreciation in determining its bonus depreciation amount.

Special rules for certain plants

The bill provides an election for certain plants bearing fruits and nuts. Under the election, 50 percent of the adjusted basis of a specified plant is deductible for regular tax and AMT purposes in the year planted or grafted by the taxpayer, and the adjusted basis is reduced by amount of the deduction. A specified plant is any tree or vine that bears fruits or nuts, and any other plant that will have more than one yield of fruits or nuts and generally has a period of more than two years from planting or grafting to the time it begins bearing fruits or nuts. The election is revocable only with the consent of the Secretary, and if the election is made with respect to any specified plant, such plant is not treated as qualified property eligible for bonus depreciation in the subsequent taxable year in which it is placed in service.

Number of affected taxpayers

It is estimated that the provision will affect over ten percent of small business tax returns.

Discussion

The reporting requirements are unchanged by this provision. Capital assets purchased during the tax year will still need to be reported on Form 4562, Depreciation and Amortization (Including Information on Listed Property); however, the current year tax deduction associated with such assets will increase.

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

COMMISSIONER

September 24, 2015

Mr. Thomas A. Barthold
Chief of Staff
Joint Committee on Taxation
Washington, D.C. 20515

Dear Mr. Barthold:

I am responding to your letter dated September 18, 2015, in which you requested a complexity analysis related to H.R. 2510, a bill to modify and make permanent bonus depreciation.

Enclosed are the combined comments of the Internal Revenue Service and the Treasury Department for inclusion in the complexity analysis in the House Committee on Ways and Means report on H.R. 2510, a bill to modify and make permanent bonus depreciation. Our analysis covers one provision that you preliminarily identified in your letter: bonus depreciation modified and made permanent. Please note that for purposes of this complexity analysis, IRS staff assumed timely enactment of this legislation. If legislation is not enacted before the end of the year, there would be complexity for IRS and for taxpayers that is not addressed in this response.

Our comments are based on the description of the provision provided in your letter. This analysis does not include administrative cost estimates for the changes that would be required. Due to the short turnaround time, our comments are provisional and subject to change upon a more complete and in-depth analysis of the provision.

Sincerely,

John A. Koskinen

Enclosure

COMPLEXITY ANALYSIS OF THE COMMITTEE REPORT ON H.R. 2510, A BILL TO MODIFY AND MAKE PERMANENT BONUS DEPRECIATION

1. Bonus Depreciation Modified and Made Permanent

Summary description of the provisions

Bonus depreciation

The bill modifies and makes permanent the 50-percent additional first-year depreciation deduction.

The bill allows additional first-year depreciation for qualified improvement property without regard to whether the improvements are property subject to a lease, and also removes the requirement that the improvement must be placed in service more than three years after the date the building was first placed in service.

The $8,000 increase amount in the limitation on the depreciation deductions allowed with respect to certain passenger automobiles is indexed for automobile price inflation. The increase does not apply to a taxpayer who elects to accelerate AMT credits in lieu of bonus depreciation for a taxable year.

The bill also makes permanent the special rule for the allocation of bonus depreciation to a long-term contract.

IRS/Treasury Comments:

- The proposal to make permanent the 50-percent additional first-year depreciation deduction for qualified property; expand the definition of qualified property to include qualified retail improvement property; index inflation of the $8,000 increase amount in the limitation on the depreciation deductions with respect to certain passenger automobiles price and the proposal to make permanent the special rule for the allocation of bonus depreciation to a long-term contract would have no significant impact on Form 4562 or any other tax forms.
- The Instructions for Form 4562, Publication 946, and other instructions and publications would be revised to reflect the extension and indexing for inflation the increased first-year depreciation limitation amount for passenger automobiles. This would require an annual calculation and publication by the IRS of the increased limitation amount.
- No internal training would be required by this provision.
- Internal communications would be shared with all employees.
- No programming changes would be required by this provision.
- Eliminating statutory language that reflects the bonus depreciation provision's current temporary status would yield some compliance

simplification. The bill would eliminate the need to distinguish certain aircraft and property with longer production periods, and would make unnecessary current rules concerning self-constructed property and activities of related parties.

- The proposed statutory changes should not require any significant additional taxpayer recordkeeping relative to current law, and should not lead to additional disputes between taxpayers and the IRS.

Expansion of election to accelerate AMT credits in lieu of bonus depreciation

The bill makes permanent and modifies the election to increase the AMT credit limitation in lieu of bonus depreciation. Under the bill, the bonus depreciation amount for a taxable year (as defined under present law with respect to all qualified property) is limited to the lesser of (1) 50 percent of the minimum tax credit for the first taxable year ending after December 31, 2014 (determined before the application of any tax liability limitation), or (2) the minimum tax credit for the taxable year allocable to the adjusted net minimum tax imposed for taxable years ending before January 1, 2015 (determined before the application of any tax liability limitation and determined on a first-in, first-out basis).

The bill also provides that in the case of a partnership having a single corporate partner owning (directly or indirectly) more than 50-percent of the capital and profits interests in the partnership, each partner takes into account its distributive share of partnership depreciation in determining its bonus depreciation amount.

IRS/Treasury Comments:

- The proposal to make permanent and modify the election to increase the AMT credit limitation in lieu of bonus depreciation would have no significant impact on Form 4562 or any other tax forms.
- The Instructions for Form 4562, Publication 946, and other instructions and publications would be revised to reflect the extension.
- No internal training would be required by this provision.
- Internal communications would be shared with all employees.
- No programming changes would be required by this provision.
- Removing statutory language that reflects the current temporary status of the election to accelerate AMT credits, and introducing new simplified language that makes the election permanent, could yield some compliance simplification for taxpayers. This language includes outdated descriptions regarding the acceleration of research credits and the allocation of the bonus depreciation amount to these credits. The bill would also eliminate "deadwood" statutory language regarding the treatment of former rounds of "extension property."

- The proposed statutory changes should not require any additional taxpayer recordkeeping relative to current law, and should not lead to additional disputes between taxpayers and the IRS.

Special rules for certain plants

The bill provides an election for certain plants bearing fruits and nuts. Under the election, 50 percent of the adjusted basis of a specified plant is deductible for regular tax and AMT purposes in the year planted or grafted by the taxpayer, and the adjusted basis is reduced by amount of the deduction. A specified plant is any tree or vine that bears fruits or nuts, and any other plant that will have more than one yield of fruits or nuts and generally has a period of more than two years from planting or grafting to the time it begins bearing fruits or nuts. The election is revocable only with the consent of the Secretary, and if the election is made with respect to any specified plant, such plant is not treated as qualified property eligible for bonus depreciation in the subsequent taxable year in which it is placed in service.

IRS/Treasury Comments:

- The proposal to allow a taxpayer to claim bonus depreciation on trees or vines bearing fruits or nuts, in the taxable year in which the tree or vine is planted, or grafted to a plant that has already been planted, by the taxpayer in the ordinary course of the taxpayer's farming business would have no significant impact on Form 4562 or any other tax forms.
- The Instructions for Form 4562, Publication 946, and other instructions and publications would be revised to reflect the extension.
- No internal training would be required by this provision.
- Internal communications would be shared with all employees.
- No programming changes would be required by this provision.
- This proposal would introduce an unfamiliar concept into depreciation law and practice; namely, it would permit a depreciation deduction for an item of property to be taken in a taxable year prior to the taxable year in which the property is placed in service. The provision would also change established capitalization requirements by exempting this particular bonus depreciation deduction from the uniform capitalization requirements that might otherwise apply. While these changes in tax accounting rules are not overly complicated, they nevertheless could result in additional, unanticipated enforcement disputes.
- The proposed statutory changes would require some changes in accounting procedures by affected taxpayers.

F. Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill, and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

G. Duplication of Federal Programs

In compliance with Sec. 3(g)(2) of H. Res. 5 (114th Congress), the Committee states that no provision of the bill establishes or reauthorizes a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Public Law 95–220, as amended by Public Law 98–169). The Committee also states that the Government Accountability Office has included bonus depreciation in a report to Congress pursuant to section 21 of Public Law 111–139.

H. Disclosure of Directed Rule Makings

In compliance with Sec. 3(i) of H. Res. 5 (114th Congress), the following statement is made concerning directed rule makings: The Committee estimates that the bill requires no more than one directed rule making within the meaning of such section; whether or not the bill requires a directed rule making is ambiguous because the bill directs the Secretary to increase the applicable depreciation limitation for passenger vehicles under section 280F by $8,000 for purposes of calculating allowable bonus depreciation but without reference to a specific rule making.

VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

A. Text of Existing Law Amended or Repealed by the Bill, as Reported

In compliance with clause 3(e)(1)(A) of rule XIII of the Rules of the House of Representatives, the text of each section proposed to be amended or repealed by the bill, as reported, is shown below:

INTERNAL REVENUE CODE OF 1986

* * * * * * *

Subtitle A—Income Taxes

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CHAPTER 1—NORMAL TAXES AND SURTAXES

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Subchapter B—Computation of Taxable Income

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PART VI—ITEMIZED DEDUCTIONS FOR INDIVIDUALS AND CORPORATIONS

* * * * * * *

SEC. 168. ACCELERATED COST RECOVERY SYSTEM.

(a) GENERAL RULE.—Except as otherwise provided in this section, the depreciation deduction provided by section 167(a) for any tangible property shall be determined by using—

(1) the applicable depreciation method,

(2) the applicable recovery period, and

(3) the applicable convention.

(b) APPLICABLE DEPRECIATION METHOD.—For purposes of this section—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the applicable depreciation method is—

(A) the 200 percent declining balance method,

(B) switching to the straight line method for the 1st taxable year for which using the straight line method with respect to the adjusted basis as of the beginning of such year will yield a larger allowance.

(2) 150 PERCENT DECLINING BALANCE METHOD IN CERTAIN CASES.—Paragraph (1) shall be applied by substituting "150 percent" for "200 percent" in the case of—

(A) any 15-year or 20-year property not referred to in paragraph (3),

(B) any property used in a farming business (within the meaning of section 263A(e)(4)),

(C) any property (other than property described in paragraph (3)) which is a qualified smart electric meter or qualified smart electric grid system, or

(D) any property (other than property described in paragraph (3)) with respect to which the taxpayer elects under paragraph (5) to have the provisions of this paragraph apply.

(3) PROPERTY TO WHICH STRAIGHT LINE METHOD APPLIES.—The applicable depreciation method shall be the straight line method in the case of the following property:

(A) Nonresidential real property.

(B) Residential rental property.

(C) Any railroad grading or tunnel bore.

(D) Property with respect to which the taxpayer elects under paragraph (5) to have the provisions of this paragraph apply.

(E) Property described in subsection (e)(3)(D)(ii).

(F) Water utility property described in subsection (e)(5).

(G) Qualified leasehold improvement property described in subsection (e)(6).

(H) Qualified restaurant property described in subsection (e)(7).

(I) Qualified retail improvement property described in subsection (e)(8).

(4) SALVAGE VALUE TREATED AS ZERO.—Salvage value shall be treated as zero.

(5) ELECTION.—An election under paragraph (2)(D) or (3)(D) may be made with respect to 1 or more classes of property for any taxable year and once made with respect to any class shall apply to all property in such class placed in service during such taxable year. Such an election, once made, shall be irrevocable.

(c) APPLICABLE RECOVERY PERIOD.—For purposes of this section, the applicable recovery period shall be determined in accordance with the following table:

In the case of:	The applicable recovery period is:
3-year property	3 years
5-year property	5 years
7-year property	7 years
10-year property	10 years
15-year property	15 years
20-year property	20 years
Water utility property	25 years
Residential rental property	27.5 years
Nonresidential real property	39 years.
Any railroad grading or tunnel bore	50 years.

(d) APPLICABLE CONVENTION.—For purposes of this section—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the applicable convention is the half-year convention.

(2) REAL PROPERTY.—In the case of—

(A) nonresidential real property,

(B) residential rental property, and

(C) any railroad grading or tunnel bore, the applicable convention is the mid-month convention.

(3) SPECIAL RULE WHERE SUBSTANTIAL PROPERTY PLACED IN SERVICE DURING LAST 3 MONTHS OF TAXABLE YEAR.—

(A) IN GENERAL.—Except as provided in regulations, if during any taxable year—

(i) the aggregate bases of property to which this section applies placed in service during the last 3 months of the taxable year, exceed

(ii) 40 percent of the aggregate bases of property to which this section applies placed in service during such taxable year,

the applicable convention for all property to which this section applies placed in service during such taxable year shall be the mid-quarter convention.

(B) CERTAIN PROPERTY NOT TAKEN INTO ACCOUNT.—For purposes of subparagraph (A), there shall not be taken into account—

(i) any nonresidential real property residential rental property, and railroad grading or tunnel bore, and

(ii) any other property placed in service and disposed of during the same taxable year.

(4) DEFINITIONS.—

(A) HALF-YEAR CONVENTION.—The half-year convention is a convention which treats all property placed in service during any taxable year (or disposed of during any taxable year) as placed in service (or disposed of) on the mid-point of such taxable year.

(B) MID-MONTH CONVENTION.—The mid-month convention is a convention which treats all property placed in service during any month (or disposed of during any month) as placed in service (or disposed of) on the mid-point of such month.

(C) MID-QUARTER CONVENTION.—The mid-quarter convention is a convention which treats all property placed in service during any quarter of a taxable year (or disposed of during any quarter of a taxable year) as placed in service (or disposed of) on the mid-point of such quarter.

(e) CLASSIFICATION OF PROPERTY.—For purposes of this section—

(1) IN GENERAL.—Except as otherwise provided in this subsection, property shall be classified under the following table:

Property shall be treated as:	If such property has a class life (in years) of:
3-year property	4 or less
5-year property	More than 4 but less than 10
7-year property	10 or more but less than 16
10-year property	16 or more but less than 20
15-year property	20 or more but less than 25
20-year property	25 or more.

(2) RESIDENTIAL RENTAL OR NONRESIDENTIAL REAL PROPERTY.—

(A) RESIDENTIAL RENTAL PROPERTY.—

(i) RESIDENTIAL RENTAL PROPERTY.—The term "residential rental property" means any building or structure if 80 percent or more of the gross rental income from such building or structure for the taxable year is rental income from dwelling units.

(ii) DEFINITIONS.—For purposes of clause (i)—

(I) the term "dwelling unit" means a house or apartment used to provide living accommodations in a building or structure, but does not include a unit in a hotel, motel, or other establishment more than one-half of the units in which are used on a transient basis, and

(II) if any portion of the building or structure is occupied by the taxpayer, the gross rental income from such building or structure shall include the rental value of the portion so occupied.

(B) NONRESIDENTIAL REAL PROPERTY.—The term "nonresidential real property" means section 1250 property which is not—

(i) residential rental property, or

(ii) property with a class life of less than 27.5 years.

(3) CLASSIFICATION OF CERTAIN PROPERTY.—

(A) 3-YEAR PROPERTY.—The term "3-year property" includes—

(i) any race horse—

(I) which is placed in service before January 1, 2015, and

(II) which is placed in service after December 31, 2014, and which is more than 2 years old at the time such horse is placed in service by such purchaser,

(ii) any horse other than a race horse which is more than 12 years old at the time it is placed in service, and

(iii) any qualified rent-to-own property.

(B) 5-YEAR PROPERTY.—The term "5-year property" includes—

(i) any automobile or light general purpose truck,

(ii) any semi-conductor manufacturing equipment,

(iii) any computer-based telephone central office switching equipment,

(iv) any qualified technological equipment,

(v) any section 1245 property used in connection with research and experimentation,

(vi) any property which—

(I) is described in subparagraph (A) of section 48(a)(3) (or would be so described if "solar or wind energy" were substituted for "solar energy" in clause (i) thereof and the last sentence of such section did not apply to such subparagraph),

(II) is described in paragraph (15) of section 48(l) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) and is a qualifying small power production facility within the meaning of section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C)), as in effect on September 1, 1986, or

(III) is described in section 48(l)(3)(A)(ix) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990), and

(vii) any machinery or equipment (other than any grain bin, cotton ginning asset, fence, or other land improvement) which is used in a farming business (as defined in section 263A(e)(4)), the original use of which commences with the taxpayer after December 31, 2008, and which is placed in service before January 1, 2010.

Nothing in any provision of law shall be construed to treat property as not being described in clause (vi)(I) (or the corresponding provisions of prior law) by reason of being public utility property (within the meaning of section 48(a)(3)).

(C) 7-YEAR PROPERTY.—The term "7-year property" includes—

(i) any railroad track, and

(ii) any motorsports entertainment complex,

(iii) any Alaska natural gas pipeline,

(iv) any natural gas gathering line the original use of which commences with the taxpayer after April 11, 2005, and

(v) any property which—

(I) does not have a class life, and

(II) is not otherwise classified under paragraph (2) or this paragraph.

(D) 10-YEAR PROPERTY.—The term "10-year property" includes—

(i) any single purpose agricultural or horticultural structure (within the meaning of subsection (i)(13)),

(ii) any tree or vine bearing fruit or nuts,

(iii) any qualified smart electric meter, and

(iv) any qualified smart electric grid system.

(E) 15-YEAR PROPERTY.—The term "15-year property" includes—

(i) any municipal wastewater treatment plant,

(ii) any telephone distribution plant and comparable equipment used for 2-way exchange of voice and data communications,

(iii) any section 1250 property which is a retail motor fuels outlet (whether or not food or other convenience items are sold at the outlet),

(iv) any qualified leasehold improvement property placed in service before January 1, 2015,

(v) any qualified restaurant property placed in service before January 1, 2015,

(vi) initial clearing and grading land improvements with respect to gas utility property,

(vii) any section 1245 property (as defined in section 1245(a)(3)) used in the transmission at 69 or more kilovolts of electricity for sale and the original use of which commences with the taxpayer after April 11, 2005,

(viii) any natural gas distribution line the original use of which commences with the taxpayer after April 11, 2005, and which is placed in service before January 1, 2011, and

(ix) any qualified retail improvement property placed in service after December 31, 2008, and before January 1, 2015.

(F) 20-YEAR PROPERTY.—The term "20-year property" means initial clearing and grading land improvements with respect to any electric utility transmission and distribution plant.

(4) RAILROAD GRADING OR TUNNEL BORE.—The term "railroad grading or tunnel bore" means all improvements resulting from excavations (including tunneling), construction of embankments, clearings, diversions of roads and streams, sodding of slopes, and from similar work necessary to provide, construct, reconstruct, alter, protect, improve, replace, or restore a roadbed or right-of-way for railroad track.

(5) WATER UTILITY PROPERTY.—The term "water utility property" means property—

(A) which is an integral part of the gathering, treatment, or commercial distribution of water, and which, without regard to this paragraph, would be 20-year property, and

(B) any municipal sewer.

(6) QUALIFIED LEASEHOLD IMPROVEMENT PROPERTY.—The term "qualified leasehold improvement property" has the meaning given such term in section 168(k)(3) except that the following special rules shall apply:

(A) IMPROVEMENTS MADE BY LESSOR.—In the case of an improvement made by the person who was the lessor of such improvement when such improvement was placed in service, such improvement shall be qualified leasehold improvement property (if at all) only so long as such improvement is held by such person.

(B) EXCEPTION FOR CHANGES IN FORM OF BUSINESS.—Property shall not cease to be qualified leasehold improvement property under subparagraph (A) by reason of—

(i) death,

(ii) a transaction to which section 381(a) applies,

(iii) a mere change in the form of conducting the trade or business so long as the property is retained in such trade or business as qualified leasehold improvement property and the taxpayer retains a substantial interest in such trade or business,

(iv) the acquisition of such property in an exchange described in section 1031, 1033, or 1038 to the extent that the basis of such property includes an amount representing the adjusted basis of other property owned by the taxpayer or a related person, or

(v) the acquisition of such property by the taxpayer in a transaction described in section 332, 351, 361, 721, or 731 (or the acquisition of such property by the taxpayer from the transferee or acquiring corporation in a transaction described in such section), to the extent that the basis of the property in the hands of the taxpayer is determined by reference to its basis in the hands of the transferor or distributor.

(7) QUALIFIED RESTAURANT PROPERTY.—

(A) IN GENERAL.—The term "qualified restaurant property" means any section 1250 property which is—

(i) a building, or

(ii) an improvement to a building, if more than 50 percent of the building's square footage is devoted to preparation of, and seating for on-premises consumption of, prepared meals.

(B) EXCLUSION FROM BONUS DEPRECIATION.—Property described in this paragraph which is not qualified leasehold improvement property shall not be considered qualified property for purposes of subsection (k).

(8) QUALIFIED RETAIL IMPROVEMENT PROPERTY.—

(A) IN GENERAL.—The term "qualified retail improvement property" means any improvement to an interior portion of a building which is nonresidential real property if—

(i) such portion is open to the general public and is used in the retail trade or business of selling tangible personal property to the general public, and

(ii) such improvement is placed in service more than 3 years after the date the building was first placed in service.

(B) IMPROVEMENTS MADE BY OWNER.—In the case of an improvement made by the owner of such improvement, such improvement shall be qualified retail improvement property (if at all) only so long as such improvement is held by such owner. Rules similar to the rules under paragraph (6)(B) shall apply for purposes of the preceding sentence.

(C) CERTAIN IMPROVEMENTS NOT INCLUDED.—Such term shall not include any improvement for which the expenditure is attributable to—

(i) the enlargement of the building,

(ii) any elevator or escalator,

(iii) any structural component benefitting a common area, or

(iv) the internal structural framework of the building.

(D) EXCLUSION FROM BONUS DEPRECIATION.—Property described in this paragraph which is not qualified leasehold improvement property shall not be considered qualified property for purposes of subsection (k).

(f) PROPERTY TO WHICH SECTION DOES NOT APPLY.—This section shall not apply to—

(1) CERTAIN METHODS OF DEPRECIATION.—Any property if—

(A) the taxpayer elects to exclude such property from the application of this section, and

(B) for the 1st taxable year for which a depreciation deduction would be allowable with respect to such property in the hands of the taxpayer, the property is properly depreciated under the unit-of-production method or any method of depreciation not expressed in a term of years (other than the ret method or similar method).

(2) CERTAIN PUBLIC UTILITY PROPERTY.—Any public utility property (within the meaning of subsection (i)(10)) if the taxpayer does not use a normalization method of accounting.

(3) FILMS AND VIDEO TAPE.—Any motion picture film or video tape.

(4) SOUND RECORDINGS.—Any works which result from the fixation of a series of musical, spoken, or other sounds, regardless of the nature of the material (such as discs, tapes, or other phonorecordings) in which such sounds are embodied.

(5) CERTAIN PROPERTY PLACED IN SERVICE IN CHURNING TRANSACTIONS.—

(A) IN GENERAL.—Property—

(i) described in paragraph (4) of section 168(e) (as in effect before the amendments made by the Tax Reform Act of 1986), or

(ii) which would be described in such paragraph if such paragraph were applied by substituting "1987" for "1981" and "1986" for "1980" each place such terms appear.

(B) SUBPARAGRAPH (A)(II) NOT TO APPLY.—Clause (ii) of subparagraph (A) shall not apply to—

(i) any residential rental property or nonresidential real property,

(ii) any property if, for the 1st taxable year in which such property is placed in service—

(I) the amount allowable as a deduction under this section (as in effect before the date of the enactment of this paragraph) with respect to such property is greater than,

(II) the amount allowable as a deduction under this section (as in effect on or after such date and using the half-year convention) for such taxable year, or

(iii) any property to which this section (as amended by the Tax Reform Act of 1986) applied in the hands of the transferor.

(C) SPECIAL RULE.—In the case of any property to which this section would apply but for this paragraph, the depreciation deduction under section 167 shall be determined under the provisions of this section as in effect before the amendments made by section 201 of the Tax Reform Act of 1986.

(g) ALTERNATIVE DEPRECIATION SYSTEM FOR CERTAIN PROPERTY.—

(1) IN GENERAL.—In the case of—

(A) any tangible property which during the taxable year is used predominantly outside the United States,

(B) any tax-exempt use property,

(C) any tax-exempt bond financed property,

(D) any imported property covered by an Executive order under paragraph (6), and

(E) any property to which an election under paragraph (7) applies,

the depreciation deduction provided by section 167(a) shall be determined under the alternative depreciation system.

(2) ALTERNATIVE DEPRECIATION SYSTEM.—For purposes of paragraph (1), the alternative depreciation system is depreciation determined by using—

(A) the straight line method (without regard to salvage value),

(B) the applicable convention determined under subsection (d), and

(C) a recovery period determined under the following table:

In the case of:	The recovery period shall be:
(i) Property not described in clause (ii) or (iii)	The class life.
(ii) Personal property with no class life	12 years.
(iii) Nonresidential real and residential rental property	40 years.
(iv) Any railroad grading or tunnel bore or water utility property	50 years.

(3) SPECIAL RULES FOR DETERMINING CLASS LIFE.—

(A) TAX-EXEMPT USE PROPERTY SUBJECT TO LEASE.—In the case of any tax-exempt use property subject to a lease, the recovery period used for purposes of paragraph (2) shall (notwithstanding any other subparagraph of this paragraph) in no event be less than 125 percent of the lease term.

(B) SPECIAL RULE FOR CERTAIN PROPERTY ASSIGNED TO CLASSES.—For purposes of paragraph (2), in the case of property described in any of the following subparagraphs of subsection (e)(3), the class life shall be determined as follows:

If property is described in subparagraph:	The class life is:
(A)(iii)	4
(B)(ii)	5
(B)(iii)	9.5
(B)(vii)	10
(C)(i)	10
(C)(iii)..........	22
(C)(iv)	14
(D)(i)	15
(D)(ii)	20
(E)(i)	24
(E)(ii)	24
(E)(iii)	20
(E)(iv)	39
(E)(v)	39
(E)(vi)	20
(E)(vii)	30
(E)(viii)	35
(E)(ix)	39
(F)	25

(C) QUALIFIED TECHNOLOGICAL EQUIPMENT.—In the case of any qualified technological equipment, the recovery period used for purposes of paragraph (2) shall be 5 years.

(D) AUTOMOBILES, ETC..—In the case of any automobile or light general purpose truck, the recovery period used for purposes of paragraph (2) shall be 5 years.

(E) CERTAIN REAL PROPERTY.—In the case of any section 1245 property which is real property with no class life, the recovery period used for purposes of paragraph (2) shall be 40 years.

(4) EXCEPTION FOR CERTAIN PROPERTY USED OUTSIDE UNITED STATES.—Subparagraph (A) of paragraph (1) shall not apply to—

(A) any aircraft which is registered by the Administrator of the Federal Aviation Agency and which is operated to and from the United States or is operated under contract with the United States;

(B) rolling stock which is used within and without the United States and which is—

(i) of a rail carrier subject to part A of subtitle IV of title 49, or

(ii) of a United States person (other than a corporation described in clause (i)) but only if the rolling stock is not leased to one or more foreign persons for periods aggregating more than 12 months in any 24-month period;

(C) any vessel documented under the laws of the United States which is operated in the foreign or domestic commerce of the United States;

(D) any motor vehicle of a United States person (as defined in section 7701(a)(30)) which is operated to and from the United States;

(E) any container of a United States person which is used in the transportation of property to and from the United States;

(F) any property (other than a vessel or an aircraft) of a United States person which is used for the purpose of exploring for, developing, removing, or transporting resources from the outer Continental Shelf (within the meaning of section 2 of the Outer Continental Shelf Lands Act, as amended and supplemented; (43 U.S.C. 1331));

(G) any property which is owned by a domestic corporation (other than a corporation which has an election in effect under section 936) or by a United States citizen (other than a citizen entitled to the benefits of section 931 or 933) and which is used predominantly in a possession of the United States by such a corporation or such a citizen, or by a corporation created or organized in, or under the law of, a possession of the United States;

(H) any communications satellite (as defined in section 103(3) of the Communications Satellite Act of 1962, 47 U.S.C. 702(3)), or any interest therein, of a United States person;

(I) any cable, or any interest therein, of a domestic corporation engaged in furnishing telephone service to which section 168(i)(10)(C) applies (or of a wholly owned domestic subsidiary of such a corporation), if such cable is part of a submarine cable system which constitutes part of a communication link exclusively between the United States and one or more foreign countries;

(J) any property (other than a vessel or an aircraft) of a United States person which is used in international or territorial waters within the northern portion of the Western Hemisphere for the purpose of exploring for, developing, removing, or transporting resources from ocean waters or deposits under such waters;

(K) any property described in section 48(l)(3)(A)(ix) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) which is owned by a United States person and which is used in international or territorial waters to generate energy for use in the United States; and

(L) any satellite (not described in subparagraph (H)) or other spacecraft (or any interest therein) held by a United States person if such satellite or other spacecraft was launched from within the United States.

For purposes of subparagraph (J), the term "northern portion of the Western Hemisphere" means the area lying west of the 30th meridian west of Greenwich, east of the international dateline, and north of the Equator, but not including any foreign country which is a country of South America.

(5) TAX-EXEMPT BOND FINANCED PROPERTY.—For purposes of this subsection—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term "tax-exempt bond financed property" means any property to the extent such property is financed (directly or indirectly) by an obligation the interest on which is exempt from tax under section 103(a).

(B) ALLOCATION OF BOND PROCEEDS.—For purposes of subparagraph (A), the proceeds of any obligation shall be treated as used to finance property acquired in connection with the issuance of such obligation in the order in which such property is placed in service.

(C) QUALIFIED RESIDENTIAL RENTAL PROJECTS.—The term "tax-exempt bond financed property" shall not include any qualified residential rental project (within the meaning of section 142(a)(7)).

(6) IMPORTED PROPERTY.—

(A) COUNTRIES MAINTAINING TRADE RESTRICTIONS OR ENGAGING IN DISCRIMINATORY ACTS.—If the President determines that a foreign country—

(i) maintains nontariff trade restrictions, including variable import fees, which substantially burden United States commerce in a manner inconsistent with provisions of trade agreements, or

(ii) engages in discriminatory or other acts (including tolerance of international cartels) or policies unjustifiably restricting United States commerce,

the President may by Executive order provide for the application of paragraph (1)(D) to any article or class of articles manufactured or produced in such foreign country for such period as may be provided by such Executive order. Any period specified in the preceding sentence shall not apply to any property ordered before (or the construction, reconstruction, or erection of which began before) the date of the Executive order unless the President determines an earlier date to be in the public interest and specifies such date in the Executive order.

(B) IMPORTED PROPERTY.—For purposes of this subsection, the term "imported property" means any property if—

(i) such property was completed outside the United States, or

(ii) less than 50 percent of the basis of such property is attributable to value added within the United States.

For purposes of this subparagraph, the term "United States" includes the Commonwealth of Puerto Rico and the possessions of the United States.

(7) ELECTION TO USE ALTERNATIVE DEPRECIATION SYSTEM.—

(A) IN GENERAL.—If the taxpayer makes an election under this paragraph with respect to any class of property for any taxable year, the alternative depreciation system under this subsection shall apply to all property in such class placed in service during such taxable year. Notwithstanding the preceding sentence, in the case of nonresidential real property or residential rental property, such election may be made separately with respect to each property.

(B) ELECTION IRREVOCABLE.—An election under subparagraph (A), once made, shall be irrevocable.

(h) TAX-EXEMPT USE PROPERTY.—

(1) IN GENERAL.—For purposes of this section—

(A) PROPERTY OTHER THAN NONRESIDENTIAL REAL PROPERTY.—Except as otherwise provided in this subsection, the term "tax-exempt use property" means that portion of any tangible property (other than nonresidential real property) leased to a tax-exempt entity.

(B) NONRESIDENTIAL REAL PROPERTY.—

(i) IN GENERAL.—In the case of nonresidential real property, the term "tax-exempt use property" means that portion of the property leased to a tax-exempt entity in a disqualified lease.

(ii) DISQUALIFIED LEASE.—For purposes of this subparagraph, the term "disqualified lease" means any lease of the property to a tax-exempt entity, but only if—

(I) part or all of the property was financed (directly or indirectly) by an obligation the interest on which is exempt from tax under section 103(a) and such entity (or a related entity) participated in such financing,

(II) under such lease there is a fixed or determinable price purchase or sale option which involves such entity (or a related entity) or there is the equivalent of such an option,

(III) such lease has a lease term in excess of 20 years, or

(IV) such lease occurs after a sale (or other transfer) of the property by, or lease of the property from, such entity (or a related entity) and such property has been used by such entity (or a related entity) before such sale (or other transfer) or lease.

(iii) 35-PERCENT THRESHOLD TEST.—Clause (i) shall apply to any property only if the portion of such property leased to tax-exempt entities in disqualified leases is more than 35 percent of the property.

(iv) TREATMENT OF IMPROVEMENTS.—For purposes of this subparagraph, improvements to a property (other than land) shall not be treated as a separate property.

(v) LEASEBACKS DURING 1ST 3 MONTHS OF USE NOT TAKEN INTO ACCOUNT.—Subclause (IV) of clause (ii) shall not apply to any property which is leased within 3 months after the date such property is first used by the tax-exempt entity (or a related entity).

(C) EXCEPTION FOR SHORT-TERM LEASES.—

(i) IN GENERAL.—Property shall not be treated as tax-exempt use property merely by reason of a short-term lease.

(ii) SHORT-TERM LEASE.—For purposes of clause (i), the term "short-term lease" means any lease the term of which is—

(I) less than 3 years, and

(II) less than the greater of 1 year or 30 percent of the property's present class life.

In the case of nonresidential real property and property with no present class life, subclause (II) shall not apply.

(D) EXCEPTION WHERE PROPERTY USED IN UNRELATED TRADE OR BUSINESS.—The term "tax-exempt use property" shall not include any portion of a property if such portion is predominantly used by the tax-exempt entity (directly or through a partnership of which such entity is a partner) in an unrelated trade or business the income of which is subject to tax under section 511. For purposes of subparagraph (B)(iii), any portion of a property so used shall not be treated as leased to a tax-exempt entity in a disqualified lease.

(E) NONRESIDENTIAL REAL PROPERTY DEFINED.—For purposes of this paragraph, the term "nonresidential real property" includes residential rental property.

(2) TAX-EXEMPT ENTITY.—

(A) IN GENERAL.—For purposes of this subsection, the term "tax-exempt entity" means—

(i) the United States, any State or political subdivision thereof, any possession of the United States, or any agency or instrumentality of any of the foregoing,

(ii) an organization (other than a cooperative described in section 521) which is exempt from tax imposed by this chapter,

(iii) any foreign person or entity, and

(iv) any Indian tribal government described in section 7701(a)(40).

For purposes of applying this subsection, any Indian tribal government referred to in clause (iv) shall be treated in the same manner as a State.

(B) EXCEPTION FOR CERTAIN PROPERTY SUBJECT TO UNITED STATES TAX AND USED BY FOREIGN PERSON OR ENTITY.—Clause (iii) of subparagraph (A) shall not apply with respect to any property if more than 50 percent of the gross income for the taxable year derived by the foreign person or entity from the use of such property is—

(i) subject to tax under this chapter, or

(ii) included under section 951 in the gross income of a United States shareholder for the taxable year with or within which ends the taxable year of the controlled foreign corporation in which such income was derived.

For purposes of the preceding sentence, any exclusion or exemption shall not apply for purposes of determining the amount of the gross income so derived, but shall apply for purposes of determining the portion of such gross income subject to tax under this chapter.

(C) FOREIGN PERSON OR ENTITY.—For purposes of this paragraph, the term "foreign person or entity" means—

(i) any foreign government, any international organization, or any agency or instrumentality of any of the foregoing, and

(ii) any person who is not a United States person.

Such term does not include any foreign partnership or other foreign pass-thru entity.

(D) TREATMENT OF CERTAIN TAXABLE INSTRUMENTALITIES.—For purposes of this subsection, a corporation shall not be treated as an instrumentality of the United States or of any State or political subdivision thereof if—

(i) all of the activities of such corporation are subject to tax under this chapter, and

(ii) a majority of the board of directors of such corporation is not selected by the United States or any State or political subdivision thereof.

(E) CERTAIN PREVIOUSLY TAX-EXEMPT ORGANIZATIONS.—

(i) IN GENERAL.—For purposes of this subsection, an organization shall be treated as an organization described in subparagraph (A)(ii) with respect to any property (other than property held by such organization) if such organization was an organization (other than a cooperative described in section 521) exempt from tax imposed by this chapter at any time during the 5-year period ending on the date such property was first used by such organization. The preceding sentence and subparagraph (D)(ii) shall not apply to the Federal Home Loan Mortgage Corporation.

(ii) ELECTION NOT TO HAVE CLAUSE (I) APPLY.—

(I) IN GENERAL.—In the case of an organization formerly exempt from tax under section 501(a) as an organization described in section 501(c)(12), clause (i) shall not apply to such organization with respect to any property if such organization elects not to be exempt from tax under section 501(a) during the tax-exempt use period with respect to such property.

(II) TAX-EXEMPT USE PERIOD.—For purposes of subclause (I), the term "tax-exempt use period" means the period beginning with the taxable year in which the property described in subclause (I) is first used by the organization and ending with the close of the 15th taxable year following the last taxable year of the applicable recovery period of such property.

(III) ELECTION.—Any election under subclause (I), once made, shall be irrevocable.

(iii) TREATMENT OF SUCCESSOR ORGANIZATIONS.—Any organization which is engaged in activities substantially similar to those engaged in by a predecessor organization shall succeed to the treatment under this subparagraph of such predecessor organization.

(iv) FIRST USED.—For purposes of this subparagraph, property shall be treated as first used by the organization—

(I) when the property is first placed in service under a lease to such organization, or

(II) in the case of property leased to (or held by) a partnership (or other pass-thru entity) in which the organization is a member, the later of when such property is first used by such partnership or pass-thru entity or when such organization is first a member of such partnership or pass-thru entity.

(3) SPECIAL RULES FOR CERTAIN HIGH TECHNOLOGY EQUIPMENT.—

(A) EXEMPTION WHERE LEASE TERM IS 5 YEARS OR LESS.— For purposes of this section, the term "tax-exempt use property" shall not include any qualified technological equipment if the lease to the tax-exempt entity has a lease term of 5 years or less. Notwithstanding subsection (i)(3)(A)(i), in determining a lease term for purposes of the preceding sentence, there shall not be taken into account any option of the lessee to renew at the fair market value rent determined at the time of renewal; except that the aggregate period not taken into account by reason of this sentence shall not exceed 24 months.

(B) EXCEPTION FOR CERTAIN PROPERTY.—

(i) IN GENERAL.—For purposes of subparagraph (A), the term "qualified technological equipment" shall not include any property leased to a tax-exempt entity if—

(I) part or all of the property was financed (directly or indirectly) by an obligation the interest on which is exempt from tax under section 103(a),

(II) such lease occurs after a sale (or other transfer) of the property by, or lease of such property from, such entity (or related entity) and such property has been used by such entity (or a related entity) before such sale (or other transfer) or lease, or

(III) such tax-exempt entity is the United States or any agency or instrumentality of the United States.

(ii) LEASEBACKS DURING 1ST 3 MONTHS OF USE NOT TAKEN INTO ACCOUNT.—Subclause (II) of clause (i) shall not apply to any property which is leased within 3 months after the date such property is first used by the tax-exempt entity (or a related entity).

(4) RELATED ENTITIES.—For purposes of this subsection—

(A)(i) Each governmental unit and each agency or instrumentality of a governmental unit is related to each other such unit, agency, or instrumentality which directly or indirectly derives its powers, rights, and duties in whole or in part from the same sovereign authority.

(ii) For purposes of clause (i), the United States, each State, and each possession of the United States shall be treated as a separate sovereign authority.

(B) Any entity not described in subparagraph (A)(i) is related to any other entity if the 2 entities have—

(i) significant common purposes and substantial common membership, or

(ii) directly or indirectly substantial common direction or control.

(C)(i) An entity is related to another entity if either entity owns (directly or through 1 or more entities) a 50 percent or greater interest in the capital or profits of the other entity.

(ii) For purposes of clause (i), entities treated as related under subparagraph (A) or (B) shall be treated as 1 entity.

(D) An entity is related to another entity with respect to a transaction if such transaction is part of an attempt by such entities to avoid the application of this subsection.

(5) TAX-EXEMPT USE OF PROPERTY LEASED TO PARTNERSHIPS, ETC., DETERMINED AT PARTNER LEVEL.—For purposes of this subsection—

(A) IN GENERAL.—In the case of any property which is leased to a partnership, the determination of whether any portion of such property is tax-exempt use property shall be made by treating each tax-exempt entity partner's proportionate share (determined under paragraph (6)(C)) of such property as being leased to such partner.

(B) OTHER PASS-THRU ENTITIES; TIERED ENTITIES.—Rules similar to the rules of subparagraph (A) shall also apply in the case of any pass-thru entity other than a partnership and in the case of tiered partnerships and other entities.

(C) PRESUMPTION WITH RESPECT TO FOREIGN ENTITIES.—Unless it is otherwise established to the satisfaction of the Secretary, it shall be presumed that the partners of a foreign partnership (and the beneficiaries of any other foreign pass-thru entity) are persons who are not United States persons.

(6) TREATMENT OF PROPERTY OWNED BY PARTNERSHIPS, ETC..—

(A) IN GENERAL.—For purposes of this subsection, if—

(i) any property which (but for this subparagraph) is not tax-exempt use property is owned by a partnership which has both a tax-exempt entity and a person who is not a tax-exempt entity as partners, and

(ii) any allocation to the tax-exempt entity of partnership items is not a qualified allocation,

an amount equal to such tax-exempt entity's proportionate share of such property shall (except as provided in paragraph (1)(D)) be treated as tax-exempt use property.

(B) QUALIFIED ALLOCATION.—For purposes of subparagraph (A), the term "qualified allocation" means any allocation to a tax-exempt entity which—

(i) is consistent with such entity's being allocated the same distributive share of each item of income, gain, loss, deduction, credit, and basis and such share remains the same during the entire period the entity is a partner in the partnership, and

(ii) has substantial economic effect within the meaning of section 704(b)(2).

For purposes of this subparagraph, items allocated under section 704(c) shall not be taken into account.

(C) DETERMINATION OF PROPORTIONATE SHARE.—

(i) IN GENERAL.—For purposes of subparagraph (A), a tax-exempt entity's proportionate share of any property owned by a partnership shall be determined on the basis of such entity's share of partnership items of income or gain (excluding gain allocated under section 704(c)), whichever results in the largest proportionate share.

(ii) DETERMINATION WHERE ALLOCATIONS VARY.—For purposes of clause (i), if a tax-exempt entity's share of partnership items of income or gain (excluding gain allocated under section 704(c)) may vary during the period such entity is a partner in the partnership, such share shall be the highest share such entity may receive.

(D) DETERMINATION OF WHETHER PROPERTY USED IN UNRELATED TRADE OR BUSINESS.—For purposes of this subsection, in the case of any property which is owned by a partnership which has both a tax-exempt entity and a person who is not a tax-exempt entity as partners, the determination of whether such property is used in an unrelated trade or business of such an entity shall be made without regard to section 514.

(E) OTHER PASS-THRU ENTITIES; TIERED ENTITIES.—Rules similar to the rules of subparagraphs (A), (B), (C), and (D) shall also apply in the case of any pass-thru entity other than a partnership and in the case of tiered partnerships and other entities.

(F) TREATMENT OF CERTAIN TAXABLE ENTITIES.—

(i) IN GENERAL.—For purposes of this paragraph and paragraph (5), except as otherwise provided in this subparagraph, any tax-exempt controlled entity shall be treated as a tax-exempt entity.

(ii) ELECTION.—If a tax-exempt controlled entity makes an election under this clause—

(I) such entity shall not be treated as a tax-exempt entity for purposes of this paragraph and paragraph (5), and

(II) any gain recognized by a tax-exempt entity on any disposition of an interest in such entity (and any dividend or interest received or accrued by a tax-exempt entity from such tax-exempt controlled entity) shall be treated as unrelated business taxable income for purposes of section 511.

Any such election shall be irrevocable and shall bind all tax-exempt entities holding interests in such tax-exempt controlled entity. For purposes of subclause (II), there shall only be taken into account dividends which are properly allocable to income of the tax-exempt controlled entity which was not subject to tax under this chapter.

(iii) TAX-EXEMPT CONTROLLED ENTITY.—

(I) IN GENERAL.—The term "tax-exempt controlled entity" means any corporation (which is not a tax-exempt entity determined without regard to this subparagraph and paragraph (2)(E)) if 50 percent or more (in value) of the stock in such corporation is held by 1 or more tax-exempt entities (other than a foreign person or entity).

(II) ONLY 5-PERCENT SHAREHOLDERS TAKEN INTO ACCOUNT IN CASE OF PUBLICLY TRADED STOCK.—For purposes of subclause (I), in the case of a corporation the stock of which is publicly traded on an established securities market, stock held by a tax-exempt entity shall not be taken into account unless such entity holds at least 5 percent (in value) of the stock in such corporation. For purposes of this subclause, related entities (within the meaning of paragraph (4)) shall be treated as 1 entity.

(III) SECTION 318 TO APPLY.—For purposes of this clause, a tax-exempt entity shall be treated as holding stock which it holds through application of section 318 (determined without regard to the 50-percent limitation contained in subsection (a)(2)(C) thereof).

(G) REGULATIONS.—For purposes of determining whether there is a qualified allocation under subparagraph (B), the regulations prescribed under paragraph (8) for purposes of this paragraph—

(i) shall set forth the proper treatment for partnership guaranteed payments, and

(ii) may provide for the exclusion or segregation of items.

(7) LEASE.—For purposes of this subsection, the term "lease" includes any grant of a right to use property.

(8) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection.

(i) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(1) CLASS LIFE.—Except as provided in this section, the term "class life" means the class life (if any) which would be applicable with respect to any property as of January 1, 1986, under subsection (m) of section 167 (determined without regard to paragraph (4) and as if the taxpayer had made an election under such subsection). The Secretary, through an office established in the Treasury, shall monitor and analyze actual experience with respect to all depreciable assets. The reference in this paragraph to subsection (m) of section 167 shall be treated as a reference to such subsection as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990.

(2) QUALIFIED TECHNOLOGICAL EQUIPMENT.—

(A) IN GENERAL.—The term "qualified technological equipment" means—

(i) any computer or peripheral equipment,

(ii) any high technology telephone station equipment installed on the customer's premises, and

(iii) any high technology medical equipment.

(B) COMPUTER OR PERIPHERAL EQUIPMENT DEFINED.—For purposes of this paragraph—

(i) IN GENERAL.—The term "computer or peripheral equipment" means—

(I) any computer, and

(II) any related peripheral equipment.

(ii) COMPUTER.—The term "computer" means a programmable electronically activated device which—

(I) is capable of accepting information, applying prescribed processes to the information, and supplying the results of these processes with or without human intervention, and

(II) consists of a central processing unit containing extensive storage, logic, arithmetic, and control capabilities.

(iii) RELATED PERIPHERAL EQUIPMENT.—The term "related peripheral equipment" means any auxiliary machine (whether on-line or off-line) which is designed to be placed under the control of the central processing unit of a computer.

(iv) EXCEPTIONS.—The term "computer or peripheral equipment" shall not include—

(I) any equipment which is an integral part of other property which is not a computer,

(II) typewriters, calculators, adding and accounting machines, copiers, duplicating equipment, and similar equipment, and

(III) equipment of a kind used primarily for amusement or entertainment of the user.

(C) HIGH TECHNOLOGY MEDICAL EQUIPMENT.—For purposes of this paragraph, the term "high technology medical equipment" means any electronic, electromechanical, or computer-based high technology equipment used in the screening, monitoring, observation, diagnosis, or treatment of patients in a laboratory, medical, or hospital environment.

(3) LEASE TERM.—

(A) IN GENERAL.—In determining a lease term—

(i) there shall be taken into account options to renew,

(ii) the term of a lease shall include the term of any service contract or similar arrangement (whether or not treated as a lease under section 7701(e))—

(I) which is part of the same transaction (or series of related transactions) which includes the lease, and

(II) which is with respect to the property subject to the lease or substantially similar property, and

(iii) 2 or more successive leases which are part of the same transaction (or a series of related transactions) with respect to the same or substantially similar property shall be treated as 1 lease.

(B) SPECIAL RULE FOR FAIR RENTAL OPTIONS ON NONRESIDENTIAL REAL PROPERTY OR RESIDENTIAL RENTAL PROPERTY.—For purposes of clause (i) of subparagraph (A), in the case of nonresidential real property or residential rental property, there shall not be taken into account any option to renew at fair market value, determined at the time of renewal.

(4) GENERAL ASSET ACCOUNTS.—Under regulations, a taxpayer may maintain 1 or more general asset accounts for any property to which this section applies. Except as provided in regulations, all proceeds realized on any disposition of property in a general asset account shall be included in income as ordinary income.

(5) CHANGES IN USE.—The Secretary shall, by regulations, provide for the method of determining the deduction allowable under section 167(a) with respect to any tangible property for any taxable year (and the succeeding taxable years) during which such property changes status under this section but continues to be held by the same person.

(6) TREATMENTS OF ADDITIONS OR IMPROVEMENTS TO PROPERTY.—In the case of any addition to (or improvement of) any property—

(A) any deduction under subsection (a) for such addition or improvement shall be computed in the same manner as the deduction for such property would be computed if such property had been placed in service at the same time as such addition or improvement, and

(B) the applicable recovery period for such addition or improvement shall begin on the later of—

(i) the date on which such addition (or improvement) is placed in service, or

(ii) the date on which the property with respect to which such addition (or improvement) was made is placed in service.

(7) TREATMENT OF CERTAIN TRANSFEREES.—

(A) IN GENERAL.—In the case of any property transferred in a transaction described in subparagraph (B), the transferee shall be treated as the transferor for purposes of computing the depreciation deduction determined under this section with respect to so much of the basis in the hands of the transferee as does not exceed the adjusted basis in the hands of the transferor. In any case where this section as in effect before the amendments made by section 201 of the Tax Reform Act of 1986 applied to the property in the hands of the transferor, the reference in the preceding sentence to this section shall be treated as a reference to this section as so in effect.

(B) TRANSACTIONS COVERED.—The transactions described in this subparagraph are—

(i) any transaction described in section 332, 351, 361, 721, or 731, and

(ii) any transaction between members of the same affiliated group during any taxable year for which a consolidated return is made by such group.

Subparagraph (A) shall not apply in the case of a termination of a partnership under section 708(b)(1)(B).

(C) PROPERTY REACQUIRED BY THE TAXPAYER.—Under regulations, property which is disposed of and then reacquired by the taxpayer shall be treated for purposes of computing the deduction allowable under subsection (a) as if such property had not been disposed of.

(8) TREATMENT OF LEASEHOLD IMPROVEMENTS.—

(A) IN GENERAL.—In the case of any building erected (or improvements made) on leased property, if such building or improvement is property to which this section applies, the depreciation deduction shall be determined under the provisions of this section.

(B) TREATMENT OF LESSOR IMPROVEMENTS WHICH ARE ABANDONED AT TERMINATION OF LEASE.—An improvement—

(i) which is made by the lessor of leased property for the lessee of such property, and

(ii) which is irrevocably disposed of or abandoned by the lessor at the termination of the lease by such lessee,

shall be treated for purposes of determining gain or loss under this title as disposed of by the lessor when so disposed of or abandoned.

(C) CROSS REFERENCE.—For treatment of qualified long-term real property constructed or improved in connection with cash or rent reduction from lessor to lessee, see section 110(b).

(9) NORMALIZATION RULES.—

(A) IN GENERAL.—In order to use a normalization method of accounting with respect to any public utility property for purposes of subsection (f)(2)—

(i) the taxpayer must, in computing its tax expense for purposes of establishing its cost of service for ratemaking purposes and reflecting operating results in its regulated books of account, use a method of depreciation with respect to such property that is the same as, and a depreciation period for such property that is no shorter than, the method and period used to compute its depreciation expense for such purposes; and

(ii) if the amount allowable as a deduction under this section with respect to such property (respecting all elections made by the taxpayer under this section) differs from the amount that would be allowable as a deduction under section 167 using the method (including the period, first and last year convention, and salvage value) used to compute regulated tax expense under clause (i), the taxpayer must make adjustments to a reserve to reflect the deferral of taxes resulting from such difference.

(B) USE OF INCONSISTENT ESTIMATES AND PROJECTIONS, ETC..—

(i) IN GENERAL.—One way in which the requirements of subparagraph (A) are not met is if the taxpayer, for ratemaking purposes, uses a procedure or adjustment which is inconsistent with the requirements of subparagraph (A).

(ii) USE OF INCONSISTENT ESTIMATES AND PROJECTIONS.—The procedures and adjustments which are to be treated as inconsistent for purposes of clause (i) shall include any procedure or adjustment for ratemaking purposes which uses an estimate or projection of the taxpayer's tax expense, depreciation expense, or reserve for deferred taxes under subparagraph (A)(ii) unless such estimate or projection is also used, for ratemaking purposes, with respect to the other 2 such items and with respect to the rate base.

(iii) REGULATORY AUTHORITY.—The Secretary may by regulations prescribe procedures and adjustments (in addition to those specified in clause (ii)) which are to be treated as inconsistent for purposes of clause (i).

(C) PUBLIC UTILITY PROPERTY WHICH DOES NOT MEET NORMALIZATION RULES.—In the case of any public utility property to which this section does not apply by reason of subsection (f)(2), the allowance for depreciation under section 167(a) shall be an amount computed using the method and period referred to in subparagraph (A)(i).

(10) PUBLIC UTILITY PROPERTY.—The term "public utility property" means property used predominantly in the trade or business of the furnishing or sale of—

(A) electrical energy, water, or sewage disposal services,

(B) gas or steam through a local distribution system,

(C) telephone services, or other communication services if furnished or sold by the Communications Satellite Corporation for purposes authorized by the Communications Satellite Act of 1962 (47 U.S.C. 701), or

(D) transportation of gas or steam by pipeline, if the rates for such furnishing or sale, as the case may be, have been established or approved by a State or political subdivision thereof, by any agency or instrumentality of the United States, or by a public service or public utility commission or other similar body of any State or political subdivision thereof.

(11) RESEARCH AND EXPERIMENTATION.—The term "research and experimentation" has the same meaning as the term research and experimental has under section 174.

(12) SECTION 1245 AND 1250 PROPERTY.—The terms "section 1245 property" and "section 1250 property" have the meanings given such terms by sections 1245(a)(3) and 1250(c), respectively.

(13) SINGLE PURPOSE AGRICULTURAL OR HORTICULTURAL STRUCTURE.—

(A) IN GENERAL.—The term "single purpose agricultural or horticultural structure" means—

(i) a single purpose livestock structure, and

(ii) a single purpose horticultural structure.

(B) DEFINITIONS.—For purposes of this paragraph—

(i) SINGLE PURPOSE LIVESTOCK STRUCTURE.—The term "single purpose livestock structure" means any enclosure or structure specifically designed, constructed, and used—

(I) for housing, raising, and feeding a particular type of livestock and their produce, and

(II) for housing the equipment (including any replacements) necessary for the housing, raising, and feeding referred to in subclause (I).

(ii) SINGLE PURPOSE HORTICULTURAL STRUCTURE.—The term "single purpose horticultural structure" means—

(I) a greenhouse specifically designed, constructed, and used for the commercial production of plants, and

(II) a structure specifically designed, constructed, and used for the commercial production of mushrooms.

(iii) STRUCTURES WHICH INCLUDE WORK SPACE.—An enclosure or structure which provides work space shall be treated as a single purpose agricultural or horticultural structure only if such work space is solely for—

(I) the stocking, caring for, or collecting of livestock or plants (as the case may be) or their produce,

(II) the maintenance of the enclosure or structure, and

(III) the maintenance or replacement of the equipment or stock enclosed or housed therein.

(iv) LIVESTOCK.—The term "livestock" includes poultry.

(14) QUALIFIED RENT-TO-OWN PROPERTY.—

(A) IN GENERAL.—The term "qualified rent-to-own property" means property held by a rent-to-own dealer for purposes of being subject to a rent-to-own contract.

(B) RENT-TO-OWN DEALER.—The term "rent-to-own dealer" means a person that, in the ordinary course of business, regularly enters into rent-to-own contracts with customers for the use of consumer property, if a substantial portion of those contracts terminate and the property is returned to such person before the receipt of all payments required to transfer ownership of the property from such person to the customer.

(C) CONSUMER PROPERTY.—The term "consumer property" means tangible personal property of a type generally used within the home for personal use.

(D) RENT-TO-OWN CONTRACT.—The term "rent-to-own contract" means any lease for the use of consumer property between a rent-to-own dealer and a customer who is an individual which—

(i) is titled "Rent-to-Own Agreement" or "Lease Agreement with Ownership Option," or uses other similar language,

(ii) provides for level (or decreasing where no payment is less than 40 percent of the largest payment), regular periodic payments (for a payment period which is a week or month),

(iii) provides that legal title to such property remains with the rent-to- own dealer until the customer makes all the payments described in clause (ii) or early purchase payments required under the contract to acquire legal title to the item of property,

(iv) provides a beginning date and a maximum period of time for which the contract may be in effect that does not exceed 156 weeks or 36 months from such beginning date (including renewals or options to extend),

(v) provides for payments within the 156-week or 36-month period that, in the aggregate, generally exceed the normal retail price of the consumer property plus interest,

(vi) provides for payments under the contract that, in the aggregate, do not exceed $10,000 per item of consumer property,

(vii) provides that the customer does not have any legal obligation to make all the payments referred to in clause (ii) set forth under the contract, and that at the end of each payment period the customer may either continue to use the consumer property by making the payment for the next payment period or return such property to the rent-to-own dealer in good working order, in which case the customer does not incur any further obligations under the contract and is not entitled to a return of any payments previously made under the contract, and

(viii) provides that the customer has no right to sell, sublease, mortgage, pawn, pledge, encumber, or otherwise dispose of the consumer property until all the payments stated in the contract have been made.

(15) MOTORSPORTS ENTERTAINMENT COMPLEX.—

(A) IN GENERAL.—The term “motorsports entertainment complex” means a racing track facility which—

(i) is permanently situated on land, and

(ii) during the 36-month period following the first day of the month in which the asset is placed in service, hosts 1 or more racing events for automobiles (of any type), trucks, or motorcycles which are open to the public for the price of admission.

(B) ANCILLARY AND SUPPORT FACILITIES.—Such term shall include, if owned by the taxpayer who owns the complex and provided for the benefit of patrons of the complex—

(i) ancillary facilities and land improvements in support of the complex’s activities (including parking lots, sidewalks, waterways, bridges, fences, and landscaping),

(ii) support facilities (including food and beverage retailing, souvenir vending, and other nonlodging accommodations), and

(iii) appurtenances associated with such facilities and related attractions and amusements (including ticket booths, race track surfaces, suites and hospitality facilities, grandstands and viewing structures, props, walls, facilities that support the delivery of entertainment services, other special purpose structures, facades, shop interiors, and buildings).

(C) EXCEPTION.—Such term shall not include any transportation equipment, administrative services assets, warehouses, administrative buildings, hotels, or motels.

(D) TERMINATION.—Such term shall not include any property placed in service after December 31, 2014.

(16) ALASKA NATURAL GAS PIPELINE.—The term "Alaska natural gas pipeline" means the natural gas pipeline system located in the State of Alaska which—

(A) has a capacity of more than 500,000,000,000 Btu of natural gas per day, and

(B) is—

(i) placed in service after December 31, 2013, or

(ii) treated as placed in service on January 1, 2014, if the taxpayer who places such system in service before January 1, 2014, elects such treatment.

Such term includes the pipe, trunk lines, related equipment, and appurtenances used to carry natural gas, but does not include any gas processing plant.

(17) NATURAL GAS GATHERING LINE.—The term "natural gas gathering line" means—

(A) the pipe, equipment, and appurtenances determined to be a gathering line by the Federal Energy Regulatory Commission, and

(B) the pipe, equipment, and appurtenances used to deliver natural gas from the wellhead or a commonpoint to the point at which such gas first reaches—

(i) a gas processing plant,

(ii) an interconnection with a transmission pipeline for which a certificate as an interstate transmission pipeline has been issued by the Federal Energy Regulatory Commission,

(iii) an interconnection with an intrastate transmission pipeline, or

(iv) a direct interconnection with a local distribution company, a gas storage facility, or an industrial consumer.

(18) QUALIFIED SMART ELECTRIC METERS.—

(A) IN GENERAL.—The term "qualified smart electric meter" means any smart electric meter which—

(i) is placed in service by a taxpayer who is a supplier of electric energy or a provider of electric energy services, and

(ii) does not have a class life (determined without regard to subsection (e)) of less than 16 years.

(B) SMART ELECTRIC METER.—For purposes of subparagraph (A), the term "smart electric meter" means any time-based meter and related communication equipment which is capable of being used by the taxpayer as part of a system that—

(i) measures and records electricity usage data on a time-differentiated basis in at least 24 separate time segments per day,

(ii) provides for the exchange of information between supplier or provider and the customer's electric meter in support of time-based rates or other forms of demand response,

(iii) provides data to such supplier or provider so that the supplier or provider can provide energy usage information to customers electronically, and

(iv) provides net metering.

(19) QUALIFIED SMART ELECTRIC GRID SYSTEMS.—

(A) IN GENERAL.—The term "qualified smart electric grid system" means any smart grid property which—

(i) is used as part of a system for electric distribution grid communications, monitoring, and management placed in service by a taxpayer who is a supplier of electric energy or a provider of electric energy services, and

(ii) does not have a class life (determined without regard to subsection (e)) of less than 16 years.

(B) SMART GRID PROPERTY.—For the purposes of subparagraph (A), the term "smart grid property" means electronics and related equipment that is capable of—

(i) sensing, collecting, and monitoring data of or from all portions of a utility's electric distribution grid,

(ii) providing real-time, two-way communications to monitor or manage such grid, and

(iii) providing real time analysis of and event prediction based upon collected data that can be used to improve electric distribution system reliability, quality, and performance.

(j) PROPERTY ON INDIAN RESERVATIONS.—

(1) IN GENERAL.—For purposes of subsection (a), the applicable recovery period for qualified Indian reservation property shall be determined in accordance with the table contained in paragraph (2) in lieu of the table contained in subsection (c).

(2) APPLICABLE RECOVERY PERIOD FOR INDIAN RESERVATION PROPERTY.—For purposes of paragraph (1)—

In the case of:	The applicable recovery period is:
3-year property	2 years
5-year property	3 years
7-year property	4 years
10-year property	6 years
15-year property	9 years
20-year property	12 years
Nonresidential real property	22 years.

(3) DEDUCTION ALLOWED IN COMPUTING MINIMUM TAX.—For purposes of determining alternative minimum taxable income under section 55, the deduction under subsection (a) for prop-

erty to which paragraph (1) applies shall be determined under this section without regard to any adjustment under section 56.

(4) QUALIFIED INDIAN RESERVATION PROPERTY DEFINED.—For purposes of this subsection—

(A) IN GENERAL.—The term "qualified Indian reservation property" means property which is property described in the table in paragraph (2) and which is—

(i) used by the taxpayer predominantly in the active conduct of a trade or business within an Indian reservation,

(ii) not used or located outside the Indian reservation on a regular basis,

(iii) not acquired (directly or indirectly) by the taxpayer from a person who is related to the taxpayer (within the meaning of section 465(b)(3)(C)), and

(iv) not property (or any portion thereof) placed in service for purposes of conducting or housing class I, II, or III gaming (as defined in section 4 of the Indian Regulatory Act (25 U.S.C. 2703)).

(B) EXCEPTION FOR ALTERNATIVE DEPRECIATION PROPERTY.—The term "qualified Indian reservation property" does not include any property to which the alternative depreciation system under subsection (g) applies, determined—

(i) without regard to subsection (g)(7) (relating to election to use alternative depreciation system), and

(ii) after the application of section 280F(b) (relating to listed property with limited business use).

(C) SPECIAL RULE FOR RESERVATION INFRASTRUCTURE INVESTMENT.—

(i) IN GENERAL.—Subparagraph (A)(ii) shall not apply to qualified infrastructure property located outside of the Indian reservation if the purpose of such property is to connect with qualified infrastructure property located within the Indian reservation.

(ii) QUALIFIED INFRASTRUCTURE PROPERTY.—For purposes of this subparagraph, the term "qualified infrastructure property" means qualified Indian reservation property (determined without regard to subparagraph (A)(ii)) which—

(I) benefits the tribal infrastructure,

(II) is available to the general public, and

(III) is placed in service in connection with the taxpayer's active conduct of a trade or business within an Indian reservation.

Such term includes, but is not limited to, roads, power lines, water systems, railroad spurs, and communications facilities.

(5) REAL ESTATE RENTALS.—For purposes of this subsection, the rental to others of real property located within an Indian reservation shall be treated as the active conduct of a trade or business within an Indian reservation.

(6) INDIAN RESERVATION DEFINED.—For purposes of this subsection, the term "Indian reservation" means a reservation, as defined in—

(A) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or

(B) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(10)).

For purposes of the preceding sentence, such section 3(d) shall be applied by treating the term "former Indian reservations in Oklahoma" as including only lands which are within the jurisdictional area of an Oklahoma Indian tribe (as determined by the Secretary of the Interior) and are recognized by such Secretary as eligible for trust land status under 25 CFR Part 151 (as in effect on the date of the enactment of this sentence).

(7) COORDINATION WITH NONREVENUE LAWS.—Any reference in this subsection to a provision not contained in this title shall be treated for purposes of this subsection as a reference to such provision as in effect on the date of the enactment of this paragraph.

(8) TERMINATION.—This subsection shall not apply to property placed in service after December 31, 2014.

(k) SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER DECEMBER 31, 2007, AND BEFORE JANUARY 1, 2015.—

(1) ADDITIONAL ALLOWANCE.—In the case of any qualified property—

(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 50 percent of the adjusted basis of the qualified property, and

(B) the adjusted basis of the qualified property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

(2) QUALIFIED PROPERTY.—For purposes of this subsection—

(A) IN GENERAL.—The term "qualified property" means property—

(i)(I) to which this section applies which has a recovery period of 20 years or less,

(II) which is computer software (as defined in section 167(f)(1)(B)) for which a deduction is allowable under section 167(a) without regard to this subsection,

(III) which is water utility property, or

(IV) which is qualified leasehold improvement property,

(ii) the original use of which commences with the taxpayer after December 31, 2007,

(iii) which is—

(I) acquired by the taxpayer after December 31, 2007, and before January 1, 2015, but only if no written binding contract for the acquisition was in effect before January 1, 2008, or

(II) acquired by the taxpayer pursuant to a written binding contract which was entered into after

December 31, 2007, and before January 1, 2015, and

(iv) which is placed in service by the taxpayer before January 1, 2015, or, in the case of property described in subparagraph (B) or (C), before January 1, 2016.

(B) CERTAIN PROPERTY HAVING LONGER PRODUCTION PERIODS TREATED AS QUALIFIED PROPERTY.—

(i) IN GENERAL.—The term "qualified property" includes any property if such property—

(I) meets the requirements of clauses (i), (ii), (iii), and (iv) of subparagraph (A),

(II) has a recovery period of at least 10 years or is transportation property,

(III) is subject to section 263A, and

(IV) meets the requirements of clause (iii) of section 263A(f)(1)(B) (determined as if such clause also applies to property which has a long useful life (within the meaning of section 263A(f))).

(ii) ONLY PRE-JANUARY 1, 2015, BASIS ELIGIBLE FOR ADDITIONAL ALLOWANCE.—In the case of property which is qualified property solely by reason of clause (i), paragraph (1) shall apply only to the extent of the adjusted basis thereof attributable to manufacture, construction, or production before January 1, 2015.

(iii) TRANSPORTATION PROPERTY.—For purposes of this subparagraph, the term "transportation property" means tangible personal property used in the trade or business of transporting persons or property.

(iv) APPLICATION OF SUBPARAGRAPH.—This subparagraph shall not apply to any property which is described in subparagraph (C).

(C) CERTAIN AIRCRAFT.—The term "qualified property" includes property—

(i) which meets the requirements of clauses (ii), (iii), and (iv) of subparagraph (A),

(ii) which is an aircraft which is not a transportation property (as defined in subparagraph (B)(iii)) other than for agricultural or firefighting purposes,

(iii) which is purchased and on which such purchaser, at the time of the contract for purchase, has made a nonrefundable deposit of the lesser of—

(I) 10 percent of the cost, or

(II) $100,000, and

(iv) which has—

(I) an estimated production period exceeding 4 months, and

(II) a cost exceeding $200,000.

(D) EXCEPTIONS.—

(i) ALTERNATIVE DEPRECIATION PROPERTY.—The term "qualified property" shall not include any property to which the alternative depreciation system under subsection (g) applies, determined—

(I) without regard to paragraph (7) of subsection (g) (relating to election to have system apply), and

(II) after application of section 280F(b) (relating to listed property with limited business use).

(ii) QUALIFIED NEW YORK LIBERTY ZONE LEASEHOLD IMPROVEMENT PROPERTY.—The term "qualified property" shall not include any qualified New York Liberty Zone leasehold improvement property (as defined in section 1400L(c)(2)).

(iii) ELECTION OUT.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

(E) SPECIAL RULES.—

(i) SELF-CONSTRUCTED PROPERTY.—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer's own use, the requirements of clause (iii) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property after December 31, 2007, and before January 1, 2015.

(ii) SALE-LEASEBACKS.—For purposes of clause (iii) and subparagraph (A)(ii), if property is—

(I) originally placed in service after December 31, 2007, by a person, and

(II) sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in subclause (II).

(iii) SYNDICATION.—For purposes of subparagraph (A)(ii), if—

(I) property is originally placed in service after December 31, 2007, by the lessor of such property,

(II) such property is sold by such lessor or any subsequent purchaser within 3 months after the date such property was originally placed in service (or, in the case of multiple units of property subject to the same lease, within 3 months after the date the final unit is placed in service, so long as the period between the time the first unit is placed in service and the time the last unit is placed in service does not exceed 12 months), and

(III) the user of such property after the last sale during such 3-month period remains the same as when such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date of such last sale.

(iv) LIMITATIONS RELATED TO USERS AND RELATED PARTIES.—The term "qualified property" shall not include any property if—

(I) the user of such property (as of the date on which such property is originally placed in service) or a person which is related (within the meaning of section 267(b) or 707(b)) to such user or to the taxpayer had a written binding contract in effect for the acquisition of such property at any time on or before December 31, 2007, or

(II) in the case of property manufactured, constructed, or produced for such user's or person's own use, the manufacture, construction, or production of such property began at any time on or before December 31, 2007.

(F) COORDINATION WITH SECTION 280F.—For purposes of section 280F—

(i) AUTOMOBILES.—In the case of a passenger automobile (as defined in section 280F(d)(5)) which is qualified property, the Secretary shall increase the limitation under section 280F(a)(1)(A)(i) by $8,000.

(ii) LISTED PROPERTY.—The deduction allowable under paragraph (1) shall be taken into account in computing any recapture amount under section 280F(b)(2).

(G) DEDUCTION ALLOWED IN COMPUTING MINIMUM TAX.—For purposes of determining alternative minimum taxable income under section 55, the deduction under subsection (a) for qualified property shall be determined under this section without regard to any adjustment under section 56.

(3) QUALIFIED LEASEHOLD IMPROVEMENT PROPERTY.—For purposes of this subsection—

(A) IN GENERAL.—The term "qualified leasehold improvement property" means any improvement to an interior portion of a building which is nonresidential real property if—

(i) such improvement is made under or pursuant to a lease (as defined in subsection (h)(7))—

(I) by the lessee (or any sublessee) of such portion, or

(II) by the lessor of such portion,

(ii) such portion is to be occupied exclusively by the lessee (or any sublessee) of such portion, and

(iii) such improvement is placed in service more than 3 years after the date the building was first placed in service.

(B) CERTAIN IMPROVEMENTS NOT INCLUDED.—Such term shall not include any improvement for which the expenditure is attributable to—

(i) the enlargement of the building,

(ii) any elevator or escalator,

(iii) any structural component benefiting a common area, and

(iv) the internal structural framework of the building.

(C) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

(i) COMMITMENT TO LEASE TREATED AS LEASE.—A commitment to enter into a lease shall be treated as a lease, and the parties to such commitment shall be treated as lessor and lessee, respectively.

(ii) RELATED PERSONS.—A lease between related persons shall not be considered a lease. For purposes of the preceding sentence, the term "related persons" means—

(I) members of an affiliated group (as defined in section 1504), and

(II) persons having a relationship described in subsection (b) of section 267; except that, for purposes of this clause, the phrase "80 percent or more" shall be substituted for the phrase "more than 50 percent" each place it appears in such subsection.

(4) ELECTION TO ACCELERATE THE AMT AND RESEARCH CREDITS IN LIEU OF BONUS DEPRECIATION.—

(A) IN GENERAL.—If a corporation elects to have this paragraph apply for the first taxable year of the taxpayer ending after March 31, 2008, in the case of such taxable year and each subsequent taxable year—

(i) paragraph (1) shall not apply to any eligible qualified property placed in service by the taxpayer,

(ii) the applicable depreciation method used under this section with respect to such property shall be the straight line method, and

(iii) each of the limitations described in subparagraph (B) for any such taxable year shall be increased by the bonus depreciation amount which is—

(I) determined for such taxable year under subparagraph (C), and

(II) allocated to such limitation under subparagraph (E).

(B) LIMITATIONS TO BE INCREASED.—The limitations described in this subparagraph are—

(i) the limitation imposed by section 38(c), and

(ii) the limitation imposed by section 53(c).

(C) BONUS DEPRECIATION AMOUNT.—For purposes of this paragraph—

(i) IN GENERAL.—The bonus depreciation amount for any taxable year is an amount equal to 20 percent of the excess (if any) of—

(I) the aggregate amount of depreciation which would be allowed under this section for eligible qualified property placed in service by the taxpayer during such taxable year if paragraph (1) applied to all such property, over

(II) the aggregate amount of depreciation which would be allowed under this section for eligible qualified property placed in service by the taxpayer during such taxable year if paragraph (1) did not apply to any such property.

The aggregate amounts determined under subclauses (I) and (II) shall be determined without regard to any election made under subsection (b)(2)(D), (b)(3)(D), or (g)(7) and without regard to subparagraph (A)(ii).

(ii) MAXIMUM AMOUNT.—The bonus depreciation amount for any taxable year shall not exceed the maximum increase amount under clause (iii), reduced (but not below zero) by the sum of the bonus depreciation amounts for all preceding taxable years.

(iii) MAXIMUM INCREASE AMOUNT.—For purposes of clause (ii), the term "maximum increase amount" means, with respect to any corporation, the lesser of—

(I) $30,000,000, or

(II) 6 percent of the sum of the business credit increase amount, and the AMT credit increase amount, determined with respect to such corporation under subparagraph (E).

(iv) AGGREGATION RULE.—All corporations which are treated as a single employer under section 52(a) shall be treated—

(I) as 1 taxpayer for purposes of this paragraph, and

(II) as having elected the application of this paragraph if any such corporation so elects.

(D) ELIGIBLE QUALIFIED PROPERTY.—For purposes of this paragraph, the term "eligible qualified property" means qualified property under paragraph (2), except that in applying paragraph (2) for purposes of this paragraph—

(i) "March 31, 2008" shall be substituted for "December 31, 2007" each place it appears in subparagraph (A) and clauses (i) and (ii) of subparagraph (E) thereof,

(ii) "April 1, 2008" shall be substituted for "January 1, 2008" in subparagraph (A)(iii)(I) thereof, and

(iii) only adjusted basis attributable to manufacture, construction, or production—

(I) after March 31, 2008, and before January 1, 2010, and

(II) after December 31, 2010, and before January 1, 2015, shall be taken into account under subparagraph (B)(ii) thereof.

(E) ALLOCATION OF BONUS DEPRECIATION AMOUNTS.—

(i) IN GENERAL.—Subject to clauses (ii) and (iii), the taxpayer shall, at such time and in such manner as the Secretary may prescribe, specify the portion (if any) of the bonus depreciation amount for the taxable year which is to be allocated to each of the limitations described in subparagraph (B) for such taxable year.

(ii) LIMITATION ON ALLOCATIONS.—The portion of the bonus depreciation amount which may be allocated under clause (i) to the limitations described in subparagraph (B) for any taxable year shall not exceed—

(I) in the case of the limitation described in subparagraph (B)(i), the excess of the business credit increase amount over the bonus depreciation amount allocated to such limitation for all preceding taxable years, and

(II) in the case of the limitation described in subparagraph (B)(ii), the excess of the AMT credit increase amount over the bonus depreciation amount allocated to such limitation for all preceding taxable years.

(iii) BUSINESS CREDIT INCREASE AMOUNT.—For purposes of this paragraph, the term "business credit increase amount" means the amount equal to the portion of the credit allowable under section 38 (determined without regard to subsection (c) thereof) for the first taxable year ending after March 31, 2008, which is allocable to business credit carryforwards to such taxable year which are—

(I) from taxable years beginning before January 1, 2006, and

(II) properly allocable (determined under the rules of section 38(d)) to the research credit determined under section 41(a).

(iv) AMT CREDIT INCREASE AMOUNT.—For purposes of this paragraph, the term "AMT credit increase amount" means the amount equal to the portion of the minimum tax credit under section 53(b) for the first taxable year ending after March 31, 2008, determined by taking into account only the adjusted net minimum tax for taxable years beginning before January 1, 2006. For purposes of the preceding sentence, credits shall be treated as allowed on a first-in, first- out basis.

(F) CREDIT REFUNDABLE.—For purposes of section 6401(b), the aggregate increase in the credits allowable under part IV of subchapter A for any taxable year resulting from the application of this paragraph shall be treated as allowed under subpart C of such part (and not any other subpart).

(G) OTHER RULES.—

(i) ELECTION.—Any election under this paragraph (including any allocation under subparagraph (E)) may be revoked only with the consent of the Secretary.

(ii) PARTNERSHIPS WITH ELECTING PARTNERS.—In the case of a corporation making an election under subparagraph (A) and which is a partner in a partnership, for purposes of determining such corporation's distributive share of partnership items under section 702—

(I) paragraph (1) shall not apply to any eligible qualified property, and

(II) the applicable depreciation method used under this section with respect to such property shall be the straight line method.

(iii) SPECIAL RULE FOR PASSENGER AIRCRAFT.—In the case of any passenger aircraft, the written binding contract limitation under paragraph (2)(A)(iii)(I) shall not apply for purposes of subparagraphs (C)(i)(I) and (D).

(H) SPECIAL RULES FOR EXTENSION PROPERTY.—

(i) TAXPAYERS PREVIOUSLY ELECTING ACCELERATION.—In the case of a taxpayer who made the election under subparagraph (A) for its first taxable year ending after March 31, 2008—

(I) the taxpayer may elect not to have this paragraph apply to extension property, but

(II) if the taxpayer does not make the election under subclause (I), in applying this paragraph to the taxpayer a separate bonus depreciation amount, maximum amount, and maximum increase amount shall be computed and applied to eligible qualified property which is extension property and to eligible qualified property which is not extension property.

(ii) TAXPAYERS NOT PREVIOUSLY ELECTING ACCELERATION.—In the case of a taxpayer who did not make the election under subparagraph (A) for its first taxable year ending after March 31, 2008—

(I) the taxpayer may elect to have this paragraph apply to its first taxable year ending after December 31, 2008, and each subsequent taxable year, and

(II) if the taxpayer makes the election under subclause (I), this paragraph shall only apply to eligible qualified property which is extension property.

(iii) EXTENSION PROPERTY.—For purposes of this subparagraph, the term "extension property" means property which is eligible qualified property solely by reason of the extension of the application of the special allowance under paragraph (1) pursuant to the amendments made by section 1201(a) of the American Recovery and Reinvestment Tax Act of 2009 (and the application of such extension to this paragraph pursuant to the amendment made by section 1201(b)(1) of such Act).

(I) SPECIAL RULES FOR ROUND 2 EXTENSION PROPERTY.—

(i) IN GENERAL.—In the case of round 2 extension property, this paragraph shall be applied without regard to—

(I) the limitation described in subparagraph (B)(i) thereof, and

(II) the business credit increase amount under subparagraph (E)(iii) thereof.

(ii) TAXPAYERS PREVIOUSLY ELECTING ACCELERATION.—In the case of a taxpayer who made the election under subparagraph (A) for its first taxable year ending after March 31, 2008, or a taxpayer who made the election under subparagraph (H)(ii) for its first taxable year ending after December 31, 2008—

(I) the taxpayer may elect not to have this paragraph apply to round 2 extension property, but

(II) if the taxpayer does not make the election under subclause (I), in applying this paragraph to the taxpayer the bonus depreciation amount, maximum amount, and maximum increase amount shall be computed and applied to eligible qualified property which is round 2 extension property.

The amounts described in subclause (II) shall be computed separately from any amounts computed with respect to eligible qualified property which is not round 2 extension property.

(iii) TAXPAYERS NOT PREVIOUSLY ELECTING ACCELERATION.—In the case of a taxpayer who neither made the election under subparagraph (A) for its first taxable year ending after March 31, 2008, nor made the election under subparagraph (H)(ii) for its first taxable year ending after December 31, 2008—

(I) the taxpayer may elect to have this paragraph apply to its first taxable year ending after December 31, 2010, and each subsequent taxable year, and

(II) if the taxpayer makes the election under subclause (I), this paragraph shall only apply to eligible qualified property which is round 2 extension property.

(iv) ROUND 2 EXTENSION PROPERTY.—For purposes of this subparagraph, the term "round 2 extension property" means property which is eligible qualified property solely by reason of the extension of the application of the special allowance under paragraph (1) pursuant to the amendments made by section 401(a) of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (and the application of such extension to this paragraph pursuant to the amendment made by section 401(c)(1) of such Act).

(J) SPECIAL RULES FOR ROUND 3 EXTENSION PROPERTY.—

(i) IN GENERAL.—In the case of round 3 extension property, this paragraph shall be applied without regard to—

(I) the limitation described in subparagraph (B)(i) thereof, and

(II) the business credit increase amount under subparagraph (E)(iii) thereof.

(ii) TAXPAYERS PREVIOUSLY ELECTING ACCELERATION.—In the case of a taxpayer who made the election under subparagraph (A) for its first taxable year ending after March 31, 2008, a taxpayer who made the election under subparagraph (H)(ii) for its first taxable year ending after December 31, 2008, or a taxpayer who made the election under subparagraph (I)(iii) for its first taxable year ending after December 31, 2010—

(I) the taxpayer may elect not to have this paragraph apply to round 3 extension property, but

(II) if the taxpayer does not make the election under subclause (I), in applying this paragraph to the taxpayer the bonus depreciation amount, maximum amount, and maximum increase amount shall be computed and applied to eligible qualified property which is round 3 extension property.

The amounts described in subclause (II) shall be computed separately from any amounts computed with respect to eligible qualified property which is not round 3 extension property.

(iii) TAXPAYERS NOT PREVIOUSLY ELECTING ACCELERATION.—In the case of a taxpayer who neither made the election under subparagraph (A) for its first taxable year ending after March 31, 2008, nor made the election under subparagraph (H)(ii) for its first taxable year ending after December 31, 2008, nor made the election under subparagraph (I)(iii) for its first taxable year ending after December 31, 2010—

(I) the taxpayer may elect to have this paragraph apply to its first taxable year ending after December 31, 2012, and each subsequent taxable year, and

(II) if the taxpayer makes the election under subclause (I), this paragraph shall only apply to eligible qualified property which is round 3 extension property.

(iv) ROUND 3 EXTENSION PROPERTY.—For purposes of this subparagraph, the term "round 3 extension property" means property which is eligible qualified property solely by reason of the extension of the application of the special allowance under paragraph (1) pursuant to the amendments made by section 331(a) of the American Taxpayer Relief Act of 2012 (and the application of such extension to this paragraph pursuant to the amendment made by section 331(c)(1) of such Act).

(K) SPECIAL RULES FOR ROUND 4 EXTENSION PROPERTY.—

(i) IN GENERAL.—In the case of round 4 extension property, in applying this paragraph to any taxpayer—

(I) the limitation described in subparagraph (B)(i) and the business credit increase amount under subparagraph (E)(iii) thereof shall not apply, and

(II) the bonus depreciation amount, maximum amount, and maximum increase amount shall be computed separately from amounts computed with respect to eligible qualified property which is not round 4 extension property.

(ii) ELECTION.—

(I) A taxpayer who has an election in effect under this paragraph for round 3 extension property shall be treated as having an election in effect for round 4 extension property unless the taxpayer elects to not have this paragraph apply to round 4 extension property.

(II) A taxpayer who does not have an election in effect under this paragraph for round 3 extension property may elect to have this paragraph apply to round 4 extension property.

(iii) ROUND 4 EXTENSION PROPERTY.—For purposes of this subparagraph, the term 'round 4 extension property' means property which is eligible qualified property solely by reason of the extension of the application of the special allowance under paragraph (1) pursuant to the amendments made by section 125(a) of the Tax Increase Prevention Act of 2014 (and the application of such extension to this paragraph pursuant to the amendment made by section 125(c) of such Act).

(5) SPECIAL RULE FOR PROPERTY ACQUIRED DURING CERTAIN PRE-2012 PERIODS.—In the case of qualified property acquired by the taxpayer (under rules similar to the rules of clauses (ii) and (iii) of paragraph (2)(A)) after September 8, 2010, and before January 1, 2012, and which is placed in service by the taxpayer before January 1, 2012 (January 1, 2013, in the case of property described in subparagraph (2)(B) or (2)(C)), paragraph (1)(A) shall be applied by substituting "100 percent" for "50 percent".

(l) SPECIAL ALLOWANCE FOR SECOND GENERATION BIOFUEL PLANT PROPERTY.—

(1) ADDITIONAL ALLOWANCE.—In the case of any qualified second generation biofuel plant property—

(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 50 percent of the adjusted basis of such property, and

(B) the adjusted basis of such property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

(2) QUALIFIED SECOND GENERATION BIOFUEL PLANT PROPERTY.—The term "qualified second generation biofuel plant property" means property of a character subject to the allowance for depreciation—

(A) which is used in the United States solely to produce second generation biofuel (as defined in section 40(b)(6)(E)),

(B) the original use of which commences with the taxpayer after the date of the enactment of this subsection,

(C) which is acquired by the taxpayer by purchase (as defined in section 179(d)) after the date of the enactment of this subsection, but only if no written binding contract for the acquisition was in effect on or before the date of the enactment of this subsection, and

(D) which is placed in service by the taxpayer before January 1, 2015.

(3) EXCEPTIONS.—

(A) BONUS DEPRECIATION PROPERTY UNDER SUBSECTION (K).—Such term shall not include any property to which section 168(k) applies.

(B) ALTERNATIVE DEPRECIATION PROPERTY.—Such term shall not include any property described in section 168(k)(2)(D)(i).

(C) TAX-EXEMPT BOND-FINANCED PROPERTY.—Such term shall not include any property any portion of which is financed with the proceeds of any obligation the interest on which is exempt from tax under section 103.

(D) ELECTION OUT.—If a taxpayer makes an election under this subparagraph with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

(4) SPECIAL RULES.—For purposes of this subsection, rules similar to the rules of subparagraph (E) of section 168(k)(2) shall apply, except that such subparagraph shall be applied—

(A) by substituting "the date of the enactment of subsection (l)" for "December 31, 2007" each place it appears therein, and

(B) by substituting "qualified second generation biofuel plant property" for "qualified property" in clause (iv) thereof.

(5) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—For purposes of this subsection, rules similar to the rules of section 168(k)(2)(G) shall apply.

(6) RECAPTURE.—For purposes of this subsection, rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified second generation biofuel plant property which ceases to be qualified second generation biofuel plant property.

(7) DENIAL OF DOUBLE BENEFIT.—Paragraph (1) shall not apply to any qualified second generation biofuel plant property with respect to which an election has been made under section 179C (relating to election to expense certain refineries).

(m) SPECIAL ALLOWANCE FOR CERTAIN REUSE AND RECYCLING PROPERTY.—

(1) IN GENERAL.—In the case of any qualified reuse and recycling property—

(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 50 percent of the adjusted basis of the qualified reuse and recycling property, and

(B) the adjusted basis of the qualified reuse and recycling property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

(2) QUALIFIED REUSE AND RECYCLING PROPERTY.—For purposes of this subsection—

(A) IN GENERAL.—The term "qualified reuse and recycling property" means any reuse and recycling property—

(i) to which this section applies,

(ii) which has a useful life of at least 5 years,

(iii) the original use of which commences with the taxpayer after August 31, 2008, and

(iv) which is—

(I) acquired by purchase (as defined in section 179(d)(2)) by the taxpayer after August 31, 2008, but only if no written binding contract for the acquisition was in effect before September 1, 2008, or

(II) acquired by the taxpayer pursuant to a written binding contract which was entered into after August 31, 2008.

(B) EXCEPTIONS.—

(i) BONUS DEPRECIATION PROPERTY UNDER SUBSECTION (K).—The term "qualified reuse and recycling property" shall not include any property to which subsection (k) (determined without regard to paragraph (4) thereof) applies.

(ii) ALTERNATIVE DEPRECIATION PROPERTY.—The term "qualified reuse and recycling property" shall not include any property to which the alternative depreciation system under subsection (g) applies, determined without regard to paragraph (7) of subsection (g) (relating to election to have system apply).

(iii) ELECTION OUT.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

(C) SPECIAL RULE FOR SELF-CONSTRUCTED PROPERTY.—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer's own use, the requirements of clause (iv) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property after August 31, 2008.

(D) DEDUCTION ALLOWED IN COMPUTING MINIMUM TAX.—For purposes of determining alternative minimum taxable income under section 55, the deduction under subsection (a) for qualified reuse and recycling property shall be determined under this section without regard to any adjustment under section 56.

(3) DEFINITIONS.—For purposes of this subsection—

(A) REUSE AND RECYCLING PROPERTY.—

(i) IN GENERAL.—The term "reuse and recycling property" means any machinery and equipment (not including buildings or real estate), along with all appurtenances thereto, including software necessary to operate such equipment, which is used exclusively to collect, distribute, or recycle qualified reuse and recyclable materials.

(ii) EXCLUSION.—Such term does not include rolling stock or other equipment used to transport reuse and recyclable materials.

(B) QUALIFIED REUSE AND RECYCLABLE MATERIALS.—

(i) IN GENERAL.—The term "qualified reuse and recyclable materials" means scrap plastic, scrap glass, scrap textiles, scrap rubber, scrap packaging, recovered fiber, scrap ferrous and nonferrous metals, or electronic scrap generated by an individual or business.

(ii) ELECTRONIC SCRAP.—For purposes of clause (i), the term "electronic scrap" means—

(I) any cathode ray tube, flat panel screen, or similar video display device with a screen size greater than 4 inches measured diagonally, or

(II) any central processing unit.

(C) RECYCLING OR RECYCLE.—The term "recycling" or "recycle" means that process (including sorting) by which worn or superfluous materials are manufactured or processed into specification grade commodities that are suitable for use as a replacement or substitute for virgin materials in manufacturing tangible consumer and commercial products, including packaging.

(n) SPECIAL ALLOWANCE FOR QUALIFIED DISASTER ASSISTANCE PROPERTY.—

(1) IN GENERAL.—In the case of any qualified disaster assistance property—

(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 50 percent of the adjusted basis of the qualified disaster assistance property, and

(B) the adjusted basis of the qualified disaster assistance property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

(2) QUALIFIED DISASTER ASSISTANCE PROPERTY.—For purposes of this subsection—

(A) IN GENERAL.—The term "qualified disaster assistance property" means any property—

(i)(I) which is described in subsection (k)(2)(A)(i), or

(II) which is nonresidential real property or residential rental property,

(ii) substantially all of the use of which is—

(I) in a disaster area with respect to a federally declared disaster occurring before January 1, 2010, and

(II) in the active conduct of a trade or business by the taxpayer in such disaster area,

(iii) which—

(I) rehabilitates property damaged, or replaces property destroyed or condemned, as a result of such federally declared disaster, except that, for purposes of this clause, property shall be treated as replacing property destroyed or condemned if, as part of an integrated plan, such property replaces property which is included in a continuous area which includes real property destroyed or condemned, and

(II) is similar in nature to, and located in the same county as, the property being rehabilitated or replaced,

(iv) the original use of which in such disaster area commences with an eligible taxpayer on or after the applicable disaster date,

(v) which is acquired by such eligible taxpayer by purchase (as defined in section 179(d)) on or after the applicable disaster date, but only if no written binding contract for the acquisition was in effect before such date, and

(vi) which is placed in service by such eligible taxpayer on or before the date which is the last day of the third calendar year following the applicable disaster date (the fourth calendar year in the case of nonresidential real property and residential rental property).

(B) EXCEPTIONS.—

(i) OTHER BONUS DEPRECIATION PROPERTY.—The term "qualified disaster assistance property" shall not include—

(I) any property to which subsection (k) (determined without regard to paragraph (4)), (l), or (m) applies,

(II) any property to which section 1400N(d) applies, and

(III) any property described in section 1400N(p)(3).

(ii) ALTERNATIVE DEPRECIATION PROPERTY.—The term "qualified disaster assistance property" shall not include any property to which the alternative depreciation system under subsection (g) applies, determined without regard to paragraph (7) of subsection (g) (relating to election to have system apply).

(iii) TAX-EXEMPT BOND FINANCED PROPERTY.—Such term shall not include any property any portion of which is financed with the proceeds of any obligation the interest on which is exempt from tax under section 103.

(iv) QUALIFIED REVITALIZATION BUILDINGS.—Such term shall not include any qualified revitalization building with respect to which the taxpayer has elected the application of paragraph (1) or (2) of section 1400I(a).

(v) ELECTION OUT.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

(C) SPECIAL RULES.—For purposes of this subsection, rules similar to the rules of subparagraph (E) of subsection (k)(2) shall apply, except that such subparagraph shall be applied—

(i) by substituting "the applicable disaster date" for "December 31, 2007" each place it appears therein,

(ii) without regard to "and before January 1, 2015" in clause (i) thereof, and

(iii) by substituting "qualified disaster assistance property" for "qualified property" in clause (iv) thereof.

(D) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—For purposes of this subsection, rules similar to the rules of subsection (k)(2)(G) shall apply.

(3) OTHER DEFINITIONS.—For purposes of this subsection—

(A) APPLICABLE DISASTER DATE.—The term "applicable disaster date" means, with respect to any federally declared disaster, the date on which such federally declared disaster occurs.

(B) FEDERALLY DECLARED DISASTER.—The term "federally declared disaster" has the meaning given such term under section 165(h)(3)(C)(i).

(C) DISASTER AREA.—The term "disaster area" has the meaning given such term under section 165(h)(3)(C)(ii).

(D) ELIGIBLE TAXPAYER.—The term "eligible taxpayer" means a taxpayer who has suffered an economic loss attributable to a federally declared disaster.

(4) RECAPTURE.—For purposes of this subsection, rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified disaster assistance property which ceases to be qualified disaster assistance property.

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PART IX—ITEMS NOT DEDUCTIBLE

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SEC. 263A. CAPITALIZATION AND INCLUSION IN INVENTORY COSTS OF CERTAIN EXPENSES.

(a) NONDEDUCTIBILITY OF CERTAIN DIRECT AND INDIRECT COSTS.—

(1) IN GENERAL.—In the case of any property to which this section applies, any costs described in paragraph (2)—

(A) in the case of property which is inventory in the hands of the taxpayer, shall be included in inventory costs, and

(B) in the case of any other property, shall be capitalized.

(2) ALLOCABLE COSTS.—The costs described in this paragraph with respect to any property are—

(A) the direct costs of such property, and

(B) such property's proper share of those indirect costs (including taxes) part or all of which are allocable to such property.

Any cost which (but for this subsection) could not be taken into account in computing taxable income for any taxable year shall not be treated as a cost described in this paragraph.

(b) PROPERTY TO WHICH SECTION APPLIES.—Except as otherwise provided in this section, this section shall apply to—

(1) PROPERTY PRODUCED BY TAXPAYER.—Real or tangible personal property produced by the taxpayer.

(2) PROPERTY ACQUIRED FOR RESALE.—

(A) IN GENERAL.—Real or personal property described in section 1221(a)(1) which is acquired by the taxpayer for resale.

(B) EXCEPTION FOR TAXPAYER WITH GROSS RECEIPTS OF $10,000,000 OR LESS.—Subparagraph (A) shall not apply to any personal property acquired during any taxable year by the taxpayer for resale if the average annual gross receipts of the taxpayer (or any predecessor) for the 3-taxable year period ending with the taxable year preceding such taxable year do not exceed $10,000,000.

(C) AGGREGATION RULES, ETC..—For purposes of subparagraph (B), rules similar to the rules of paragraphs (2) and (3) of section 448(c) shall apply.

For purposes of paragraph (1), the term "tangible personal property" shall include a film, sound recording, video tape, book, or similar property.

(c) GENERAL EXCEPTIONS.—

(1) PERSONAL USE PROPERTY.—This section shall not apply to any property produced by the taxpayer for use by the taxpayer other than in a trade or business or an activity conducted for profit.

(2) RESEARCH AND EXPERIMENTAL EXPENDITURES.—This section shall not apply to any amount allowable as a deduction under section 174.

(3) CERTAIN DEVELOPMENT AND OTHER COSTS OF OIL AND GAS WELLS OR OTHER MINERAL PROPERTY.—This section shall not apply to any cost allowable as a deduction under section 167(h), 179B, 263(c), 263(i), 291(b)(2), 616, or 617.

(4) COORDINATION WITH LONG-TERM CONTRACT RULES.—This section shall not apply to any property produced by the taxpayer pursuant to a long-term contract.

(5) TIMBER AND CERTAIN ORNAMENTAL TREES.—This section shall not apply to—

(A) trees raised, harvested, or grown by the taxpayer other than trees described in clause (ii) of subsection (e)(4)(B) (after application of the last sentence thereof), and

(B) any real property underlying such trees.

(6) COORDINATION WITH SECTION 59(E).—Paragraphs (2) and (3) shall apply to any amount allowable as a deduction under section 59(e) for qualified expenditures described in subparagraphs (B), (C), (D), and (E) of paragraph (2) thereof.

(d) EXCEPTION FOR FARMING BUSINESSES.—

(1) SECTION NOT TO APPLY TO CERTAIN PROPERTY.—

(A) IN GENERAL.—This section shall not apply to any of the following which is produced by the taxpayer in a farming business:

(i) Any animal.

(ii) Any plant which has a preproductive period of 2 years or less.

(B) EXCEPTION FOR TAXPAYERS REQUIRED TO USE ACCRUAL METHOD.—Subparagraph (A) shall not apply to any corporation, partnership, or tax shelter required to use an accrual method of accounting under section 447 or 448(a)(3).

(2) TREATMENT OF CERTAIN PLANTS LOST BY REASON OF CASUALTY.—

(A) IN GENERAL.—If plants bearing an edible crop for human consumption were lost or damaged (while in the hands of the taxpayer) by reason of freezing temperatures, disease, drought, pests, or casualty, this section shall not apply to any costs of the taxpayer of replanting plants bearing the same type of crop (whether on the same parcel of land on which such lost or damaged plants were located or any other parcel of land of the same acreage in the United States).

(B) SPECIAL RULE FOR PERSON WITH MINORITY INTEREST WHO MATERIALLY PARTICIPATES.—Subparagraph (A) shall apply to amounts paid or incurred by a person (other than the taxpayer described in subparagraph (A)) if—

(i) the taxpayer described in subparagraph (A) has an equity interest of more than 50 percent in the plants described in subparagraph (A) at all times during the taxable year in which such amounts were paid or incurred, and

(ii) such other person holds any part of the remaining equity interest and materially participates in the planting, maintenance, cultivation, or development of such the plants described in subparagraph (A) during the taxable year in which such amounts were paid or incurred.

The determination of whether an individual materially participates in any activity shall be made in a manner similar to the manner in which such determination is made under section 2032A(e)(6).

(3) ELECTION TO HAVE THIS SECTION NOT APPLY.—

(A) IN GENERAL.—If a taxpayer makes an election under this paragraph, this section shall not apply to any plant produced in any farming business carried on by such taxpayer.

(B) CERTAIN PERSONS NOT ELIGIBLE.—No election may be made under this paragraph by a corporation, partnership, or tax shelter, if such corporation, partnership, or tax shelter is required to use an accrual method of accounting under section 447 or 448(a)(3).

(C) SPECIAL RULE FOR CITRUS AND ALMOND GROWERS.—An election under this paragraph shall not apply with respect to any item which is attributable to the planting, cultivation, maintenance, or development of any citrus or almond grove (or part thereof) and which is incurred before the close of the 4th taxable year beginning with the taxable year in which the trees were planted. For purposes of the preceding sentence, the portion of a citrus or almond grove planted in 1 taxable year shall be treated separately from the portion of such grove planted in another taxable year.

(D) ELECTION.—Unless the Secretary otherwise consents, an election under this paragraph may be made only for the taxpayer's 1st taxable year which begins after December 31, 1986, and during which the taxpayer engages in a farming business. Any such election, once made, may be revoked only with the consent of the Secretary.

(e) DEFINITIONS AND SPECIAL RULES FOR PURPOSES OF SUBSECTION (D)

(1) RECAPTURE OF EXPENSED AMOUNTS ON DISPOSITION.—

(A) IN GENERAL.—In the case of any plant with respect to which amounts would have been capitalized under subsection (a) but for an election under subsection (d)(3)—

(i) such plant (if not otherwise section 1245 property) shall be treated as section 1245 property, and

(ii) for purposes of section 1245, the recapture amount shall be treated as a deduction allowed for depreciation with respect to such property.

(B) RECAPTURE AMOUNT.—For purposes of subparagraph (A), the term "recapture amount" means any amount allowable as a deduction to the taxpayer which, but for an election under subsection (d)(3), would have been capitalized with respect to the plant.

(2) EFFECTS OF ELECTION ON DEPRECIATION.—

(A) IN GENERAL.—If the taxpayer (or any related person) makes an election under subsection (d)(3), the provisions of section 168(g)(2) (relating to alternative depreciation) shall apply to all property of the taxpayer used predominantly in the farming business and placed in service in any taxable year during which any such election is in effect.

(B) RELATED PERSON.—For purposes of subparagraph (A), the term "related person" means—

(i) the taxpayer and members of the taxpayer's family,

(ii) any corporation (including an S corporation) if 50 percent or more (in value) of the stock of such corporation is owned (directly or through the application of section 318) by the taxpayer or members of the taxpayer's family,

(iii) a corporation and any other corporation which is a member of the same controlled group described in section 1563(a)(1), and

(iv) any partnership if 50 percent or more (in value) of the interests in such partnership is owned directly or indirectly by the taxpayer or members of the taxpayer's family.

(C) MEMBERS OF FAMILY.—For purposes of this paragraph, the term "family" means the taxpayer, the spouse of the taxpayer, and any of their children who have not attained age 18 before the close of the taxable year.

(3) PREPRODUCTIVE PERIOD.—

(A) IN GENERAL.—For purposes of this section, the term "preproductive period" means—

(i) in the case of a plant which will have more than 1 crop or yield, the period before the 1st marketable crop or yield from such plant, or

(ii) in the case of any other plant, the period before such plant is reasonably expected to be disposed of.

For purposes of this subparagraph, use by the taxpayer in a farming business of any supply produced in such business shall be treated as a disposition.

(B) RULE FOR DETERMINING PERIOD.—In the case of a plant grown in commercial quantities in the United States, the preproductive period for such plant if grown in the United States shall be based on the nationwide weighted average preproductive period for such plant.

(4) FARMING BUSINESS.—For purposes of this section—

(A) IN GENERAL.—The term "farming business" means the trade or business of farming.

(B) CERTAIN TRADES AND BUSINESSES INCLUDED.—The term "farming business" shall include the trade or business of—

(i) operating a nursery or sod farm, or

(ii) the raising or harvesting of trees bearing fruit, nuts, or other crops, or ornamental trees.

For purposes of clause (ii), an evergreen tree which is more than 6 years old at the time severed from the roots shall not be treated as an ornamental tree.

(5) CERTAIN INVENTORY VALUATION METHODS PERMITTED.—The Secretary shall by regulations permit the taxpayer to use reasonable inventory valuation methods to compute the amount required to be capitalized under subsection (a) in the case of any plant.

(f) SPECIAL RULES FOR ALLOCATION OF INTEREST TO PROPERTY PRODUCED BY THE TAXPAYER.—

(1) INTEREST CAPITALIZED ONLY IN CERTAIN CASES.—Subsection (a) shall only apply to interest costs which are—

(A) paid or incurred during the production period, and

(B) allocable to property which is described in subsection (b)(1) and which has—

(i) a long useful life,

(ii) an estimated production period exceeding 2 years, or

(iii) an estimated production period exceeding 1 year and a cost exceeding $1,000,000.

(2) ALLOCATION RULES.—

(A) IN GENERAL.—In determining the amount of interest required to be capitalized under subsection (a) with respect to any property—

(i) interest on any indebtedness directly attributable to production expenditures with respect to such property shall be assigned to such property, and

(ii) interest on any other indebtedness shall be assigned to such property to the extent that the taxpayer's interest costs could have been reduced if production expenditures (not attributable to indebtedness described in clause (i)) had not been incurred.

(B) EXCEPTION FOR QUALIFIED RESIDENCE INTEREST.—Subparagraph (A) shall not apply to any qualified residence interest (within the meaning of section 163(h)).

(C) SPECIAL RULE FOR FLOW-THROUGH ENTITIES.—Except as provided in regulations, in the case of any flow-through entity, this paragraph shall be applied first at the entity level and then at the beneficiary level.

(3) INTEREST RELATING TO PROPERTY USED TO PRODUCE PROPERTY.—This subsection shall apply to any interest on indebtedness allocable (as determined under paragraph (2)) to property used to produce property to which this subsection applies to the extent such interest is allocable (as so determined) to the produced property.

(4) DEFINITIONS.—For purposes of this subsection—

(A) LONG USEFUL LIFE.—Property has a long useful life if such property is—

(i) real property, or

(ii) property with a class life of 20 years or more (as determined under section 168).

(B) PRODUCTION PERIOD.—The term "production period" means, when used with respect to any property, the period—

(i) beginning on the date on which production of the property begins, and

(ii) ending on the date on which the property is ready to be placed in service or is ready to be held for sale.

(C) PRODUCTION EXPENDITURES.—The term "production expenditures" means the costs (whether or not incurred during the production period) required to be capitalized under subsection (a) with respect to the property.

(g) PRODUCTION.—For purposes of this section—

(1) IN GENERAL.—The term "produce" includes construct, build, install, manufacture, develop, or improve.

(2) TREATMENT OF PROPERTY PRODUCED UNDER CONTRACT FOR THE TAXPAYER.—The taxpayer shall be treated as producing any property produced for the taxpayer under a contract with the taxpayer; except that only costs paid or incurred by the taxpayer (whether under such contract or otherwise) shall be taken into account in applying subsection (a) to the taxpayer.

(h) EXEMPTION FOR FREE LANCE AUTHORS, PHOTOGRAPHERS, AND ARTISTS.—

(1) IN GENERAL.—Nothing in this section shall require the capitalization of any qualified creative expense.

(2) QUALIFIED CREATIVE EXPENSE.—For purposes of this subsection, the term "qualified creative expense" means any expense—

(A) which is paid or incurred by an individual in the trade or business of such individual (other than as an employee) of being a writer, photographer, or artist, and

(B) which, without regard to this section, would be allowable as a deduction for the taxable year.

Such term does not include any expense related to printing, photographic plates, motion picture films, video tapes, or similar items.

(3) DEFINITIONS.—For purposes of this subsection—

(A) WRITER.—The term "writer" means any individual if the personal efforts of such individual create (or may reasonably be expected to create) a literary manuscript, musical composition (including any accompanying words), or dance score.

(B) PHOTOGRAPHER.—The term "photographer" means any individual if the personal efforts of such individual create (or may reasonably be expected to create) a photograph or photographic negative or transparency.

(C) ARTIST.—

(i) IN GENERAL.—The term "artist" means any individual if the personal efforts of such individual create (or may reasonably be expected to create) a picture, painting, sculpture, statue, etching, drawing, cartoon, graphic design, or original print edition.

(ii) CRITERIA.—In determining whether any expense is paid or incurred in the trade or business of being an artist, the following criteria shall be taken into account:

(I) The originality and uniqueness of the item created (or to be created).

(II) The predominance of aesthetic value over utilitarian value of the item created (or to be created).

(D) TREATMENT OF CERTAIN CORPORATIONS.—

(i) IN GENERAL.—If—

(I) substantially all of the stock of a corporation is owned by a qualified employee-owner and members of his family (as defined in section 267(c)(4)), and

(II) the principal activity of such corporation is performance of personal services directly related to the activities of the qualified employee-owner and such services are substantially performed by the qualified employee-owner,

this subsection shall apply to any expense of such corporation which directly relates to the activities of such employee-owner in the same manner as if such expense were incurred by such employee-owner.

(ii) QUALIFIED EMPLOYEE-OWNER.—For purposes of this subparagraph, the term "qualified employee-owner" means any individual who is an employee-owner of the corporation (as defined in section 269A(b)(2)) and who is a writer, photographer, or artist.

(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including—

(1) regulations to prevent the use of related parties, passthru entities, or intermediaries to avoid the application of this section, and

(2) regulations providing for simplified procedures for the application of this section in the case of property described in subsection (b)(2).

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Subchapter E—Accounting Periods and Methods of Accounting

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PART II—METHODS OF ACCOUNTING

* * * * * * *

Subpart B—Taxable Year for Which Items of Gross Income Included

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SEC. 460. SPECIAL RULES FOR LONG-TERM CONTRACTS.

(a) REQUIREMENT THAT PERCENTAGE OF COMPLETION METHOD BE USED.—In the case of any long-term contract, the taxable income from such contract shall be determined under the percentage of completion method (as modified by subsection (b)).

(b) PERCENTAGE OF COMPLETION METHOD.—

(1) REQUIREMENTS OF PERCENTAGE OF COMPLETION METHOD.—Except as provided in paragraph (3), in the case of any long-term contract with respect to which the percentage of completion method is used—

(A) the percentage of completion shall be determined by comparing costs allocated to the contract under subsection (c) and incurred before the close of the taxable year with the estimated total contract costs, and

(B) upon completion of the contract (or, with respect to any amount properly taken into account after completion of the contract, when such amount is so properly taken into account), the taxpayer shall pay (or shall be entitled to receive) interest computed under the look-back method of paragraph (2).

In the case of any long-term contract with respect to which the percentage of completion method is used, except for purposes of applying the look-back method of paragraph (2), any income under the contract (to the extent not previously includible in gross income) shall be included in gross income for the taxable year following the taxable year in which the contract was completed. For purposes of subtitle F (other than sections 6654 and 6655), any interest required to be paid by the taxpayer under subparagraph (B) shall be treated as an increase in the tax imposed by this chapter for the taxable year in which the contract is completed (or, in the case of interest payable with respect to any amount properly taken into account after completion of the contract, for the taxable year in which the amount is so properly taken into account).

(2) LOOK-BACK METHOD.—The interest computed under the look-back method of this paragraph shall be determined by—

(A) first allocating income under the contract among taxable years before the year in which the contract is completed on the basis of the actual contract price and costs instead of the estimated contract price and costs,

(B) second, determining (solely for purposes of computing such interest) the overpayment or underpayment of tax for each taxable year referred to in subparagraph (A) which would result solely from the application of subparagraph (A), and

(C) then using the adjusted overpayment rate (as defined in paragraph (7)), compounded daily, on the overpayment or underpayment determined under subparagraph (B).

For purposes of the preceding sentence, any amount properly taken into account after completion of the contract shall be taken into account by discounting (using the Federal mid-term rate determined under section 1274(d) as of the time such amount was properly taken into account) such amount to its value as of the completion of the contract. The taxpayer may elect with respect to any contract to have the preceding sentence not apply to such contract.

(3) SPECIAL RULES.—

(A) SIMPLIFIED METHOD OF COST ALLOCATION.—In the case of any long-term contract, the Secretary may prescribe a simplified procedure for allocation of costs to such contract in lieu of the method of allocation under subsection (c).

(B) LOOK-BACK METHOD NOT TO APPLY TO CERTAIN CONTRACTS.—Paragraph (1)(B) shall not apply to any contract—

(i) the gross price of which (as of the completion of the contract) does not exceed the lesser of—

(I) $1,000,000, or

(II) 1 percent of the average annual gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the contract was completed, and

(ii) which is completed within 2 years of the contract commencement date.

For purposes of this subparagraph, rules similar to the rules of subsections (e)(2) and (f)(3) shall apply.

(4) SIMPLIFIED LOOK-BACK METHOD FOR PASS-THRU ENTITIES.—

(A) IN GENERAL.—In the case of a pass-thru entity—

(i) the look-back method of paragraph (2) shall be applied at the entity level,

(ii) in determining overpayments and underpayments for purposes of applying paragraph (2)(B)—

(I) any increase in the income under the contract for any taxable year by reason of the allocation under paragraph (2)(A) shall be treated as giving rise to an underpayment determined by applying the highest rate for such year to such increase, and

(II) any decrease in such income for any taxable year by reason of such allocation shall be treated as giving rise to an overpayment determined by applying the highest rate for such year to such decrease, and

(iii) any interest required to be paid by the taxpayer under paragraph (2) shall be paid by such entity (and any interest entitled to be received by the taxpayer under paragraph (2) shall be paid to such entity).

(B) EXCEPTIONS.—

(i) CLOSELY HELD PASS-THRU ENTITIES.—This paragraph shall not apply to any closely held pass-thru entity.

(ii) FOREIGN CONTRACTS.—This paragraph shall not apply to any contract unless substantially all of the income from such contract is from sources in the United States.

(C) OTHER DEFINITIONS.—For purposes of this paragraph—

(i) HIGHEST RATE.—The term “highest rate” means—

(I) the highest rate of tax specified in section 11, or

(II) if at all times during the year involved more than 50 percent of the interests in the entity are held by individuals directly or through 1 or more other pass-thru entities, the highest rate of tax specified in section 1.

(ii) PASS-THRU ENTITY.—The term “pass-thru entity” means any—

(I) partnership,

(II) S corporation, or

(III) trust.

(iii) CLOSELY HELD PASS-THRU ENTITY.—The term “closely held pass-thru entity” means any pass-thru entity if, at any time during any taxable year for which there is income under the contract, 50 percent or more (by value) of the beneficial interests in such entity are held (directly or indirectly) by or for 5 or fewer persons. For purposes of the preceding sentence, rules similar to the constructive ownership rules of section 1563(e) shall apply.

(5) ELECTION TO USE 10-PERCENT METHOD.—

(A) GENERAL RULE.—In the case of any long-term contract with respect to which an election under this paragraph is in effect, the 10-percent method shall apply in determining the taxable income from such contract.

(B) 10-PERCENT METHOD.—For purposes of this paragraph—

(i) IN GENERAL.—The 10-percent method is the percentage of completion method, modified so that any item which would otherwise be taken into account in computing taxable income with respect to a contract for any taxable year before the 10-percent year is taken into account in the 10-percent year.

(ii) 10-PERCENT YEAR.—The term “10-percent year” means the 1st taxable year as of the close of which at least 10 percent of the estimated total contract costs have been incurred.

(C) ELECTION.—An election under this paragraph shall apply to all long-term contracts of the taxpayer which are entered into during the taxable year in which the election is made or any subsequent taxable year.

(D) COORDINATION WITH OTHER PROVISIONS.—

(i) SIMPLIFIED METHOD OF COST ALLOCATION.—This paragraph shall not apply to any taxpayer which uses a simplified procedure for allocation of costs under paragraph (3)(A).

(ii) LOOK-BACK METHOD.—The 10-percent method shall be taken into account for purposes of applying the look-back method of paragraph (2) to any taxpayer making an election under this paragraph.

(6) ELECTION TO HAVE LOOK-BACK METHOD NOT APPLY IN DE MINIMIS CASES.—

(A) AMOUNTS TAKEN INTO ACCOUNT AFTER COMPLETION OF CONTRACT.—Paragraph (1)(B) shall not apply with respect to any taxable year (beginning after the taxable year in which the contract is completed) if—

(i) the cumulative taxable income (or loss) under the contract as of the close of such taxable year, is within

(ii) 10 percent of the cumulative look-back taxable income (or loss) under the contract as of the close of the most recent taxable year to which paragraph (1)(B) applied (or would have applied but for subparagraph (B)).

(B) DE MINIMIS DISCREPANCIES.—Paragraph (1)(B) shall not apply in any case to which it would otherwise apply if—

(i) the cumulative taxable income (or loss) under the contract as of the close of each prior contract year, is within

(ii) 10 percent of the cumulative look-back income (or loss) under the contract as of the close of such prior contract year.

(C) DEFINITIONS.—For purposes of this paragraph—

(i) CONTRACT YEAR.—The term "contract year" means any taxable year for which income is taken into account under the contract.

(ii) LOOK-BACK INCOME OR LOSS.—The look-back income (or loss) is the amount which would be the taxable income (or loss) under the contract if the allocation method set forth in paragraph (2)(A) were used in determining taxable income.

(iii) DISCOUNTING NOT APPLICABLE.—The amounts taken into account after the completion of the contract shall be determined without regard to any discounting under the 2nd sentence of paragraph (2).

(D) CONTRACTS TO WHICH PARAGRAPH APPLIES.—This paragraph shall only apply if the taxpayer makes an election under this subparagraph. Unless revoked with the consent of the Secretary, such an election shall apply to all long-term contracts completed during the taxable year for which election is made or during any subsequent taxable year.

(7) ADJUSTED OVERPAYMENT RATE.—

(A) IN GENERAL.—The adjusted overpayment rate for any interest accrual period is the overpayment rate in effect under section 6621 for the calendar quarter in which such interest accrual period begins.

(B) INTEREST ACCRUAL PERIOD.—For purposes of subparagraph (A), the term "interest accrual period" means the period—

(i) beginning on the day after the return due date for any taxable year of the taxpayer, and

(ii) ending on the return due date for the following taxable year.

For purposes of the preceding sentence, the term "return due date" means the date prescribed for filing the return of the tax imposed by this chapter (determined without regard to extensions).

(c) ALLOCATION OF COSTS TO CONTRACT.—

(1) DIRECT AND CERTAIN INDIRECT COSTS.—In the case of a long-term contract, all costs (including research and experimental costs) which directly benefit, or are incurred by reason of, the long-term contract activities of the taxpayer shall be allocated to such contract in the same manner as costs are allocated to extended period long-term contracts under section 451 and the regulations thereunder.

(2) COSTS IDENTIFIED UNDER COST-PLUS AND CERTAIN FEDERAL CONTRACTS.—In the case of a cost-plus long-term contract or a Federal long-term contract, any cost not allocated to such contract under paragraph (1) shall be allocated to such contract if such cost is identified by the taxpayer (or a related person), pursuant to the contract or Federal, State, or local law or regulation, as being attributable to such contract.

(3) ALLOCATION OF PRODUCTION PERIOD INTEREST TO CONTRACT.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), in the case of a long-term contract, interest costs shall be allocated to the contract in the same manner as interest costs are allocated to property produced by the taxpayer under section 263A(f).

(B) PRODUCTION PERIOD.—In applying section 263A(f) for purposes of subparagraph (A), the production period shall be the period—

(i) beginning on the later of—

(I) the contract commencement date, or

(II) in the case of a taxpayer who uses an accrual method with respect to long-term contracts, the date by which at least 5 percent of the total estimated costs (including design and planning costs) under the contract have been incurred, and

(ii) ending on the contract completion date.

(C) APPLICATION OF DE MINIMIS RULE.—In applying section 263A(f) for purposes of subparagraph (A), paragraph (1)(B)(iii) of such section shall be applied on a contract-by-contract basis; except that, in the case of a taxpayer described in subparagraph (B)(i)(II) of this paragraph, paragraph (1)(B)(iii) of section 263A(f) shall be applied on a property-by-property basis.

(4) CERTAIN COSTS NOT INCLUDED.—This subsection shall not apply to any—

(A) independent research and development expenses,

(B) expenses for unsuccessful bids and proposals, and

(C) marketing, selling, and advertising expenses.

(5) INDEPENDENT RESEARCH AND DEVELOPMENT EXPENSES.—For purposes of paragraph (4), the term "independent research and development expenses" means any expenses incurred in

the performance of research or development, except that such term shall not include—

(A) any expenses which are directly attributable to a long-term contract in existence when such expenses are incurred, or

(B) any expenses under an agreement to perform research or development.

(6) SPECIAL RULE FOR ALLOCATION OF BONUS DEPRECIATION WITH RESPECT TO CERTAIN PROPERTY.—

(A) IN GENERAL.—Solely for purposes of determining the percentage of completion under subsection (b)(1)(A), the cost of qualified property shall be taken into account as a cost allocated to the contract as if subsection (k) of section 168 had not been enacted.

(B) QUALIFIED PROPERTY.—For purposes of this paragraph, the term "qualified property" means property described in section 168(k)(2) which—

(i) has a recovery period of 7 years or less, and

(ii) is placed in service after December 31, 2009, and before January 1, 2011 (January 1, 2012, in the case of property described in section 168(k)(2)(B)), or after December 31, 2012, and before January 1, 2015 (January 1, 2016, in the case of property described in section 168(k)(2)(B)).

(d) FEDERAL LONG-TERM CONTRACT.—For purposes of this section—

(1) IN GENERAL.—The term "Federal long-term contract" means any long-term contract—

(A) to which the United States (or any agency or instrumentality thereof) is a party, or

(B) which is a subcontract under a contract described in subparagraph (A).

(2) SPECIAL RULES FOR CERTAIN TAXABLE ENTITIES.—For purposes of paragraph (1), the rules of section 168(h)(2)(D) (relating to certain taxable entities not treated as instrumentalities) shall apply.

(e) EXCEPTION FOR CERTAIN CONSTRUCTION CONTRACTS.—

(1) IN GENERAL.—Subsections (a), (b), and (c)(1) and (2) shall not apply to—

(A) any home construction contract, or

(B) any other construction contract entered into by a taxpayer—

(i) who estimates (at the time such contract is entered into) that such contract will be completed within the 2-year period beginning on the contract commencement date of such contract, and

(ii) whose average annual gross receipts for the 3 taxable years preceding the taxable year in which such contract is entered into do not exceed $10,000,000.

In the case of a home construction contract with respect to which the requirements of clauses (i) and (ii) of subparagraph (B) are not met, section 263A shall apply notwithstanding subsection (c)(4) thereof.

(2) DETERMINATION OF TAXPAYER'S GROSS RECEIPTS.—For purposes of paragraph (1), the gross receipts of—

(A) all trades or businesses (whether or not incorporated) which are under common control with the taxpayer (within the meaning of section 52(b)),

(B) all members of any controlled group of corporations of which the taxpayer is a member, and

(C) any predecessor of the taxpayer or a person described in subparagraph (A) or (B),

for the 3 taxable years of such persons preceding the taxable year in which the contract described in paragraph (1) is entered into shall be included in the gross receipts of the taxpayer for the period described in paragraph (1)(B). The Secretary shall prescribe regulations which provide attribution rules that take into account, in addition to the persons and entities described in the preceding sentence, taxpayers who engage in construction contracts through partnerships, joint ventures, and corporations.

(3) CONTROLLED GROUP OF CORPORATIONS.—For purposes of this subsection, the term "controlled group of corporations" has the meaning given to such term by section 1563(a), except that—

(A) "more than 50 percent" shall be substituted for "at least 80 percent" each place it appears in section 1563(a)(1), and

(B) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

(4) CONSTRUCTION CONTRACT.—For purposes of this subsection, the term "construction contract" means any contract for the building, construction, reconstruction, or rehabilitation of, or the installation of any integral component to, or improvements of, real property.

(5) SPECIAL RULE FOR RESIDENTIAL CONSTRUCTION CONTRACTS WHICH ARE NOT HOME CONSTRUCTION CONTRACTS.—In the case of any residential construction contract which is not a home construction contract, subsection (a) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1989) shall apply except that such subsection shall be applied—

(A) by substituting "70 percent" for "90 percent" each place it appears, and

(B) by substituting "30 percent" for "10 percent".

(6) DEFINITIONS RELATING TO RESIDENTIAL CONSTRUCTION CONTRACTS.—For purposes of this subsection—

(A) HOME CONSTRUCTION CONTRACT.—The term "home construction contract" means any construction contract if 80 percent or more of the estimated total contract costs (as of the close of the taxable year in which the contract was entered into) are reasonably expected to be attributable to activities referred to in paragraph (4) with respect to—

(i) dwelling units (as defined in section 168(e)(2)(A)(ii)) contained in buildings containing 4 or fewer dwelling units (as so defined), and

(ii) improvements to real property directly related to such dwelling units and located on the site of such dwelling units.

For purposes of clause (i), each townhouse or rowhouse shall be treated as a separate building.

(B) RESIDENTIAL CONSTRUCTION CONTRACT.—The term "residential construction contract" means any contract which would be described in subparagraph (A) if clause (i) of such subparagraph reads as follows:

(i) dwelling units (as defined in section 168(e)(2)(A)(ii)), and".

(f) LONG-TERM CONTRACT.—For purposes of this section—

(1) IN GENERAL.—The term "long-term contract" means any contract for the manufacture, building, installation, or construction of property if such contract is not completed within the taxable year in which such contract is entered into.

(2) SPECIAL RULE FOR MANUFACTURING CONTRACTS.—A contract for the manufacture of property shall not be treated as a long-term contract unless such contract involves the manufacture of—

(A) any unique item of a type which is not normally included in the finished goods inventory of the taxpayer, or

(B) any item which normally requires more than 12 calendar months to complete (without regard to the period of the contract).

(3) AGGREGATION, ETC..—For purposes of this subsection, under regulations prescribed by the Secretary—

(A) 2 or more contracts which are interdependent (by reason of pricing or otherwise) may be treated as 1 contract, and

(B) a contract which is properly treated as an aggregation of separate contracts may be so treated.

(g) CONTRACT COMMENCEMENT DATE.—For purposes of this section, the term "contract commencement date" means, with respect to any contract, the first date on which any costs (other than bidding expenses or expenses incurred in connection with negotiating the contract) allocable to such contract are incurred.

(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations to prevent the use of related parties, pass-thru entities, intermediaries, options, or other similar arrangements to avoid the application of this section.

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B. CHANGES IN EXISTING LAW PROPOSED BY THE BILL, AS REPORTED

In compliance with clause 3(e)(1)(B) of rule XIII of the Rules of the House of Representatives, changes in existing law proposed by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE OF 1986

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Subtitle A—Income Taxes

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CHAPTER 1—NORMAL TAXES AND SURTAXES

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Subchapter B—Computation of Taxable Income

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PART VI—ITEMIZED DEDUCTIONS FOR INDIVIDUALS AND CORPORATIONS

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SEC. 168. ACCELERATED COST RECOVERY SYSTEM.

(a) GENERAL RULE.—Except as otherwise provided in this section, the depreciation deduction provided by section 167(a) for any tangible property shall be determined by using—

(1) the applicable depreciation method,

(2) the applicable recovery period, and

(3) the applicable convention.

(b) APPLICABLE DEPRECIATION METHOD.—For purposes of this section—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the applicable depreciation method is—

(A) the 200 percent declining balance method,

(B) switching to the straight line method for the 1st taxable year for which using the straight line method with respect to the adjusted basis as of the beginning of such year will yield a larger allowance.

(2) 150 PERCENT DECLINING BALANCE METHOD IN CERTAIN CASES.—Paragraph (1) shall be applied by substituting "150 percent" for "200 percent" in the case of—

(A) any 15-year or 20-year property not referred to in paragraph (3),

(B) any property used in a farming business (within the meaning of section 263A(e)(4)),

(C) any property (other than property described in paragraph (3)) which is a qualified smart electric meter or qualified smart electric grid system, or

(D) any property (other than property described in paragraph (3)) with respect to which the taxpayer elects under paragraph (5) to have the provisions of this paragraph apply.

(3) PROPERTY TO WHICH STRAIGHT LINE METHOD APPLIES.—The applicable depreciation method shall be the straight line method in the case of the following property:

(A) Nonresidential real property.

(B) Residential rental property.

(C) Any railroad grading or tunnel bore.

(D) Property with respect to which the taxpayer elects under paragraph (5) to have the provisions of this paragraph apply.

(E) Property described in subsection (e)(3)(D)(ii).

(F) Water utility property described in subsection (e)(5).

(G) Qualified leasehold improvement property described in subsection (e)(6).

(H) Qualified restaurant property described in subsection (e)(7).

(I) Qualified retail improvement property described in subsection (e)(8).

(4) SALVAGE VALUE TREATED AS ZERO.—Salvage value shall be treated as zero.

(5) ELECTION.—An election under paragraph (2)(D) or (3)(D) may be made with respect to 1 or more classes of property for any taxable year and once made with respect to any class shall apply to all property in such class placed in service during such taxable year. Such an election, once made, shall be irrevocable.

(c) APPLICABLE RECOVERY PERIOD.—For purposes of this section, the applicable recovery period shall be determined in accordance with the following table:

In the case of:	The applicable recovery period is:
3-year property	3 years
5-year property	5 years
7-year property	7 years
10-year property	10 years
15-year property	15 years
20-year property	20 years
Water utility property	25 years
Residential rental property	27.5 years
Nonresidential real property	39 years.
Any railroad grading or tunnel bore	50 years.

(d) APPLICABLE CONVENTION.—For purposes of this section—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the applicable convention is the half-year convention.

(2) REAL PROPERTY.—In the case of—

(A) nonresidential real property,

(B) residential rental property, and

(C) any railroad grading or tunnel bore, the applicable convention is the mid-month convention.

(3) SPECIAL RULE WHERE SUBSTANTIAL PROPERTY PLACED IN SERVICE DURING LAST 3 MONTHS OF TAXABLE YEAR.—

(A) IN GENERAL.—Except as provided in regulations, if during any taxable year—

(i) the aggregate bases of property to which this section applies placed in service during the last 3 months of the taxable year, exceed

(ii) 40 percent of the aggregate bases of property to which this section applies placed in service during such taxable year, the applicable convention for all property to which this section applies placed in service during such taxable year shall be the mid-quarter convention.

(B) CERTAIN PROPERTY NOT TAKEN INTO ACCOUNT.—For purposes of subparagraph (A), there shall not be taken into account—

(i) any nonresidential real property residential rental property, and railroad grading or tunnel bore, and

(ii) any other property placed in service and disposed of during the same taxable year.

(4) DEFINITIONS.—

(A) HALF-YEAR CONVENTION.—The half-year convention is a convention which treats all property placed in service during any taxable year (or disposed of during any taxable year) as placed in service (or disposed of) on the mid-point of such taxable year.

(B) MID-MONTH CONVENTION.—The mid-month convention is a convention which treats all property placed in service during any month (or disposed of during any month) as placed in service (or disposed of) on the mid-point of such month.

(C) MID-QUARTER CONVENTION.—The mid-quarter convention is a convention which treats all property placed in service during any quarter of a taxable year (or disposed of during any quarter of a taxable year) as placed in service (or disposed of) on the mid-point of such quarter.

(e) CLASSIFICATION OF PROPERTY.—For purposes of this section—

(1) IN GENERAL.—Except as otherwise provided in this subsection, property shall be classified under the following table:

Property shall be treated as:	If such property has a class life (in years) of:
3-year property	4 or less
5-year property	More than 4 but less than 10
7-year property	10 or more but less than 16
10-year property	16 or more but less than 20
15-year property	20 or more but less than 25
20-year property	25 or more.

(2) RESIDENTIAL RENTAL OR NONRESIDENTIAL REAL PROPERTY.—

(A) RESIDENTIAL RENTAL PROPERTY.—

(i) RESIDENTIAL RENTAL PROPERTY.—The term "residential rental property" means any building or structure if 80 percent or more of the gross rental income from such building or structure for the taxable year is rental income from dwelling units.

(ii) DEFINITIONS.—For purposes of clause (i)—

(I) the term "dwelling unit" means a house or apartment used to provide living accommodations in a building or structure, but does not include a unit in a hotel, motel, or other establishment more than one-half of the units in which are used on a transient basis, and

(II) if any portion of the building or structure is occupied by the taxpayer, the gross rental income from such building or structure shall include the rental value of the portion so occupied.

(B) NONRESIDENTIAL REAL PROPERTY.—The term "nonresidential real property" means section 1250 property which is not—

(i) residential rental property, or

(ii) property with a class life of less than 27.5 years.

(3) CLASSIFICATION OF CERTAIN PROPERTY.—

(A) 3-YEAR PROPERTY.—The term "3-year property" includes—

(i) any race horse—

(I) which is placed in service before January 1, 2015, and

(II) which is placed in service after December 31, 2014, and which is more than 2 years old at the time such horse is placed in service by such purchaser,

(ii) any horse other than a race horse which is more than 12 years old at the time it is placed in service, and

(iii) any qualified rent-to-own property.

(B) 5-YEAR PROPERTY.—The term "5-year property" includes—

(i) any automobile or light general purpose truck,

(ii) any semi-conductor manufacturing equipment,

(iii) any computer-based telephone central office switching equipment,

(iv) any qualified technological equipment,

(v) any section 1245 property used in connection with research and experimentation,

(vi) any property which—

(I) is described in subparagraph (A) of section 48(a)(3) (or would be so described if "solar or wind energy" were substituted for "solar energy" in clause (i) thereof and the last sentence of such section did not apply to such subparagraph),

(II) is described in paragraph (15) of section 48(l) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) and is a qualifying small power production facility within the meaning of section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C)), as in effect on September 1, 1986, or

(III) is described in section 48(l)(3)(A)(ix) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990), and

(vii) any machinery or equipment (other than any grain bin, cotton ginning asset, fence, or other land improvement) which is used in a farming business (as defined in section 263A(e)(4)), the original use of which commences with the taxpayer after December 31, 2008, and which is placed in service before January 1, 2010.

Nothing in any provision of law shall be construed to treat property as not being described in clause (vi)(I) (or the corresponding provisions of prior law) by reason of being public utility property (within the meaning of section 48(a)(3)).

(C) 7-YEAR PROPERTY.—The term "7-year property" includes—

(i) any railroad track, and

(ii) any motorsports entertainment complex,

(iii) any Alaska natural gas pipeline,

(iv) any natural gas gathering line the original use of which commences with the taxpayer after April 11, 2005, and

(v) any property which—

(I) does not have a class life, and

(II) is not otherwise classified under paragraph (2) or this paragraph.

(D) 10-YEAR PROPERTY.—The term "10-year property" includes—

(i) any single purpose agricultural or horticultural structure (within the meaning of subsection (i)(13)),

(ii) any tree or vine bearing fruit or nuts,

(iii) any qualified smart electric meter, and

(iv) any qualified smart electric grid system.

(E) 15-YEAR PROPERTY.—The term "15-year property" includes—

(i) any municipal wastewater treatment plant,

(ii) any telephone distribution plant and comparable equipment used for 2-way exchange of voice and data communications,

(iii) any section 1250 property which is a retail motor fuels outlet (whether or not food or other convenience items are sold at the outlet),

(iv) any qualified leasehold improvement property placed in service before January 1, 2015,

(v) any qualified restaurant property placed in service before January 1, 2015,

(vi) initial clearing and grading land improvements with respect to gas utility property,

(vii) any section 1245 property (as defined in section 1245(a)(3)) used in the transmission at 69 or more kilovolts of electricity for sale and the original use of which commences with the taxpayer after April 11, 2005,

(viii) any natural gas distribution line the original use of which commences with the taxpayer after April 11, 2005, and which is placed in service before January 1, 2011, and

(ix) any qualified retail improvement property placed in service after December 31, 2008, and before January 1, 2015.

(F) 20-YEAR PROPERTY.—The term "20-year property" means initial clearing and grading land improvements with respect to any electric utility transmission and distribution plant.

(4) RAILROAD GRADING OR TUNNEL BORE.—The term "railroad grading or tunnel bore" means all improvements resulting from excavations (including tunneling), construction of embankments, clearings, diversions of roads and streams, sodding of slopes, and from similar work necessary to provide, construct, reconstruct, alter, protect, improve, replace, or restore a roadbed or right-of-way for railroad track.

(5) WATER UTILITY PROPERTY.—The term "water utility property" means property—

(A) which is an integral part of the gathering, treatment, or commercial distribution of water, and which, without regard to this paragraph, would be 20-year property, and

(B) any municipal sewer.

(6) QUALIFIED LEASEHOLD IMPROVEMENT PROPERTY.—[The term "qualified leasehold improvement property" has the meaning given such term in section 168(k)(3) except that the following special rules shall apply:] *For purposes of this subsection—*

(A) IN GENERAL.—The term "qualified leasehold improvement property" means any improvement to an interior portion of a building which is nonresidential real property if—

(i) such improvement is made under or pursuant to a lease (as defined in subsection (h)(7))—

(I) by the lessee (or any sublessee) of such portion, or

(II) by the lessor of such portion,

(ii) such portion is to be occupied exclusively by the lessee (or any sublessee) of such portion, and

(iii) such improvement is placed in service more than 3 years after the date the building was first placed in service.

(B) CERTAIN IMPROVEMENTS NOT INCLUDED.—Such term shall not include any improvement for which the expenditure is attributable to—

(i) the enlargement of the building,

(ii) any elevator or escalator,

(iii) any structural component benefitting a common area, or

(iv) the internal structural framework of the building.

(C) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

(i) COMMITMENT TO LEASE TREATED AS LEASE.—A commitment to enter into a lease shall be treated as a lease, and the parties to such commitment shall be treated as lessor and lessee, respectively.

(ii) RELATED PERSONS.—A lease between related persons shall not be considered a lease. For purposes of the preceding sentence, the term "related persons" means—

(I) members of an affiliated group (as defined in section 1504), and

(II) persons having a relationship described in subsection (b) of section 267; except that, for purposes of this clause, the phrase "80 percent or

more" shall be substituted for the phrase "more than 50 percent" each place it appears in such subsection.

【(A)】 *(D)* IMPROVEMENTS MADE BY LESSOR.—In the case of an improvement made by the person who was the lessor of such improvement when such improvement was placed in service, such improvement shall be qualified leasehold improvement property (if at all) only so long as such improvement is held by such person.

【(B)】 *(E)* EXCEPTION FOR CHANGES IN FORM OF BUSINESS.—Property shall not cease to be qualified leasehold improvement property under 【subparagraph (A)】 *subparagraph (D)* by reason of—

(i) death,

(ii) a transaction to which section 381(a) applies,

(iii) a mere change in the form of conducting the trade or business so long as the property is retained in such trade or business as qualified leasehold improvement property and the taxpayer retains a substantial interest in such trade or business,

(iv) the acquisition of such property in an exchange described in section 1031, 1033, or 1038 to the extent that the basis of such property includes an amount representing the adjusted basis of other property owned by the taxpayer or a related person, or

(v) the acquisition of such property by the taxpayer in a transaction described in section 332, 351, 361, 721, or 731 (or the acquisition of such property by the taxpayer from the transferee or acquiring corporation in a transaction described in such section), to the extent that the basis of the property in the hands of the taxpayer is determined by reference to its basis in the hands of the transferor or distributor.

(7) QUALIFIED RESTAURANT PROPERTY.—

(A) IN GENERAL.—The term "qualified restaurant property" means any section 1250 property which is—

(i) a building, or

(ii) an improvement to a building, if more than 50 percent of the building's square footage is devoted to preparation of, and seating for on-premises consumption of, prepared meals.

(B) EXCLUSION FROM BONUS DEPRECIATION.—Property described in this paragraph which is not 【qualified leasehold improvement property】 *qualified improvement property* shall not be considered qualified property for purposes of subsection (k).

(8) QUALIFIED RETAIL IMPROVEMENT PROPERTY.—

(A) IN GENERAL.—The term "qualified retail improvement property" means any improvement to an interior portion of a building which is nonresidential real property if—

(i) such portion is open to the general public and is used in the retail trade or business of selling tangible personal property to the general public, and

(ii) such improvement is placed in service more than 3 years after the date the building was first placed in service.

(B) IMPROVEMENTS MADE BY OWNER.—In the case of an improvement made by the owner of such improvement, such improvement shall be qualified retail improvement property (if at all) only so long as such improvement is held by such owner. Rules similar to the rules under paragraph (6)(B) shall apply for purposes of the preceding sentence.

(C) CERTAIN IMPROVEMENTS NOT INCLUDED.—Such term shall not include any improvement for which the expenditure is attributable to—

(i) the enlargement of the building,

(ii) any elevator or escalator,

(iii) any structural component benefitting a common area, or

(iv) the internal structural framework of the building.

[(D) EXCLUSION FROM BONUS DEPRECIATION.—Property described in this paragraph which is not qualified leasehold improvement property shall not be considered qualified property for purposes of subsection (k).]

(f) PROPERTY TO WHICH SECTION DOES NOT APPLY.—This section shall not apply to—

(1) CERTAIN METHODS OF DEPRECIATION.—Any property if—

(A) the taxpayer elects to exclude such property from the application of this section, and

(B) for the 1st taxable year for which a depreciation deduction would be allowable with respect to such property in the hands of the taxpayer, the property is properly depreciated under the unit-of-production method or any method of depreciation not expressed in a term of years (other than the ret method or similar method).

(2) CERTAIN PUBLIC UTILITY PROPERTY.—Any public utility property (within the meaning of subsection (i)(10)) if the taxpayer does not use a normalization method of accounting.

(3) FILMS AND VIDEO TAPE.—Any motion picture film or video tape.

(4) SOUND RECORDINGS.—Any works which result from the fixation of a series of musical, spoken, or other sounds, regardless of the nature of the material (such as discs, tapes, or other phonorecordings) in which such sounds are embodied.

(5) CERTAIN PROPERTY PLACED IN SERVICE IN CHURNING TRANSACTIONS.—

(A) IN GENERAL.—Property—

(i) described in paragraph (4) of section 168(e) (as in effect before the amendments made by the Tax Reform Act of 1986), or

(ii) which would be described in such paragraph if such paragraph were applied by substituting "1987" for "1981" and "1986" for "1980" each place such terms appear.

(B) SUBPARAGRAPH (A)(II) NOT TO APPLY.—Clause (ii) of subparagraph (A) shall not apply to—

(i) any residential rental property or nonresidential real property,

(ii) any property if, for the 1st taxable year in which such property is placed in service—

(I) the amount allowable as a deduction under this section (as in effect before the date of the enactment of this paragraph) with respect to such property is greater than,

(II) the amount allowable as a deduction under this section (as in effect on or after such date and using the half-year convention) for such taxable year, or

(iii) any property to which this section (as amended by the Tax Reform Act of 1986) applied in the hands of the transferor.

(C) SPECIAL RULE.—In the case of any property to which this section would apply but for this paragraph, the depreciation deduction under section 167 shall be determined under the provisions of this section as in effect before the amendments made by section 201 of the Tax Reform Act of 1986.

(g) ALTERNATIVE DEPRECIATION SYSTEM FOR CERTAIN PROPERTY.—

(1) IN GENERAL.—In the case of—

(A) any tangible property which during the taxable year is used predominantly outside the United States,

(B) any tax-exempt use property,

(C) any tax-exempt bond financed property,

(D) any imported property covered by an Executive order under paragraph (6), and

(E) any property to which an election under paragraph (7) applies,

the depreciation deduction provided by section 167(a) shall be determined under the alternative depreciation system.

(2) ALTERNATIVE DEPRECIATION SYSTEM.—For purposes of paragraph (1), the alternative depreciation system is depreciation determined by using—

(A) the straight line method (without regard to salvage value),

(B) the applicable convention determined under subsection (d), and

(C) a recovery period determined under the following table:

In the case of:	The recovery period shall be:
(i) Property not described in clause (ii) or (iii)	The class life.
(ii) Personal property with no class life	12 years.
(iii) Nonresidential real and residential rental property	40 years.
(iv) Any railroad grading or tunnel bore or water utility property	50 years.

(3) SPECIAL RULES FOR DETERMINING CLASS LIFE.—

(A) TAX-EXEMPT USE PROPERTY SUBJECT TO LEASE.—In the case of any tax-exempt use property subject to a lease, the recovery period used for purposes of paragraph (2) shall (notwithstanding any other subparagraph of this paragraph) in no event be less than 125 percent of the lease term.

(B) SPECIAL RULE FOR CERTAIN PROPERTY ASSIGNED TO CLASSES.—For purposes of paragraph (2), in the case of property described in any of the following subparagraphs of subsection (e)(3), the class life shall be determined as follows:

If property is described in subparagraph:	The class life is:
(A)(iii)	4
(B)(ii)	5
(B)(iii)	9.5
(B)(vii)	10
(C)(i)	10
(C)(iii)...........	22
(C)(iv)	14
(D)(i)	15
(D)(ii)	20
(E)(i)	24
(E)(ii)	24
(E)(iii)	20
(E)(iv)	39
(E)(v)	39
(E)(vi)	20
(E)(vii)	30
(E)(viii)	35
(E)(ix)	39
(F)	25

(C) QUALIFIED TECHNOLOGICAL EQUIPMENT.—In the case of any qualified technological equipment, the recovery period used for purposes of paragraph (2) shall be 5 years.

(D) AUTOMOBILES, ETC..—In the case of any automobile or light general purpose truck, the recovery period used for purposes of paragraph (2) shall be 5 years.

(E) CERTAIN REAL PROPERTY.—In the case of any section 1245 property which is real property with no class life, the recovery period used for purposes of paragraph (2) shall be 40 years.

(4) EXCEPTION FOR CERTAIN PROPERTY USED OUTSIDE UNITED STATES.—Subparagraph (A) of paragraph (1) shall not apply to—

(A) any aircraft which is registered by the Administrator of the Federal Aviation Agency and which is operated to and from the United States or is operated under contract with the United States;

(B) rolling stock which is used within and without the United States and which is—

(i) of a rail carrier subject to part A of subtitle IV of title 49, or

(ii) of a United States person (other than a corporation described in clause (i)) but only if the rolling stock is not leased to one or more foreign persons for periods aggregating more than 12 months in any 24-month period;

(C) any vessel documented under the laws of the United States which is operated in the foreign or domestic commerce of the United States;

(D) any motor vehicle of a United States person (as defined in section 7701(a)(30)) which is operated to and from the United States;

(E) any container of a United States person which is used in the transportation of property to and from the United States;

(F) any property (other than a vessel or an aircraft) of a United States person which is used for the purpose of exploring for, developing, removing, or transporting resources from the outer Continental Shelf (within the meaning of section 2 of the Outer Continental Shelf Lands Act, as amended and supplemented; (43 U.S.C. 1331));

(G) any property which is owned by a domestic corporation (other than a corporation which has an election in effect under section 936) or by a United States citizen (other than a citizen entitled to the benefits of section 931 or 933) and which is used predominantly in a possession of the United States by such a corporation or such a citizen, or by a corporation created or organized in, or under the law of, a possession of the United States;

(H) any communications satellite (as defined in section 103(3) of the Communications Satellite Act of 1962, 47 U.S.C. 702(3)), or any interest therein, of a United States person;

(I) any cable, or any interest therein, of a domestic corporation engaged in furnishing telephone service to which section 168(i)(10)(C) applies (or of a wholly owned domestic subsidiary of such a corporation), if such cable is part of a submarine cable system which constitutes part of a communication link exclusively between the United States and one or more foreign countries;

(J) any property (other than a vessel or an aircraft) of a United States person which is used in international or territorial waters within the northern portion of the Western Hemisphere for the purpose of exploring for, developing, removing, or transporting resources from ocean waters or deposits under such waters;

(K) any property described in section 48(l)(3)(A)(ix) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) which is owned by a United States person and which is used in international or territorial waters to generate energy for use in the United States; and

(L) any satellite (not described in subparagraph (H)) or other spacecraft (or any interest therein) held by a United States person if such satellite or other spacecraft was launched from within the United States.

For purposes of subparagraph (J), the term “northern portion of the Western Hemisphere” means the area lying west of the 30th meridian west of Greenwich, east of the international dateline, and north of the Equator, but not including any foreign country which is a country of South America.

(5) TAX-EXEMPT BOND FINANCED PROPERTY.—For purposes of this subsection—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term "tax-exempt bond financed property" means any property to the extent such property is financed (directly or indirectly) by an obligation the interest on which is exempt from tax under section 103(a).

(B) ALLOCATION OF BOND PROCEEDS.—For purposes of subparagraph (A), the proceeds of any obligation shall be treated as used to finance property acquired in connection with the issuance of such obligation in the order in which such property is placed in service.

(C) QUALIFIED RESIDENTIAL RENTAL PROJECTS.—The term "tax-exempt bond financed property" shall not include any qualified residential rental project (within the meaning of section 142(a)(7)).

(6) IMPORTED PROPERTY.—

(A) COUNTRIES MAINTAINING TRADE RESTRICTIONS OR ENGAGING IN DISCRIMINATORY ACTS.—If the President determines that a foreign country—

(i) maintains nontariff trade restrictions, including variable import fees, which substantially burden United States commerce in a manner inconsistent with provisions of trade agreements, or

(ii) engages in discriminatory or other acts (including tolerance of international cartels) or policies unjustifiably restricting United States commerce,

the President may by Executive order provide for the application of paragraph (1)(D) to any article or class of articles manufactured or produced in such foreign country for such period as may be provided by such Executive order. Any period specified in the preceding sentence shall not apply to any property ordered before (or the construction, reconstruction, or erection of which began before) the date of the Executive order unless the President determines an earlier date to be in the public interest and specifies such date in the Executive order.

(B) IMPORTED PROPERTY.—For purposes of this subsection, the term "imported property" means any property if—

(i) such property was completed outside the United States, or

(ii) less than 50 percent of the basis of such property is attributable to value added within the United States.

For purposes of this subparagraph, the term "United States" includes the Commonwealth of Puerto Rico and the possessions of the United States.

(7) ELECTION TO USE ALTERNATIVE DEPRECIATION SYSTEM.—

(A) IN GENERAL.—If the taxpayer makes an election under this paragraph with respect to any class of property for any taxable year, the alternative depreciation system under this subsection shall apply to all property in such class placed in service during such taxable year. Notwithstanding the preceding sentence, in the case of nonresidential real property or residential rental property, such election may be made separately with respect to each property.

(B) ELECTION IRREVOCABLE.—An election under subparagraph (A), once made, shall be irrevocable.

(h) TAX-EXEMPT USE PROPERTY.—

(1) IN GENERAL.—For purposes of this section—

(A) PROPERTY OTHER THAN NONRESIDENTIAL REAL PROPERTY.—Except as otherwise provided in this subsection, the term "tax-exempt use property" means that portion of any tangible property (other than nonresidential real property) leased to a tax-exempt entity.

(B) NONRESIDENTIAL REAL PROPERTY.—

(i) IN GENERAL.—In the case of nonresidential real property, the term "tax-exempt use property" means that portion of the property leased to a tax-exempt entity in a disqualified lease.

(ii) DISQUALIFIED LEASE.—For purposes of this subparagraph, the term "disqualified lease" means any lease of the property to a tax-exempt entity, but only if—

(I) part or all of the property was financed (directly or indirectly) by an obligation the interest on which is exempt from tax under section 103(a) and such entity (or a related entity) participated in such financing,

(II) under such lease there is a fixed or determinable price purchase or sale option which involves such entity (or a related entity) or there is the equivalent of such an option,

(III) such lease has a lease term in excess of 20 years, or

(IV) such lease occurs after a sale (or other transfer) of the property by, or lease of the property from, such entity (or a related entity) and such property has been used by such entity (or a related entity) before such sale (or other transfer) or lease.

(iii) 35-PERCENT THRESHOLD TEST.—Clause (i) shall apply to any property only if the portion of such property leased to tax-exempt entities in disqualified leases is more than 35 percent of the property.

(iv) TREATMENT OF IMPROVEMENTS.—For purposes of this subparagraph, improvements to a property (other than land) shall not be treated as a separate property.

(v) LEASEBACKS DURING 1ST 3 MONTHS OF USE NOT TAKEN INTO ACCOUNT.—Subclause (IV) of clause (ii) shall not apply to any property which is leased within 3 months after the date such property is first used by the tax-exempt entity (or a related entity).

(C) EXCEPTION FOR SHORT-TERM LEASES.—

(i) IN GENERAL.—Property shall not be treated as tax-exempt use property merely by reason of a short-term lease.

(ii) SHORT-TERM LEASE.—For purposes of clause (i), the term "short-term lease" means any lease the term of which is—

(I) less than 3 years, and

(II) less than the greater of 1 year or 30 percent of the property's present class life.

In the case of nonresidential real property and property with no present class life, subclause (II) shall not apply.

(D) EXCEPTION WHERE PROPERTY USED IN UNRELATED TRADE OR BUSINESS.—The term "tax-exempt use property" shall not include any portion of a property if such portion is predominantly used by the tax-exempt entity (directly or through a partnership of which such entity is a partner) in an unrelated trade or business the income of which is subject to tax under section 511. For purposes of subparagraph (B)(iii), any portion of a property so used shall not be treated as leased to a tax-exempt entity in a disqualified lease.

(E) NONRESIDENTIAL REAL PROPERTY DEFINED.—For purposes of this paragraph, the term "nonresidential real property" includes residential rental property.

(2) TAX-EXEMPT ENTITY.—

(A) IN GENERAL.—For purposes of this subsection, the term "tax-exempt entity" means—

(i) the United States, any State or political subdivision thereof, any possession of the United States, or any agency or instrumentality of any of the foregoing,

(ii) an organization (other than a cooperative described in section 521) which is exempt from tax imposed by this chapter,

(iii) any foreign person or entity, and

(iv) any Indian tribal government described in section 7701(a)(40).

For purposes of applying this subsection, any Indian tribal government referred to in clause (iv) shall be treated in the same manner as a State.

(B) EXCEPTION FOR CERTAIN PROPERTY SUBJECT TO UNITED STATES TAX AND USED BY FOREIGN PERSON OR ENTITY.—Clause (iii) of subparagraph (A) shall not apply with respect to any property if more than 50 percent of the gross income for the taxable year derived by the foreign person or entity from the use of such property is—

(i) subject to tax under this chapter, or

(ii) included under section 951 in the gross income of a United States shareholder for the taxable year with or within which ends the taxable year of the controlled foreign corporation in which such income was derived.

For purposes of the preceding sentence, any exclusion or exemption shall not apply for purposes of determining the amount of the gross income so derived, but shall apply for purposes of determining the portion of such gross income subject to tax under this chapter.

(C) FOREIGN PERSON OR ENTITY.—For purposes of this paragraph, the term "foreign person or entity" means—

(i) any foreign government, any international organization, or any agency or instrumentality of any of the foregoing, and

(ii) any person who is not a United States person.

Such term does not include any foreign partnership or other foreign pass-thru entity.

(D) TREATMENT OF CERTAIN TAXABLE INSTRUMENTALITIES.—For purposes of this subsection, a corporation shall not be treated as an instrumentality of the United States or of any State or political subdivision thereof if—

(i) all of the activities of such corporation are subject to tax under this chapter, and

(ii) a majority of the board of directors of such corporation is not selected by the United States or any State or political subdivision thereof.

(E) CERTAIN PREVIOUSLY TAX-EXEMPT ORGANIZATIONS.—

(i) IN GENERAL.—For purposes of this subsection, an organization shall be treated as an organization described in subparagraph (A)(ii) with respect to any property (other than property held by such organization) if such organization was an organization (other than a cooperative described in section 521) exempt from tax imposed by this chapter at any time during the 5-year period ending on the date such property was first used by such organization. The preceding sentence and subparagraph (D)(ii) shall not apply to the Federal Home Loan Mortgage Corporation.

(ii) ELECTION NOT TO HAVE CLAUSE (I) APPLY.—

(I) IN GENERAL.—In the case of an organization formerly exempt from tax under section 501(a) as an organization described in section 501(c)(12), clause (i) shall not apply to such organization with respect to any property if such organization elects not to be exempt from tax under section 501(a) during the tax-exempt use period with respect to such property.

(II) TAX-EXEMPT USE PERIOD.—For purposes of subclause (I), the term “tax-exempt use period” means the period beginning with the taxable year in which the property described in subclause (I) is first used by the organization and ending with the close of the 15th taxable year following the last taxable year of the applicable recovery period of such property.

(III) ELECTION.—Any election under subclause (I), once made, shall be irrevocable.

(iii) TREATMENT OF SUCCESSOR ORGANIZATIONS.—Any organization which is engaged in activities substantially similar to those engaged in by a predecessor organization shall succeed to the treatment under this subparagraph of such predecessor organization.

(iv) FIRST USED.—For purposes of this subparagraph, property shall be treated as first used by the organization—

(I) when the property is first placed in service under a lease to such organization, or

(II) in the case of property leased to (or held by) a partnership (or other pass-thru entity) in which the organization is a member, the later of when such property is first used by such partnership or pass-thru entity or when such organization is first a member of such partnership or pass-thru entity.

(3) SPECIAL RULES FOR CERTAIN HIGH TECHNOLOGY EQUIPMENT.—

(A) EXEMPTION WHERE LEASE TERM IS 5 YEARS OR LESS.—For purposes of this section, the term "tax-exempt use property" shall not include any qualified technological equipment if the lease to the tax-exempt entity has a lease term of 5 years or less. Notwithstanding subsection (i)(3)(A)(i), in determining a lease term for purposes of the preceding sentence, there shall not be taken into account any option of the lessee to renew at the fair market value rent determined at the time of renewal; except that the aggregate period not taken into account by reason of this sentence shall not exceed 24 months.

(B) EXCEPTION FOR CERTAIN PROPERTY.—

(i) IN GENERAL.—For purposes of subparagraph (A), the term "qualified technological equipment" shall not include any property leased to a tax-exempt entity if—

(I) part or all of the property was financed (directly or indirectly) by an obligation the interest on which is exempt from tax under section 103(a),

(II) such lease occurs after a sale (or other transfer) of the property by, or lease of such property from, such entity (or related entity) and such property has been used by such entity (or a related entity) before such sale (or other transfer) or lease, or

(III) such tax-exempt entity is the United States or any agency or instrumentality of the United States.

(ii) LEASEBACKS DURING 1ST 3 MONTHS OF USE NOT TAKEN INTO ACCOUNT.—Subclause (II) of clause (i) shall not apply to any property which is leased within 3 months after the date such property is first used by the tax-exempt entity (or a related entity).

(4) RELATED ENTITIES.—For purposes of this subsection—

(A)(i) Each governmental unit and each agency or instrumentality of a governmental unit is related to each other such unit, agency, or instrumentality which directly or indirectly derives its powers, rights, and duties in whole or in part from the same sovereign authority.

(ii) For purposes of clause (i), the United States, each State, and each possession of the United States shall be treated as a separate sovereign authority.

(B) Any entity not described in subparagraph (A)(i) is related to any other entity if the 2 entities have—

(i) significant common purposes and substantial common membership, or

(ii) directly or indirectly substantial common direction or control.

(C)(i) An entity is related to another entity if either entity owns (directly or through 1 or more entities) a 50 percent or greater interest in the capital or profits of the other entity.

(ii) For purposes of clause (i), entities treated as related under subparagraph (A) or (B) shall be treated as 1 entity.

(D) An entity is related to another entity with respect to a transaction if such transaction is part of an attempt by such entities to avoid the application of this subsection.

(5) TAX-EXEMPT USE OF PROPERTY LEASED TO PARTNERSHIPS, ETC., DETERMINED AT PARTNER LEVEL.—For purposes of this subsection—

(A) IN GENERAL.—In the case of any property which is leased to a partnership, the determination of whether any portion of such property is tax-exempt use property shall be made by treating each tax-exempt entity partner's proportionate share (determined under paragraph (6)(C)) of such property as being leased to such partner.

(B) OTHER PASS-THRU ENTITIES; TIERED ENTITIES.—Rules similar to the rules of subparagraph (A) shall also apply in the case of any pass-thru entity other than a partnership and in the case of tiered partnerships and other entities.

(C) PRESUMPTION WITH RESPECT TO FOREIGN ENTITIES.—Unless it is otherwise established to the satisfaction of the Secretary, it shall be presumed that the partners of a foreign partnership (and the beneficiaries of any other foreign pass-thru entity) are persons who are not United States persons.

(6) TREATMENT OF PROPERTY OWNED BY PARTNERSHIPS, ETC..—

(A) IN GENERAL.—For purposes of this subsection, if—

(i) any property which (but for this subparagraph) is not tax-exempt use property is owned by a partnership which has both a tax-exempt entity and a person who is not a tax-exempt entity as partners, and

(ii) any allocation to the tax-exempt entity of partnership items is not a qualified allocation,

an amount equal to such tax-exempt entity's proportionate share of such property shall (except as provided in paragraph (1)(D)) be treated as tax-exempt use property.

(B) QUALIFIED ALLOCATION.—For purposes of subparagraph (A), the term "qualified allocation" means any allocation to a tax-exempt entity which—

(i) is consistent with such entity's being allocated the same distributive share of each item of income, gain, loss, deduction, credit, and basis and such share remains the same during the entire period the entity is a partner in the partnership, and

(ii) has substantial economic effect within the meaning of section 704(b)(2).

For purposes of this subparagraph, items allocated under section 704(c) shall not be taken into account.

(C) DETERMINATION OF PROPORTIONATE SHARE.—

(i) IN GENERAL.—For purposes of subparagraph (A), a tax-exempt entity's proportionate share of any property owned by a partnership shall be determined on the basis of such entity's share of partnership items of income or gain (excluding gain allocated under section 704(c)), whichever results in the largest proportionate share.

(ii) DETERMINATION WHERE ALLOCATIONS VARY.—For purposes of clause (i), if a tax-exempt entity's share of partnership items of income or gain (excluding gain allocated under section 704(c)) may vary during the period such entity is a partner in the partnership, such share shall be the highest share such entity may receive.

(D) DETERMINATION OF WHETHER PROPERTY USED IN UNRELATED TRADE OR BUSINESS.—For purposes of this subsection, in the case of any property which is owned by a partnership which has both a tax-exempt entity and a person who is not a tax-exempt entity as partners, the determination of whether such property is used in an unrelated trade or business of such an entity shall be made without regard to section 514.

(E) OTHER PASS-THRU ENTITIES; TIERED ENTITIES.—Rules similar to the rules of subparagraphs (A), (B), (C), and (D) shall also apply in the case of any pass-thru entity other than a partnership and in the case of tiered partnerships and other entities.

(F) TREATMENT OF CERTAIN TAXABLE ENTITIES.—

(i) IN GENERAL.—For purposes of this paragraph and paragraph (5), except as otherwise provided in this subparagraph, any tax-exempt controlled entity shall be treated as a tax-exempt entity.

(ii) ELECTION.—If a tax-exempt controlled entity makes an election under this clause—

(I) such entity shall not be treated as a tax-exempt entity for purposes of this paragraph and paragraph (5), and

(II) any gain recognized by a tax-exempt entity on any disposition of an interest in such entity (and any dividend or interest received or accrued by a tax-exempt entity from such tax-exempt controlled entity) shall be treated as unrelated business taxable income for purposes of section 511.

Any such election shall be irrevocable and shall bind all tax-exempt entities holding interests in such tax-exempt controlled entity. For purposes of subclause (II), there shall only be taken into account dividends which are properly allocable to income of the tax-exempt controlled entity which was not subject to tax under this chapter.

(iii) TAX-EXEMPT CONTROLLED ENTITY.—

(I) IN GENERAL.—The term "tax-exempt controlled entity" means any corporation (which is not a tax-exempt entity determined without regard to this subparagraph and paragraph (2)(E)) if 50 percent or more (in value) of the stock in such corporation is held by 1 or more tax-exempt entities (other than a foreign person or entity).

(II) ONLY 5-PERCENT SHAREHOLDERS TAKEN INTO ACCOUNT IN CASE OF PUBLICLY TRADED STOCK.—For purposes of subclause (I), in the case of a corporation the stock of which is publicly traded on an established securities market, stock held by a tax-exempt entity shall not be taken into account unless such entity holds at least 5 percent (in value) of the stock in such corporation. For purposes of this subclause, related entities (within the meaning of paragraph (4)) shall be treated as 1 entity.

(III) SECTION 318 TO APPLY.—For purposes of this clause, a tax-exempt entity shall be treated as holding stock which it holds through application of section 318 (determined without regard to the 50-percent limitation contained in subsection (a)(2)(C) thereof).

(G) REGULATIONS.—For purposes of determining whether there is a qualified allocation under subparagraph (B), the regulations prescribed under paragraph (8) for purposes of this paragraph—

(i) shall set forth the proper treatment for partnership guaranteed payments, and

(ii) may provide for the exclusion or segregation of items.

(7) LEASE.—For purposes of this subsection, the term "lease" includes any grant of a right to use property.

(8) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection.

(i) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(1) CLASS LIFE.—Except as provided in this section, the term "class life" means the class life (if any) which would be applicable with respect to any property as of January 1, 1986, under subsection (m) of section 167 (determined without regard to paragraph (4) and as if the taxpayer had made an election under such subsection). The Secretary, through an office established in the Treasury, shall monitor and analyze actual experience with respect to all depreciable assets. The reference in this paragraph to subsection (m) of section 167 shall be treated as a reference to such subsection as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990.

(2) QUALIFIED TECHNOLOGICAL EQUIPMENT.—

(A) IN GENERAL.—The term "qualified technological equipment" means—

(i) any computer or peripheral equipment,

(ii) any high technology telephone station equipment installed on the customer's premises, and

(iii) any high technology medical equipment.

(B) COMPUTER OR PERIPHERAL EQUIPMENT DEFINED.—For purposes of this paragraph—

(i) IN GENERAL.—The term "computer or peripheral equipment" means—

(I) any computer, and

(II) any related peripheral equipment.

(ii) COMPUTER.—The term "computer" means a programmable electronically activated device which—

(I) is capable of accepting information, applying prescribed processes to the information, and supplying the results of these processes with or without human intervention, and

(II) consists of a central processing unit containing extensive storage, logic, arithmetic, and control capabilities.

(iii) RELATED PERIPHERAL EQUIPMENT.—The term "related peripheral equipment" means any auxiliary machine (whether on-line or off-line) which is designed to be placed under the control of the central processing unit of a computer.

(iv) EXCEPTIONS.—The term "computer or peripheral equipment" shall not include—

(I) any equipment which is an integral part of other property which is not a computer,

(II) typewriters, calculators, adding and accounting machines, copiers, duplicating equipment, and similar equipment, and

(III) equipment of a kind used primarily for amusement or entertainment of the user.

(C) HIGH TECHNOLOGY MEDICAL EQUIPMENT.—For purposes of this paragraph, the term "high technology medical equipment" means any electronic, electromechanical, or computer-based high technology equipment used in the screening, monitoring, observation, diagnosis, or treatment of patients in a laboratory, medical, or hospital environment.

(3) LEASE TERM.—

(A) IN GENERAL.—In determining a lease term—

(i) there shall be taken into account options to renew,

(ii) the term of a lease shall include the term of any service contract or similar arrangement (whether or not treated as a lease under section 7701(e))—

(I) which is part of the same transaction (or series of related transactions) which includes the lease, and

(II) which is with respect to the property subject to the lease or substantially similar property, and

(iii) 2 or more successive leases which are part of the same transaction (or a series of related transactions) with respect to the same or substantially similar property shall be treated as 1 lease.

(B) SPECIAL RULE FOR FAIR RENTAL OPTIONS ON NONRESIDENTIAL REAL PROPERTY OR RESIDENTIAL RENTAL PROPERTY.—For purposes of clause (i) of subparagraph (A), in the case of nonresidential real property or residential rental property, there shall not be taken into account any option to renew at fair market value, determined at the time of renewal.

(4) GENERAL ASSET ACCOUNTS.—Under regulations, a taxpayer may maintain 1 or more general asset accounts for any property to which this section applies. Except as provided in regulations, all proceeds realized on any disposition of property in a general asset account shall be included in income as ordinary income.

(5) CHANGES IN USE.—The Secretary shall, by regulations, provide for the method of determining the deduction allowable under section 167(a) with respect to any tangible property for any taxable year (and the succeeding taxable years) during which such property changes status under this section but continues to be held by the same person.

(6) TREATMENTS OF ADDITIONS OR IMPROVEMENTS TO PROPERTY.—In the case of any addition to (or improvement of) any property—

(A) any deduction under subsection (a) for such addition or improvement shall be computed in the same manner as the deduction for such property would be computed if such property had been placed in service at the same time as such addition or improvement, and

(B) the applicable recovery period for such addition or improvement shall begin on the later of—

(i) the date on which such addition (or improvement) is placed in service, or

(ii) the date on which the property with respect to which such addition (or improvement) was made is placed in service.

(7) TREATMENT OF CERTAIN TRANSFEREES.—

(A) IN GENERAL.—In the case of any property transferred in a transaction described in subparagraph (B), the transferee shall be treated as the transferor for purposes of computing the depreciation deduction determined under this section with respect to so much of the basis in the hands of the transferee as does not exceed the adjusted basis in the hands of the transferor. In any case where this section as in effect before the amendments made by section 201 of the Tax Reform Act of 1986 applied to the property in the hands of the transferor, the reference in the preceding sentence to this section shall be treated as a reference to this section as so in effect.

(B) TRANSACTIONS COVERED.—The transactions described in this subparagraph are—

(i) any transaction described in section 332, 351, 361, 721, or 731, and

(ii) any transaction between members of the same affiliated group during any taxable year for which a consolidated return is made by such group.

Subparagraph (A) shall not apply in the case of a termination of a partnership under section 708(b)(1)(B).

(C) PROPERTY REACQUIRED BY THE TAXPAYER.—Under regulations, property which is disposed of and then reacquired by the taxpayer shall be treated for purposes of computing the deduction allowable under subsection (a) as if such property had not been disposed of.

(8) TREATMENT OF LEASEHOLD IMPROVEMENTS.—

(A) IN GENERAL.—In the case of any building erected (or improvements made) on leased property, if such building or improvement is property to which this section applies, the depreciation deduction shall be determined under the provisions of this section.

(B) TREATMENT OF LESSOR IMPROVEMENTS WHICH ARE ABANDONED AT TERMINATION OF LEASE.—An improvement—

(i) which is made by the lessor of leased property for the lessee of such property, and

(ii) which is irrevocably disposed of or abandoned by the lessor at the termination of the lease by such lessee,

shall be treated for purposes of determining gain or loss under this title as disposed of by the lessor when so disposed of or abandoned.

(C) CROSS REFERENCE.—For treatment of qualified long-term real property constructed or improved in connection with cash or rent reduction from lessor to lessee, see section 110(b).

(9) NORMALIZATION RULES.—

(A) IN GENERAL.—In order to use a normalization method of accounting with respect to any public utility property for purposes of subsection (f)(2)—

(i) the taxpayer must, in computing its tax expense for purposes of establishing its cost of service for ratemaking purposes and reflecting operating results in its regulated books of account, use a method of depreciation with respect to such property that is the same as, and a depreciation period for such property that is no shorter than, the method and period used to compute its depreciation expense for such purposes; and

(ii) if the amount allowable as a deduction under this section with respect to such property (respecting all elections made by the taxpayer under this section) differs from the amount that would be allowable as a deduction under section 167 using the method (including the period, first and last year convention, and salvage value) used to compute regulated tax expense under clause (i), the taxpayer must make adjustments to a reserve to reflect the deferral of taxes resulting from such difference.

(B) USE OF INCONSISTENT ESTIMATES AND PROJECTIONS, ETC..—

(i) IN GENERAL.—One way in which the requirements of subparagraph (A) are not met is if the taxpayer, for ratemaking purposes, uses a procedure or adjustment which is inconsistent with the requirements of subparagraph (A).

(ii) USE OF INCONSISTENT ESTIMATES AND PROJECTIONS.—The procedures and adjustments which are to be treated as inconsistent for purposes of clause (i) shall include any procedure or adjustment for ratemaking purposes which uses an estimate or projection of the taxpayer's tax expense, depreciation expense, or reserve for deferred taxes under subparagraph (A)(ii) unless such estimate or projection is also used, for ratemaking purposes, with respect to the other 2 such items and with respect to the rate base.

(iii) REGULATORY AUTHORITY.—The Secretary may by regulations prescribe procedures and adjustments (in addition to those specified in clause (ii)) which are to be treated as inconsistent for purposes of clause (i).

(C) PUBLIC UTILITY PROPERTY WHICH DOES NOT MEET NORMALIZATION RULES.—In the case of any public utility property to which this section does not apply by reason of subsection (f)(2), the allowance for depreciation under section 167(a) shall be an amount computed using the method and period referred to in subparagraph (A)(i).

(10) PUBLIC UTILITY PROPERTY.—The term "public utility property" means property used predominantly in the trade or business of the furnishing or sale of—

(A) electrical energy, water, or sewage disposal services,

(B) gas or steam through a local distribution system,

(C) telephone services, or other communication services if furnished or sold by the Communications Satellite Corporation for purposes authorized by the Communications Satellite Act of 1962 (47 U.S.C. 701), or

(D) transportation of gas or steam by pipeline, if the rates for such furnishing or sale, as the case may be, have been established or approved by a State or political subdivision thereof, by any agency or instrumentality of the United States, or by a public service or public utility commission or other similar body of any State or political subdivision thereof.

(11) RESEARCH AND EXPERIMENTATION.—The term "research and experimentation" has the same meaning as the term research and experimental has under section 174.

(12) SECTION 1245 AND 1250 PROPERTY.—The terms "section 1245 property" and "section 1250 property" have the meanings given such terms by sections 1245(a)(3) and 1250(c), respectively.

(13) SINGLE PURPOSE AGRICULTURAL OR HORTICULTURAL STRUCTURE.—

(A) IN GENERAL.—The term "single purpose agricultural or horticultural structure" means—

(i) a single purpose livestock structure, and

(ii) a single purpose horticultural structure.

(B) DEFINITIONS.—For purposes of this paragraph—

(i) SINGLE PURPOSE LIVESTOCK STRUCTURE.—The term "single purpose livestock structure" means any enclosure or structure specifically designed, constructed, and used—

(I) for housing, raising, and feeding a particular type of livestock and their produce, and

(II) for housing the equipment (including any replacements) necessary for the housing, raising, and feeding referred to in subclause (I).

(ii) SINGLE PURPOSE HORTICULTURAL STRUCTURE.—The term "single purpose horticultural structure" means—

(I) a greenhouse specifically designed, constructed, and used for the commercial production of plants, and

(II) a structure specifically designed, constructed, and used for the commercial production of mushrooms.

(iii) STRUCTURES WHICH INCLUDE WORK SPACE.—An enclosure or structure which provides work space shall be treated as a single purpose agricultural or horticultural structure only if such work space is solely for—

(I) the stocking, caring for, or collecting of livestock or plants (as the case may be) or their produce,

(II) the maintenance of the enclosure or structure, and

(III) the maintenance or replacement of the equipment or stock enclosed or housed therein.

(iv) LIVESTOCK.—The term "livestock" includes poultry.

(14) QUALIFIED RENT-TO-OWN PROPERTY.—

(A) IN GENERAL.—The term "qualified rent-to-own property" means property held by a rent-to-own dealer for purposes of being subject to a rent-to-own contract.

(B) RENT-TO-OWN DEALER.—The term "rent-to-own dealer" means a person that, in the ordinary course of business, regularly enters into rent-to-own contracts with customers for the use of consumer property, if a substantial portion of those contracts terminate and the property is returned to such person before the receipt of all payments required to transfer ownership of the property from such person to the customer.

(C) CONSUMER PROPERTY.—The term "consumer property" means tangible personal property of a type generally used within the home for personal use.

(D) RENT-TO-OWN CONTRACT.—The term "rent-to-own contract" means any lease for the use of consumer property between a rent-to-own dealer and a customer who is an individual which—

(i) is titled "Rent-to-Own Agreement" or "Lease Agreement with Ownership Option," or uses other similar language,

(ii) provides for level (or decreasing where no payment is less than 40 percent of the largest payment), regular periodic payments (for a payment period which is a week or month),

(iii) provides that legal title to such property remains with the rent-to- own dealer until the customer makes all the payments described in clause (ii) or early purchase payments required under the contract to acquire legal title to the item of property,

(iv) provides a beginning date and a maximum period of time for which the contract may be in effect that does not exceed 156 weeks or 36 months from such beginning date (including renewals or options to extend),

(v) provides for payments within the 156-week or 36-month period that, in the aggregate, generally exceed the normal retail price of the consumer property plus interest,

(vi) provides for payments under the contract that, in the aggregate, do not exceed $10,000 per item of consumer property,

(vii) provides that the customer does not have any legal obligation to make all the payments referred to in clause (ii) set forth under the contract, and that at the end of each payment period the customer may either continue to use the consumer property by making the payment for the next payment period or return such property to the rent-to-own dealer in good working order, in which case the customer does not incur any further obligations under the contract and is not entitled to a return of any payments previously made under the contract, and

(viii) provides that the customer has no right to sell, sublease, mortgage, pawn, pledge, encumber, or otherwise dispose of the consumer property until all the payments stated in the contract have been made.

(15) MOTORSPORTS ENTERTAINMENT COMPLEX.—

(A) IN GENERAL.—The term "motorsports entertainment complex" means a racing track facility which—

(i) is permanently situated on land, and

(ii) during the 36-month period following the first day of the month in which the asset is placed in service, hosts 1 or more racing events for automobiles (of any type), trucks, or motorcycles which are open to the public for the price of admission.

(B) ANCILLARY AND SUPPORT FACILITIES.—Such term shall include, if owned by the taxpayer who owns the complex and provided for the benefit of patrons of the complex—

(i) ancillary facilities and land improvements in support of the complex's activities (including parking lots, sidewalks, waterways, bridges, fences, and landscaping),

(ii) support facilities (including food and beverage retailing, souvenir vending, and other nonlodging accommodations), and

(iii) appurtenances associated with such facilities and related attractions and amusements (including ticket booths, race track surfaces, suites and hospitality facilities, grandstands and viewing structures, props, walls, facilities that support the delivery of entertainment services, other special purpose structures, facades, shop interiors, and buildings).

(C) EXCEPTION.—Such term shall not include any transportation equipment, administrative services assets, warehouses, administrative buildings, hotels, or motels.

(D) TERMINATION.—Such term shall not include any property placed in service after December 31, 2014.

(16) ALASKA NATURAL GAS PIPELINE.—The term "Alaska natural gas pipeline" means the natural gas pipeline system located in the State of Alaska which—

(A) has a capacity of more than 500,000,000,000 Btu of natural gas per day, and

(B) is—

(i) placed in service after December 31, 2013, or

(ii) treated as placed in service on January 1, 2014, if the taxpayer who places such system in service before January 1, 2014, elects such treatment.

Such term includes the pipe, trunk lines, related equipment, and appurtenances used to carry natural gas, but does not include any gas processing plant.

(17) NATURAL GAS GATHERING LINE.—The term "natural gas gathering line" means—

(A) the pipe, equipment, and appurtenances determined to be a gathering line by the Federal Energy Regulatory Commission, and

(B) the pipe, equipment, and appurtenances used to deliver natural gas from the wellhead or a commonpoint to the point at which such gas first reaches—

(i) a gas processing plant,

(ii) an interconnection with a transmission pipeline for which a certificate as an interstate transmission pipeline has been issued by the Federal Energy Regulatory Commission,

(iii) an interconnection with an intrastate transmission pipeline, or

(iv) a direct interconnection with a local distribution company, a gas storage facility, or an industrial consumer.

(18) QUALIFIED SMART ELECTRIC METERS.—

(A) IN GENERAL.—The term "qualified smart electric meter" means any smart electric meter which—

(i) is placed in service by a taxpayer who is a supplier of electric energy or a provider of electric energy services, and

(ii) does not have a class life (determined without regard to subsection (e)) of less than 16 years.

(B) SMART ELECTRIC METER.—For purposes of subparagraph (A), the term "smart electric meter" means any time-based meter and related communication equipment which is capable of being used by the taxpayer as part of a system that—

(i) measures and records electricity usage data on a time-differentiated basis in at least 24 separate time segments per day,

(ii) provides for the exchange of information between supplier or provider and the customer's electric meter in support of time-based rates or other forms of demand response,

(iii) provides data to such supplier or provider so that the supplier or provider can provide energy usage information to customers electronically, and

(iv) provides net metering.

(19) QUALIFIED SMART ELECTRIC GRID SYSTEMS.—

(A) IN GENERAL.—The term "qualified smart electric grid system" means any smart grid property which—

(i) is used as part of a system for electric distribution grid communications, monitoring, and management placed in service by a taxpayer who is a supplier of electric energy or a provider of electric energy services, and

(ii) does not have a class life (determined without regard to subsection (e)) of less than 16 years.

(B) SMART GRID PROPERTY.—For the purposes of subparagraph (A), the term "smart grid property" means electronics and related equipment that is capable of—

(i) sensing, collecting, and monitoring data of or from all portions of a utility's electric distribution grid,

(ii) providing real-time, two-way communications to monitor or manage such grid, and

(iii) providing real time analysis of and event prediction based upon collected data that can be used to improve electric distribution system reliability, quality, and performance.

(j) PROPERTY ON INDIAN RESERVATIONS.—

(1) IN GENERAL.—For purposes of subsection (a), the applicable recovery period for qualified Indian reservation property shall be determined in accordance with the table contained in paragraph (2) in lieu of the table contained in subsection (c).

(2) APPLICABLE RECOVERY PERIOD FOR INDIAN RESERVATION PROPERTY.—For purposes of paragraph (1)—

In the case of:	The applicable recovery period is:
3-year property	2 years
5-year property	3 years
7-year property	4 years
10-year property	6 years
15-year property	9 years
20-year property	12 years
Nonresidential real property	22 years.

(3) DEDUCTION ALLOWED IN COMPUTING MINIMUM TAX.—For purposes of determining alternative minimum taxable income under section 55, the deduction under subsection (a) for prop-

erty to which paragraph (1) applies shall be determined under this section without regard to any adjustment under section 56.

(4) QUALIFIED INDIAN RESERVATION PROPERTY DEFINED.—For purposes of this subsection—

(A) IN GENERAL.—The term "qualified Indian reservation property" means property which is property described in the table in paragraph (2) and which is—

(i) used by the taxpayer predominantly in the active conduct of a trade or business within an Indian reservation,

(ii) not used or located outside the Indian reservation on a regular basis,

(iii) not acquired (directly or indirectly) by the taxpayer from a person who is related to the taxpayer (within the meaning of section 465(b)(3)(C)), and

(iv) not property (or any portion thereof) placed in service for purposes of conducting or housing class I, II, or III gaming (as defined in section 4 of the Indian Regulatory Act (25 U.S.C. 2703)).

(B) EXCEPTION FOR ALTERNATIVE DEPRECIATION PROPERTY.—The term "qualified Indian reservation property" does not include any property to which the alternative depreciation system under subsection (g) applies, determined—

(i) without regard to subsection (g)(7) (relating to election to use alternative depreciation system), and

(ii) after the application of section 280F(b) (relating to listed property with limited business use).

(C) SPECIAL RULE FOR RESERVATION INFRASTRUCTURE INVESTMENT.—

(i) IN GENERAL.—Subparagraph (A)(ii) shall not apply to qualified infrastructure property located outside of the Indian reservation if the purpose of such property is to connect with qualified infrastructure property located within the Indian reservation.

(ii) QUALIFIED INFRASTRUCTURE PROPERTY.—For purposes of this subparagraph, the term "qualified infrastructure property" means qualified Indian reservation property (determined without regard to subparagraph (A)(ii)) which—

(I) benefits the tribal infrastructure,

(II) is available to the general public, and

(III) is placed in service in connection with the taxpayer's active conduct of a trade or business within an Indian reservation.

Such term includes, but is not limited to, roads, power lines, water systems, railroad spurs, and communications facilities.

(5) REAL ESTATE RENTALS.—For purposes of this subsection, the rental to others of real property located within an Indian reservation shall be treated as the active conduct of a trade or business within an Indian reservation.

(6) INDIAN RESERVATION DEFINED.—For purposes of this subsection, the term "Indian reservation" means a reservation, as defined in—

(A) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or

(B) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(10)).

For purposes of the preceding sentence, such section 3(d) shall be applied by treating the term "former Indian reservations in Oklahoma" as including only lands which are within the jurisdictional area of an Oklahoma Indian tribe (as determined by the Secretary of the Interior) and are recognized by such Secretary as eligible for trust land status under 25 CFR Part 151 (as in effect on the date of the enactment of this sentence).

(7) COORDINATION WITH NONREVENUE LAWS.—Any reference in this subsection to a provision not contained in this title shall be treated for purposes of this subsection as a reference to such provision as in effect on the date of the enactment of this paragraph.

(8) TERMINATION.—This subsection shall not apply to property placed in service after December 31, 2014.

(k) SPECIAL ALLOWANCE FOR CERTAIN PROPERTY [ACQUIRED AFTER DECEMBER 31, 2007, AND BEFORE JANUARY 1, 2015].—

(1) ADDITIONAL ALLOWANCE.—In the case of any qualified property—

(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 50 percent of the adjusted basis of the qualified property, and

(B) the adjusted basis of the qualified property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

[(2) QUALIFIED PROPERTY.—For purposes of this subsection—

[(A) IN GENERAL.—The term "qualified property" means property—

[(i)(I) to which this section applies which has a recovery period of 20 years or less,

[(II) which is computer software (as defined in section 167(f)(1)(B)) for which a deduction is allowable under section 167(a) without regard to this subsection,

[(III) which is water utility property, or

[(IV) which is qualified leasehold improvement property,

[(ii) the original use of which commences with the taxpayer after December 31, 2007,

[(iii) which is—

[(I) acquired by the taxpayer after December 31, 2007, and before January 1, 2015, but only if no written binding contract for the acquisition was in effect before January 1, 2008, or

[(II) acquired by the taxpayer pursuant to a written binding contract which was entered into after December 31, 2007, and before January 1, 2015, and

⟦(iv) which is placed in service by the taxpayer before January 1, 2015, or, in the case of property described in subparagraph (B) or (C), before January 1, 2016.

⟦(B) CERTAIN PROPERTY HAVING LONGER PRODUCTION PERIODS TREATED AS QUALIFIED PROPERTY.—

⟦(i) IN GENERAL.—The term "qualified property" includes any property if such property—

⟦(I) meets the requirements of clauses (i), (ii), (iii), and (iv) of subparagraph (A),

⟦(II) has a recovery period of at least 10 years or is transportation property,

⟦(III) is subject to section 263A, and

⟦(IV) meets the requirements of clause (iii) of section 263A(f)(1)(B) (determined as if such clause also applies to property which has a long useful life (within the meaning of section 263A(f))).

⟦(ii) ONLY PRE-JANUARY 1, 2015, BASIS ELIGIBLE FOR ADDITIONAL ALLOWANCE.—In the case of property which is qualified property solely by reason of clause (i), paragraph (1) shall apply only to the extent of the adjusted basis thereof attributable to manufacture, construction, or production before January 1, 2015.

⟦(iii) TRANSPORTATION PROPERTY.—For purposes of this subparagraph, the term "transportation property" means tangible personal property used in the trade or business of transporting persons or property.

⟦(iv) APPLICATION OF SUBPARAGRAPH.—This subparagraph shall not apply to any property which is described in subparagraph (C).

⟦(C) CERTAIN AIRCRAFT.—The term "qualified property" includes property—

⟦(i) which meets the requirements of clauses (ii), (iii), and (iv) of subparagraph (A),

⟦(ii) which is an aircraft which is not a transportation property (as defined in subparagraph (B)(iii)) other than for agricultural or firefighting purposes,

⟦(iii) which is purchased and on which such purchaser, at the time of the contract for purchase, has made a nonrefundable deposit of the lesser of—

⟦(I) 10 percent of the cost, or

⟦(II) $100,000, and

⟦(iv) which has—

⟦(I) an estimated production period exceeding 4 months, and

⟦(II) a cost exceeding $200,000.

⟦(D) EXCEPTIONS.—

⟦(i) ALTERNATIVE DEPRECIATION PROPERTY.—The term "qualified property" shall not include any property to which the alternative depreciation system under subsection (g) applies, determined—

⟦(I) without regard to paragraph (7) of subsection (g) (relating to election to have system apply), and

⟦(II) after application of section 280F(b) (relating to listed property with limited business use).

⟦(ii) QUALIFIED NEW YORK LIBERTY ZONE LEASEHOLD IMPROVEMENT PROPERTY.—The term "qualified property" shall not include any qualified New York Liberty Zone leasehold improvement property (as defined in section 1400L(c)(2)).

⟦(iii) ELECTION OUT.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

⟦(E) SPECIAL RULES.—

⟦(i) SELF-CONSTRUCTED PROPERTY.—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer's own use, the requirements of clause (iii) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property after December 31, 2007, and before January 1, 2015.

⟦(ii) SALE-LEASEBACKS.—For purposes of clause (iii) and subparagraph (A)(ii), if property is—

⟦(I) originally placed in service after December 31, 2007, by a person, and

⟦(II) sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in subclause (II).

⟦(iii) SYNDICATION.—For purposes of subparagraph (A)(ii), if—

⟦(I) property is originally placed in service after December 31, 2007, by the lessor of such property,

⟦(II) such property is sold by such lessor or any subsequent purchaser within 3 months after the date such property was originally placed in service (or, in the case of multiple units of property subject to the same lease, within 3 months after the date the final unit is placed in service, so long as the period between the time the first unit is placed in service and the time the last unit is placed in service does not exceed 12 months), and

⟦(III) the user of such property after the last sale during such 3-month period remains the same as when such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date of such last sale.

⟦(iv) LIMITATIONS RELATED TO USERS AND RELATED PARTIES.—The term "qualified property" shall not include any property if—

⟦(I) the user of such property (as of the date on which such property is originally placed in service) or a person which is related (within the meaning of section 267(b) or 707(b)) to such user or to the taxpayer had a written binding contract in effect for the acquisition of such property at any time on or before December 31, 2007, or

⟦(II) in the case of property manufactured, constructed, or produced for such user's or person's own use, the manufacture, construction, or production of such property began at any time on or before December 31, 2007.

⟦(F) COORDINATION WITH SECTION 280F.—For purposes of section 280F—

⟦(i) AUTOMOBILES.—In the case of a passenger automobile (as defined in section 280F(d)(5)) which is qualified property, the Secretary shall increase the limitation under section 280F(a)(1)(A)(i) by $8,000.

⟦(ii) LISTED PROPERTY.—The deduction allowable under paragraph (1) shall be taken into account in computing any recapture amount under section 280F(b)(2).

⟦(G) DEDUCTION ALLOWED IN COMPUTING MINIMUM TAX.—For purposes of determining alternative minimum taxable income under section 55, the deduction under subsection (a) for qualified property shall be determined under this section without regard to any adjustment under section 56.

⟦(3) QUALIFIED LEASEHOLD IMPROVEMENT PROPERTY.—For purposes of this subsection—

⟦(A) IN GENERAL.—The term "qualified leasehold improvement property" means any improvement to an interior portion of a building which is nonresidential real property if—

⟦(i) such improvement is made under or pursuant to a lease (as defined in subsection (h)(7))—

⟦(I) by the lessee (or any sublessee) of such portion, or

⟦(II) by the lessor of such portion,

⟦(ii) such portion is to be occupied exclusively by the lessee (or any sublessee) of such portion, and

⟦(iii) such improvement is placed in service more than 3 years after the date the building was first placed in service.

⟦(B) CERTAIN IMPROVEMENTS NOT INCLUDED.—Such term shall not include any improvement for which the expenditure is attributable to—

⟦(i) the enlargement of the building,

⟦(ii) any elevator or escalator,

⟦(iii) any structural component benefiting a common area, and

⟦(iv) the internal structural framework of the building.

⟦(C) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

⟦(i) COMMITMENT TO LEASE TREATED AS LEASE.—A commitment to enter into a lease shall be treated as a lease, and the parties to such commitment shall be treated as lessor and lessee, respectively.

⟦(ii) RELATED PERSONS.—A lease between related persons shall not be considered a lease. For purposes of the preceding sentence, the term "related persons" means—

⟦(I) members of an affiliated group (as defined in section 1504), and

⟦(II) persons having a relationship described in subsection (b) of section 267; except that, for purposes of this clause, the phrase "80 percent or more" shall be substituted for the phrase "more than 50 percent" each place it appears in such subsection.

⟦(4) ELECTION TO ACCELERATE THE AMT AND RESEARCH CREDITS IN LIEU OF BONUS DEPRECIATION.—

⟦(A) IN GENERAL.—If a corporation elects to have this paragraph apply for the first taxable year of the taxpayer ending after March 31, 2008, in the case of such taxable year and each subsequent taxable year—

⟦(i) paragraph (1) shall not apply to any eligible qualified property placed in service by the taxpayer,

⟦(ii) the applicable depreciation method used under this section with respect to such property shall be the straight line method, and

⟦(iii) each of the limitations described in subparagraph (B) for any such taxable year shall be increased by the bonus depreciation amount which is—

⟦(I) determined for such taxable year under subparagraph (C), and

⟦(II) allocated to such limitation under subparagraph (E).

⟦(B) LIMITATIONS TO BE INCREASED.—The limitations described in this subparagraph are—

⟦(i) the limitation imposed by section 38(c), and

⟦(ii) the limitation imposed by section 53(c).

⟦(C) BONUS DEPRECIATION AMOUNT.—For purposes of this paragraph—

⟦(i) IN GENERAL.—The bonus depreciation amount for any taxable year is an amount equal to 20 percent of the excess (if any) of—

⟦(I) the aggregate amount of depreciation which would be allowed under this section for eligible qualified property placed in service by the taxpayer during such taxable year if paragraph (1) applied to all such property, over

⟦(II) the aggregate amount of depreciation which would be allowed under this section for eligible qualified property placed in service by the taxpayer during such taxable year if paragraph (1) did not apply to any such property.

The aggregate amounts determined under subclauses (I) and (II) shall be determined without regard to any election made under subsection (b)(2)(D), (b)(3)(D), or (g)(7) and without regard to subparagraph (A)(ii).

⟦(ii) MAXIMUM AMOUNT.—The bonus depreciation amount for any taxable year shall not exceed the maximum increase amount under clause (iii), reduced (but not below zero) by the sum of the bonus depreciation amounts for all preceding taxable years.

⟦(iii) MAXIMUM INCREASE AMOUNT.—For purposes of clause (ii), the term "maximum increase amount" means, with respect to any corporation, the lesser of—

⟦(I) $30,000,000, or

⟦(II) 6 percent of the sum of the business credit increase amount, and the AMT credit increase amount, determined with respect to such corporation under subparagraph (E).

⟦(iv) AGGREGATION RULE.—All corporations which are treated as a single employer under section 52(a) shall be treated—

⟦(I) as 1 taxpayer for purposes of this paragraph, and

⟦(II) as having elected the application of this paragraph if any such corporation so elects.

⟦(D) ELIGIBLE QUALIFIED PROPERTY.—For purposes of this paragraph, the term "eligible qualified property" means qualified property under paragraph (2), except that in applying paragraph (2) for purposes of this paragraph—

⟦(i) "March 31, 2008" shall be substituted for "December 31, 2007" each place it appears in subparagraph (A) and clauses (i) and (ii) of subparagraph (E) thereof,

⟦(ii) "April 1, 2008" shall be substituted for "January 1, 2008" in subparagraph (A)(iii)(I) thereof, and

⟦(iii) only adjusted basis attributable to manufacture, construction, or production—

⟦(I) after March 31, 2008, and before January 1, 2010, and

⟦(II) after December 31, 2010, and before January 1, 2015, shall be taken into account under subparagraph (B)(ii) thereof.

⟦(E) ALLOCATION OF BONUS DEPRECIATION AMOUNTS.—

⟦(i) IN GENERAL.—Subject to clauses (ii) and (iii), the taxpayer shall, at such time and in such manner as the Secretary may prescribe, specify the portion (if any) of the bonus depreciation amount for the taxable year which is to be allocated to each of the limitations described in subparagraph (B) for such taxable year.

⟦(ii) LIMITATION ON ALLOCATIONS.—The portion of the bonus depreciation amount which may be allocated under clause (i) to the limitations described in subparagraph (B) for any taxable year shall not exceed—

⟦(I) in the case of the limitation described in subparagraph (B)(i), the excess of the business credit increase amount over the bonus depreciation amount allocated to such limitation for all preceding taxable years, and

⟦(II) in the case of the limitation described in subparagraph (B)(ii), the excess of the AMT credit increase amount over the bonus depreciation amount allocated to such limitation for all preceding taxable years.

⟦(iii) BUSINESS CREDIT INCREASE AMOUNT.—For purposes of this paragraph, the term "business credit increase amount" means the amount equal to the portion of the credit allowable under section 38 (determined without regard to subsection (c) thereof) for the first taxable year ending after March 31, 2008, which is allocable to business credit carryforwards to such taxable year which are—

⟦(I) from taxable years beginning before January 1, 2006, and

⟦(II) properly allocable (determined under the rules of section 38(d)) to the research credit determined under section 41(a).

⟦(iv) AMT CREDIT INCREASE AMOUNT.—For purposes of this paragraph, the term "AMT credit increase amount" means the amount equal to the portion of the minimum tax credit under section 53(b) for the first taxable year ending after March 31, 2008, determined by taking into account only the adjusted net minimum tax for taxable years beginning before January 1, 2006. For purposes of the preceding sentence, credits shall be treated as allowed on a first-in, first- out basis.

⟦(F) CREDIT REFUNDABLE.—For purposes of section 6401(b), the aggregate increase in the credits allowable under part IV of subchapter A for any taxable year resulting from the application of this paragraph shall be treated as allowed under subpart C of such part (and not any other subpart).

⟦(G) OTHER RULES.—

⟦(i) ELECTION.—Any election under this paragraph (including any allocation under subparagraph (E)) may be revoked only with the consent of the Secretary.

⟦(ii) PARTNERSHIPS WITH ELECTING PARTNERS.—In the case of a corporation making an election under subparagraph (A) and which is a partner in a partnership, for purposes of determining such corporation's distributive share of partnership items under section 702—

⟦(I) paragraph (1) shall not apply to any eligible qualified property, and

⟦(II) the applicable depreciation method used under this section with respect to such property shall be the straight line method.

❲(iii) SPECIAL RULE FOR PASSENGER AIRCRAFT.—In the case of any passenger aircraft, the written binding contract limitation under paragraph (2)(A)(iii)(I) shall not apply for purposes of subparagraphs (C)(i)(I) and (D).

❲(H) SPECIAL RULES FOR EXTENSION PROPERTY.—

❲(i) TAXPAYERS PREVIOUSLY ELECTING ACCELERATION.—In the case of a taxpayer who made the election under subparagraph (A) for its first taxable year ending after March 31, 2008—

❲(I) the taxpayer may elect not to have this paragraph apply to extension property, but

❲(II) if the taxpayer does not make the election under subclause (I), in applying this paragraph to the taxpayer a separate bonus depreciation amount, maximum amount, and maximum increase amount shall be computed and applied to eligible qualified property which is extension property and to eligible qualified property which is not extension property.

❲(ii) TAXPAYERS NOT PREVIOUSLY ELECTING ACCELERATION.—In the case of a taxpayer who did not make the election under subparagraph (A) for its first taxable year ending after March 31, 2008—

❲(I) the taxpayer may elect to have this paragraph apply to its first taxable year ending after December 31, 2008, and each subsequent taxable year, and

❲(II) if the taxpayer makes the election under subclause (I), this paragraph shall only apply to eligible qualified property which is extension property.

❲(iii) EXTENSION PROPERTY.—For purposes of this subparagraph, the term "extension property" means property which is eligible qualified property solely by reason of the extension of the application of the special allowance under paragraph (1) pursuant to the amendments made by section 1201(a) of the American Recovery and Reinvestment Tax Act of 2009 (and the application of such extension to this paragraph pursuant to the amendment made by section 1201(b)(1) of such Act).

❲(I) SPECIAL RULES FOR ROUND 2 EXTENSION PROPERTY.—

❲(i) IN GENERAL.—In the case of round 2 extension property, this paragraph shall be applied without regard to—

❲(I) the limitation described in subparagraph (B)(i) thereof, and

❲(II) the business credit increase amount under subparagraph (E)(iii) thereof.

❲(ii) TAXPAYERS PREVIOUSLY ELECTING ACCELERATION.—In the case of a taxpayer who made the election under subparagraph (A) for its first taxable year ending after March 31, 2008, or a taxpayer who made the election under subparagraph (H)(ii) for its first taxable year ending after December 31, 2008—

[(I) the taxpayer may elect not to have this paragraph apply to round 2 extension property, but

[(II) if the taxpayer does not make the election under subclause (I), in applying this paragraph to the taxpayer the bonus depreciation amount, maximum amount, and maximum increase amount shall be computed and applied to eligible qualified property which is round 2 extension property.

The amounts described in subclause (II) shall be computed separately from any amounts computed with respect to eligible qualified property which is not round 2 extension property.

[(iii) TAXPAYERS NOT PREVIOUSLY ELECTING ACCELERATION.—In the case of a taxpayer who neither made the election under subparagraph (A) for its first taxable year ending after March 31, 2008, nor made the election under subparagraph (H)(ii) for its first taxable year ending after December 31, 2008—

[(I) the taxpayer may elect to have this paragraph apply to its first taxable year ending after December 31, 2010, and each subsequent taxable year, and

[(II) if the taxpayer makes the election under subclause (I), this paragraph shall only apply to eligible qualified property which is round 2 extension property.

[(iv) ROUND 2 EXTENSION PROPERTY.—For purposes of this subparagraph, the term "round 2 extension property" means property which is eligible qualified property solely by reason of the extension of the application of the special allowance under paragraph (1) pursuant to the amendments made by section 401(a) of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (and the application of such extension to this paragraph pursuant to the amendment made by section 401(c)(1) of such Act).

[(J) SPECIAL RULES FOR ROUND 3 EXTENSION PROPERTY.—

[(i) IN GENERAL.—In the case of round 3 extension property, this paragraph shall be applied without regard to—

[(I) the limitation described in subparagraph (B)(i) thereof, and

[(II) the business credit increase amount under subparagraph (E)(iii) thereof.

[(ii) TAXPAYERS PREVIOUSLY ELECTING ACCELERATION.—In the case of a taxpayer who made the election under subparagraph (A) for its first taxable year ending after March 31, 2008, a taxpayer who made the election under subparagraph (H)(ii) for its first taxable year ending after December 31, 2008, or a taxpayer who made the election under subparagraph (I)(iii) for its first taxable year ending after December 31, 2010—

⟦(I) the taxpayer may elect not to have this paragraph apply to round 3 extension property, but

⟦(II) if the taxpayer does not make the election under subclause (I), in applying this paragraph to the taxpayer the bonus depreciation amount, maximum amount, and maximum increase amount shall be computed and applied to eligible qualified property which is round 3 extension property.

The amounts described in subclause (II) shall be computed separately from any amounts computed with respect to eligible qualified property which is not round 3 extension property.

⟦(iii) TAXPAYERS NOT PREVIOUSLY ELECTING ACCELERATION.—In the case of a taxpayer who neither made the election under subparagraph (A) for its first taxable year ending after March 31, 2008, nor made the election under subparagraph (H)(ii) for its first taxable year ending after December 31, 2008, nor made the election under subparagraph (I)(iii) for its first taxable year ending after December 31, 2010—

⟦(I) the taxpayer may elect to have this paragraph apply to its first taxable year ending after December 31, 2012, and each subsequent taxable year, and

⟦(II) if the taxpayer makes the election under subclause (I), this paragraph shall only apply to eligible qualified property which is round 3 extension property.

⟦(iv) ROUND 3 EXTENSION PROPERTY.—For purposes of this subparagraph, the term "round 3 extension property" means property which is eligible qualified property solely by reason of the extension of the application of the special allowance under paragraph (1) pursuant to the amendments made by section 331(a) of the American Taxpayer Relief Act of 2012 (and the application of such extension to this paragraph pursuant to the amendment made by section 331(c)(1) of such Act).

⟦(K) SPECIAL RULES FOR ROUND 4 EXTENSION PROPERTY.—

⟦(i) IN GENERAL.—In the case of round 4 extension property, in applying this paragraph to any taxpayer—

⟦(I) the limitation described in subparagraph (B)(i) and the business credit increase amount under subparagraph (E)(iii) thereof shall not apply, and

⟦(II) the bonus depreciation amount, maximum amount, and maximum increase amount shall be computed separately from amounts computed with respect to eligible qualified property which is not round 4 extension property.

⟦(ii) ELECTION.—

⟦(I) A taxpayer who has an election in effect under this paragraph for round 3 extension property shall be treated as having an election in effect for round 4 extension property unless the taxpayer elects to not have this paragraph apply to round 4 extension property.

⟦(II) A taxpayer who does not have an election in effect under this paragraph for round 3 extension property may elect to have this paragraph apply to round 4 extension property.

⟦(iii) ROUND 4 EXTENSION PROPERTY.—For purposes of this subparagraph, the term 'round 4 extension property' means property which is eligible qualified property solely by reason of the extension of the application of the special allowance under paragraph (1) pursuant to the amendments made by section 125(a) of the Tax Increase Prevention Act of 2014 (and the application of such extension to this paragraph pursuant to the amendment made by section 125(c) of such Act).

⟦(5) SPECIAL RULE FOR PROPERTY ACQUIRED DURING CERTAIN PRE-2012 PERIODS.—In the case of qualified property acquired by the taxpayer (under rules similar to the rules of clauses (ii) and (iii) of paragraph (2)(A)) after September 8, 2010, and before January 1, 2012, and which is placed in service by the taxpayer before January 1, 2012 (January 1, 2013, in the case of property described in subparagraph (2)(B) or (2)(C)), paragraph (1)(A) shall be applied by substituting "100 percent" for "50 percent".⟧

(2) QUALIFIED PROPERTY.—For purposes of this subsection—

(A) IN GENERAL.—The term "qualified property" means property—

(i)(I) to which this section applies which has a recovery period of 20 years or less,

(II) which is computer software (as defined in section 167(f)(1)(B)) for which a deduction is allowable under section 167(a) without regard to this subsection,

(III) which is water utility property, or

(IV) which is qualified improvement property, and

(ii) the original use of which commences with the taxpayer.

(B) EXCEPTION FOR ALTERNATIVE DEPRECIATION PROPERTY.—The term "qualified property" shall not include any property to which the alternative depreciation system under subsection (g) applies, determined—

(i) without regard to paragraph (7) of subsection (g) (relating to election to have system apply), and

(ii) after application of section 280F(b) (relating to listed property with limited business use).

(C) SPECIAL RULES.—

(i) SALE-LEASEBACKS.—For purposes of clause (ii) and subparagraph (A)(ii), if property is—

(I) originally placed in service by a person, and

(II) sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in subclause (II).

(ii) SYNDICATION.—For purposes of subparagraph (A)(ii), if—

(I) property is originally placed in service by the lessor of such property,

(II) such property is sold by such lessor or any subsequent purchaser within 3 months after the date such property was originally placed in service (or, in the case of multiple units of property subject to the same lease, within 3 months after the date the final unit is placed in service, so long as the period between the time the first unit is placed in service and the time the last unit is placed in service does not exceed 12 months), and

(III) the user of such property after the last sale during such 3-month period remains the same as when such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date of such last sale.

(D) COORDINATION WITH SECTION 280F.—For purposes of section 280F—

(i) AUTOMOBILES.—In the case of a passenger automobile (as defined in section 280F(d)(5)) which is qualified property, the Secretary shall increase the limitation under section 280F(a)(1)(A)(i) by $8,000.

(ii) LISTED PROPERTY.—The deduction allowable under paragraph (1) shall be taken into account in computing any recapture amount under section 280F(b)(2).

(iii) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2015, the $8,000 amount in clause (i) shall be increased by an amount equal to—

(I) such dollar amount, multiplied by

(II) the automobile price inflation adjustment determined under section 280F(d)(7)(B)(i) for the calendar year in which such taxable year begins by substituting "2014" for "1987" in subclause (II) thereof.

If any increase under the preceding sentence is not a multiple of $100, such increase shall be rounded to the nearest multiple of $100.

(E) DEDUCTION ALLOWED IN COMPUTING MINIMUM TAX.—For purposes of determining alternative minimum taxable income under section 55, the deduction under section 167 for qualified property shall be determined without regard to any adjustment under section 56.

(3) QUALIFIED IMPROVEMENT PROPERTY.—For purposes of this subsection—

(A) IN GENERAL.—The term "qualified improvement property" means any improvement to an interior portion of a building which is nonresidential real property if such improvement is placed in service after the date such building was first placed in service.

(B) CERTAIN IMPROVEMENTS NOT INCLUDED.—Such term shall not include any improvement for which the expenditure is attributable to—

(i) the enlargement of the building,

(ii) any elevator or escalator, or

(iii) the internal structural framework of the building.

(4) ELECTION TO ACCELERATE AMT CREDITS IN LIEU OF BONUS DEPRECIATION.—

(A) IN GENERAL.—If a corporation elects to have this paragraph apply for any taxable year—

(i) paragraphs (1) and (2)(D) shall not apply to any qualified property placed in service during such taxable year,

(ii) the applicable depreciation method used under this section with respect to such property shall be the straight line method, and

(iii) the limitation imposed by section 53(c) for such taxable year shall be increased by the bonus depreciation amount which is determined for such taxable year under subparagraph (B).

(B) BONUS DEPRECIATION AMOUNT.—For purposes of this paragraph—

(i) IN GENERAL.—The bonus depreciation amount for any taxable year is an amount equal to 20 percent of the excess (if any) of—

(I) the aggregate amount of depreciation which would be allowed under this section for qualified property placed in service by the taxpayer during such taxable year if paragraph (1) applied to all such property (and, in the case of any such property which is a passenger automobile (as defined in section 280F(d)(5)), if paragraph (2)(D) applied to such automobile), over

(II) the aggregate amount of depreciation which would be allowed under this section for qualified property placed in service by the taxpayer during such taxable year if paragraphs (1) and (2)(D) did not apply to any such property.

The aggregate amounts determined under subclauses (I) and (II) shall be determined without regard to any election made under subparagraph (A) or subsection (b)(2)(D), (b)(3)(D), or (g)(7).

(ii) LIMITATION.—The bonus depreciation amount for any taxable year shall not exceed the lesser of—

(I) 50 percent of the minimum tax credit under section 53(b) for the first taxable year ending after December 31, 2014, or

(II) the minimum tax credit under section 53(b) for such taxable year determined by taking into account only the adjusted net minimum tax for taxable years ending before January 1, 2015 (determined by treating credits as allowed on a first-in, first-out basis).

(iii) AGGREGATION RULE.—All corporations which are treated as a single employer under section 52(a) shall be treated—

(I) as 1 taxpayer for purposes of this paragraph, and

(II) as having elected the application of this paragraph if any such corporation so elects.

(C) CREDIT REFUNDABLE.—For purposes of section 6401(b), the aggregate increase in the credits allowable under part IV of subchapter A for any taxable year resulting from the application of this paragraph shall be treated as allowed under subpart C of such part (and not any other subpart).

(D) OTHER RULES.—

(i) ELECTION.—Any election under this paragraph may be revoked only with the consent of the Secretary.

(ii) PARTNERSHIPS WITH ELECTING PARTNERS.—In the case of a corporation which is a partner in a partnership and which makes an election under subparagraph (A) for the taxable year, for purposes of determining such corporation's distributive share of partnership items under section 702 for such taxable year—

(I) paragraphs (1) and (2)(D) shall not apply to any qualified property placed in service during such taxable year, and

(II) the applicable depreciation method used under this section with respect to such property shall be the straight line method.

(iii) CERTAIN PARTNERSHIPS.—In the case of a partnership in which more than 50 percent of the capital and profits interests are owned (directly or indirectly) at all times during the taxable year by 1 corporation (or by corporations treated as 1 taxpayer under subparagraph (B)(iii)), each partner shall compute its bonus depreciation amount under clause (i) of subparagraph (B) by taking into account its distributive share of the amounts determined by the partnership under subclauses (I) and (II) of such clause for the taxable year of the partnership ending with or within the taxable year of the partner.

(5) SPECIAL RULES FOR CERTAIN PLANTS BEARING FRUITS AND NUTS.—

(A) IN GENERAL.—In the case of any specified plant which is planted, or is grafted to a plant that has already been planted, by the taxpayer in the ordinary course of the taxpayer's farming business (as defined in section 263A(e)(4)) during a taxable year for which the taxpayer has elected the application of this paragraph—

(i) a depreciation deduction equal to 50 percent of the adjusted basis of such specified plant shall be allowed under section 167(a) for the taxable year in which such specified plant is so planted or grafted, and

(ii) the adjusted basis of such specified plant shall be reduced by the amount of such deduction.

(B) SPECIFIED PLANT.—For purposes of this paragraph, the term "specified plant" means—

(i) any tree or vine which bears fruits or nuts, and

(ii) any other plant which will have more than one yield of fruits or nuts and which generally has a period of more than 2 years from the time of planting or grafting to the time at which such plant begins bearing fruits or nuts.

Such term shall not include any property which is planted or grafted outside of the United States.

(C) ELECTION REVOCABLE ONLY WITH CONSENT.—An election under this paragraph may be revoked only with the consent of the Secretary.

(D) ADDITIONAL DEPRECIATION MAY BE CLAIMED ONLY ONCE.—If this paragraph applies to any specified plant, such specified plant shall not be treated as qualified property in the taxable year in which placed in service.

(E) DEDUCTION ALLOWED IN COMPUTING MINIMUM TAX.—Rules similar to the rules of paragraph (2)(E) shall apply for purposes of this paragraph.

(6) ELECTION OUT.—If a taxpayer makes an election under this paragraph with respect to any class of property for any taxable year, paragraphs (1) and (2)(D) shall not apply to any qualified property in such class placed in service during such taxable year. An election under this paragraph may be revoked only with the consent of the Secretary.

(l) SPECIAL ALLOWANCE FOR SECOND GENERATION BIOFUEL PLANT PROPERTY.—

(1) ADDITIONAL ALLOWANCE.—In the case of any qualified second generation biofuel plant property—

(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 50 percent of the adjusted basis of such property, and

(B) the adjusted basis of such property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

(2) QUALIFIED SECOND GENERATION BIOFUEL PLANT PROPERTY.—The term "qualified second generation biofuel plant property" means property of a character subject to the allowance for depreciation—

(A) which is used in the United States solely to produce second generation biofuel (as defined in section 40(b)(6)(E)),

(B) the original use of which commences with the taxpayer after the date of the enactment of this subsection,

(C) which is acquired by the taxpayer by purchase (as defined in section 179(d)) after the date of the enactment of this subsection, but only if no written binding contract for the acquisition was in effect on or before the date of the enactment of this subsection, and

(D) which is placed in service by the taxpayer before January 1, 2015.

(3) EXCEPTIONS.—

(A) BONUS DEPRECIATION PROPERTY UNDER SUBSECTION (K).—Such term shall not include any property to which ⟦section 168(k)⟧ *subsection (k)* applies.

(B) ALTERNATIVE DEPRECIATION PROPERTY.—Such term shall not include any property described in ⟦section 168(k)(2)(D)(i)⟧ *subsection (k)(2)(B)*.

(C) TAX-EXEMPT BOND-FINANCED PROPERTY.—Such term shall not include any property any portion of which is financed with the proceeds of any obligation the interest on which is exempt from tax under section 103.

(D) ELECTION OUT.—If a taxpayer makes an election under this subparagraph with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

(4) SPECIAL RULES.—For purposes of this subsection, rules similar to the rules of ⟦subparagraph (E) of section 168(k)(2) shall apply, except that such subparagraph shall be applied— ⟧ *subsection (k)(2)(C) shall apply.*

⟦(A) by substituting "the date of the enactment of subsection (l)" for "December 31, 2007" each place it appears therein, and

⟦(B) by substituting "qualified second generation biofuel plant property" for "qualified property" in clause (iv) thereof.⟧

(5) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—For purposes of this subsection, rules similar to the rules of ⟦section 168(k)(2)(G)⟧ *subsection (k)(2)(E)* shall apply.

(6) RECAPTURE.—For purposes of this subsection, rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified second generation biofuel plant property which ceases to be qualified second generation biofuel plant property.

(7) DENIAL OF DOUBLE BENEFIT.—Paragraph (1) shall not apply to any qualified second generation biofuel plant property with respect to which an election has been made under section 179C (relating to election to expense certain refineries).

(m) SPECIAL ALLOWANCE FOR CERTAIN REUSE AND RECYCLING PROPERTY.—

(1) IN GENERAL.—In the case of any qualified reuse and recycling property—

(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 50 percent of the adjusted basis of the qualified reuse and recycling property, and

(B) the adjusted basis of the qualified reuse and recycling property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

(2) QUALIFIED REUSE AND RECYCLING PROPERTY.—For purposes of this subsection—

(A) IN GENERAL.—The term "qualified reuse and recycling property" means any reuse and recycling property—

(i) to which this section applies,

(ii) which has a useful life of at least 5 years,

(iii) the original use of which commences with the taxpayer after August 31, 2008, and

(iv) which is—

(I) acquired by purchase (as defined in section 179(d)(2)) by the taxpayer after August 31, 2008, but only if no written binding contract for the acquisition was in effect before September 1, 2008, or

(II) acquired by the taxpayer pursuant to a written binding contract which was entered into after August 31, 2008.

(B) EXCEPTIONS.—

(i) BONUS DEPRECIATION PROPERTY UNDER SUBSECTION (K).—The term "qualified reuse and recycling property" shall not include any property to which subsection (k) (determined without regard to paragraph (4) thereof) applies.

(ii) ALTERNATIVE DEPRECIATION PROPERTY.—The term "qualified reuse and recycling property" shall not include any property to which the alternative depreciation system under subsection (g) applies, determined without regard to paragraph (7) of subsection (g) (relating to election to have system apply).

(iii) ELECTION OUT.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

(C) SPECIAL RULE FOR SELF-CONSTRUCTED PROPERTY.—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer's own use, the requirements of clause (iv) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property after August 31, 2008.

(D) DEDUCTION ALLOWED IN COMPUTING MINIMUM TAX.—For purposes of determining alternative minimum taxable income under section 55, the deduction under subsection (a) for qualified reuse and recycling property shall be determined under this section without regard to any adjustment under section 56.

(3) DEFINITIONS.—For purposes of this subsection—

(A) REUSE AND RECYCLING PROPERTY.—

(i) IN GENERAL.—The term "reuse and recycling property" means any machinery and equipment (not including buildings or real estate), along with all appurtenances thereto, including software necessary to operate such equipment, which is used exclusively to collect, distribute, or recycle qualified reuse and recyclable materials.

(ii) EXCLUSION.—Such term does not include rolling stock or other equipment used to transport reuse and recyclable materials.

(B) QUALIFIED REUSE AND RECYCLABLE MATERIALS.—

(i) IN GENERAL.—The term "qualified reuse and recyclable materials" means scrap plastic, scrap glass, scrap textiles, scrap rubber, scrap packaging, recovered fiber, scrap ferrous and nonferrous metals, or electronic scrap generated by an individual or business.

(ii) ELECTRONIC SCRAP.—For purposes of clause (i), the term "electronic scrap" means—

(I) any cathode ray tube, flat panel screen, or similar video display device with a screen size greater than 4 inches measured diagonally, or

(II) any central processing unit.

(C) RECYCLING OR RECYCLE.—The term "recycling" or "recycle" means that process (including sorting) by which worn or superfluous materials are manufactured or processed into specification grade commodities that are suitable for use as a replacement or substitute for virgin materials in manufacturing tangible consumer and commercial products, including packaging.

(n) SPECIAL ALLOWANCE FOR QUALIFIED DISASTER ASSISTANCE PROPERTY.—

(1) IN GENERAL.—In the case of any qualified disaster assistance property—

(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 50 percent of the adjusted basis of the qualified disaster assistance property, and

(B) the adjusted basis of the qualified disaster assistance property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

(2) QUALIFIED DISASTER ASSISTANCE PROPERTY.—For purposes of this subsection—

(A) IN GENERAL.—The term "qualified disaster assistance property" means any property—

(i)(I) which is described in subsection (k)(2)(A)(i), or

(II) which is nonresidential real property or residential rental property,

(ii) substantially all of the use of which is—

(I) in a disaster area with respect to a federally declared disaster occurring before January 1, 2010, and

(II) in the active conduct of a trade or business by the taxpayer in such disaster area,

(iii) which—

(I) rehabilitates property damaged, or replaces property destroyed or condemned, as a result of such federally declared disaster, except that, for purposes of this clause, property shall be treated as replacing property destroyed or condemned if, as part of an integrated plan, such property replaces property which is included in a continuous area which includes real property destroyed or condemned, and

(II) is similar in nature to, and located in the same county as, the property being rehabilitated or replaced,

(iv) the original use of which in such disaster area commences with an eligible taxpayer on or after the applicable disaster date,

(v) which is acquired by such eligible taxpayer by purchase (as defined in section 179(d)) on or after the applicable disaster date, but only if no written binding contract for the acquisition was in effect before such date, and

(vi) which is placed in service by such eligible taxpayer on or before the date which is the last day of the third calendar year following the applicable disaster date (the fourth calendar year in the case of nonresidential real property and residential rental property).

(B) EXCEPTIONS.—

(i) OTHER BONUS DEPRECIATION PROPERTY.—The term "qualified disaster assistance property" shall not include—

(I) any property to which subsection (k) (determined without regard to paragraph (4)), (l), or (m) applies,

(II) any property to which section 1400N(d) applies, and

(III) any property described in section 1400N(p)(3).

(ii) ALTERNATIVE DEPRECIATION PROPERTY.—The term "qualified disaster assistance property" shall not include any property to which the alternative depreciation system under subsection (g) applies, determined without regard to paragraph (7) of subsection (g) (relating to election to have system apply).

(iii) TAX-EXEMPT BOND FINANCED PROPERTY.—Such term shall not include any property any portion of which is financed with the proceeds of any obligation the interest on which is exempt from tax under section 103.

(iv) QUALIFIED REVITALIZATION BUILDINGS.—Such term shall not include any qualified revitalization building with respect to which the taxpayer has elected the application of paragraph (1) or (2) of section 1400I(a).

(v) ELECTION OUT.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

(C) SPECIAL RULES.—For purposes of this subsection, rules similar to the rules of subparagraph (E) of subsection (k)(2) shall apply, except that such subparagraph shall be applied—

(i) by substituting "the applicable disaster date" for "December 31, 2007" each place it appears therein,

(ii) without regard to "and before January 1, 2015" in clause (i) thereof, and

(iii) by substituting "qualified disaster assistance property" for "qualified property" in clause (iv) thereof.

(D) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—For purposes of this subsection, rules similar to the rules of subsection (k)(2)(G) shall apply.

(3) OTHER DEFINITIONS.—For purposes of this subsection—

(A) APPLICABLE DISASTER DATE.—The term "applicable disaster date" means, with respect to any federally declared disaster, the date on which such federally declared disaster occurs.

(B) FEDERALLY DECLARED DISASTER.—The term "federally declared disaster" has the meaning given such term under section 165(h)(3)(C)(i).

(C) DISASTER AREA.—The term "disaster area" has the meaning given such term under section 165(h)(3)(C)(ii).

(D) ELIGIBLE TAXPAYER.—The term "eligible taxpayer" means a taxpayer who has suffered an economic loss attributable to a federally declared disaster.

(4) RECAPTURE.—For purposes of this subsection, rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified disaster assistance property which ceases to be qualified disaster assistance property.

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PART IX—ITEMS NOT DEDUCTIBLE

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SEC. 263A. CAPITALIZATION AND INCLUSION IN INVENTORY COSTS OF CERTAIN EXPENSES.

(a) NONDEDUCTIBILITY OF CERTAIN DIRECT AND INDIRECT COSTS.—

(1) IN GENERAL.—In the case of any property to which this section applies, any costs described in paragraph (2)—

(A) in the case of property which is inventory in the hands of the taxpayer, shall be included in inventory costs, and

(B) in the case of any other property, shall be capitalized.

(2) ALLOCABLE COSTS.—The costs described in this paragraph with respect to any property are—

(A) the direct costs of such property, and

(B) such property's proper share of those indirect costs (including taxes) part or all of which are allocable to such property.

Any cost which (but for this subsection) could not be taken into account in computing taxable income for any taxable year shall not be treated as a cost described in this paragraph.

(b) PROPERTY TO WHICH SECTION APPLIES.—Except as otherwise provided in this section, this section shall apply to—

(1) PROPERTY PRODUCED BY TAXPAYER.—Real or tangible personal property produced by the taxpayer.

(2) PROPERTY ACQUIRED FOR RESALE.—

(A) IN GENERAL.—Real or personal property described in section 1221(a)(1) which is acquired by the taxpayer for resale.

(B) EXCEPTION FOR TAXPAYER WITH GROSS RECEIPTS OF $10,000,000 OR LESS.—Subparagraph (A) shall not apply to any personal property acquired during any taxable year by the taxpayer for resale if the average annual gross receipts of the taxpayer (or any predecessor) for the 3-taxable year period ending with the taxable year preceding such taxable year do not exceed $10,000,000.

(C) AGGREGATION RULES, ETC..—For purposes of subparagraph (B), rules similar to the rules of paragraphs (2) and (3) of section 448(c) shall apply.

For purposes of paragraph (1), the term "tangible personal property" shall include a film, sound recording, video tape, book, or similar property.

(c) GENERAL EXCEPTIONS.—

(1) PERSONAL USE PROPERTY.—This section shall not apply to any property produced by the taxpayer for use by the taxpayer other than in a trade or business or an activity conducted for profit.

(2) RESEARCH AND EXPERIMENTAL EXPENDITURES.—This section shall not apply to any amount allowable as a deduction under section 174.

(3) CERTAIN DEVELOPMENT AND OTHER COSTS OF OIL AND GAS WELLS OR OTHER MINERAL PROPERTY.—This section shall not apply to any cost allowable as a deduction under section 167(h), 179B, 263(c), 263(i), 291(b)(2), 616, or 617.

(4) COORDINATION WITH LONG-TERM CONTRACT RULES.—This section shall not apply to any property produced by the taxpayer pursuant to a long-term contract.

(5) TIMBER AND CERTAIN ORNAMENTAL TREES.—This section shall not apply to—

(A) trees raised, harvested, or grown by the taxpayer other than trees described in clause (ii) of subsection (e)(4)(B) (after application of the last sentence thereof), and

(B) any real property underlying such trees.

(6) COORDINATION WITH SECTION 59(E).—Paragraphs (2) and (3) shall apply to any amount allowable as a deduction under section 59(e) for qualified expenditures described in subparagraphs (B), (C), (D), and (E) of paragraph (2) thereof.

(7) COORDINATION WITH SECTION 168(K)(5).—This section shall not apply to any amount allowed as a deduction by reason of section 168(k)(5) (relating to special rules for certain plants bearing fruits and nuts).

(d) EXCEPTION FOR FARMING BUSINESSES.—

(1) SECTION NOT TO APPLY TO CERTAIN PROPERTY.—

(A) IN GENERAL.—This section shall not apply to any of the following which is produced by the taxpayer in a farming business:

(i) Any animal.

(ii) Any plant which has a preproductive period of 2 years or less.

(B) EXCEPTION FOR TAXPAYERS REQUIRED TO USE ACCRUAL METHOD.—Subparagraph (A) shall not apply to any corporation, partnership, or tax shelter required to use an accrual method of accounting under section 447 or 448(a)(3).

(2) TREATMENT OF CERTAIN PLANTS LOST BY REASON OF CASUALTY.—

(A) IN GENERAL.—If plants bearing an edible crop for human consumption were lost or damaged (while in the hands of the taxpayer) by reason of freezing temperatures, disease, drought, pests, or casualty, this section shall not apply to any costs of the taxpayer of replanting plants bearing the same type of crop (whether on the same parcel of land on which such lost or damaged plants were located or any other parcel of land of the same acreage in the United States).

(B) SPECIAL RULE FOR PERSON WITH MINORITY INTEREST WHO MATERIALLY PARTICIPATES.—Subparagraph (A) shall apply to amounts paid or incurred by a person (other than the taxpayer described in subparagraph (A)) if—

(i) the taxpayer described in subparagraph (A) has an equity interest of more than 50 percent in the plants described in subparagraph (A) at all times during the taxable year in which such amounts were paid or incurred, and

(ii) such other person holds any part of the remaining equity interest and materially participates in the planting, maintenance, cultivation, or development of such the plants described in subparagraph (A) during the taxable year in which such amounts were paid or incurred.

The determination of whether an individual materially participates in any activity shall be made in a manner similar to the manner in which such determination is made under section 2032A(e)(6).

(3) ELECTION TO HAVE THIS SECTION NOT APPLY.—

(A) IN GENERAL.—If a taxpayer makes an election under this paragraph, this section shall not apply to any plant produced in any farming business carried on by such taxpayer.

(B) CERTAIN PERSONS NOT ELIGIBLE.—No election may be made under this paragraph by a corporation, partnership, or tax shelter, if such corporation, partnership, or tax shelter is required to use an accrual method of accounting under section 447 or 448(a)(3).

(C) SPECIAL RULE FOR CITRUS AND ALMOND GROWERS.—An election under this paragraph shall not apply with respect to any item which is attributable to the planting, cultivation, maintenance, or development of any citrus or almond grove (or part thereof) and which is incurred before the close of the 4th taxable year beginning with the taxable year in which the trees were planted. For purposes of the preceding sentence, the portion of a citrus or almond grove planted in 1 taxable year shall be treated separately from the portion of such grove planted in another taxable year.

(D) ELECTION.—Unless the Secretary otherwise consents, an election under this paragraph may be made only for the taxpayer's 1st taxable year which begins after December 31, 1986, and during which the taxpayer engages in a farming business. Any such election, once made, may be revoked only with the consent of the Secretary.

(e) DEFINITIONS AND SPECIAL RULES FOR PURPOSES OF SUBSECTION (D)

(1) RECAPTURE OF EXPENSED AMOUNTS ON DISPOSITION.—

(A) IN GENERAL.—In the case of any plant with respect to which amounts would have been capitalized under subsection (a) but for an election under subsection (d)(3)—

(i) such plant (if not otherwise section 1245 property) shall be treated as section 1245 property, and

(ii) for purposes of section 1245, the recapture amount shall be treated as a deduction allowed for depreciation with respect to such property.

(B) RECAPTURE AMOUNT.—For purposes of subparagraph (A), the term "recapture amount" means any amount allowable as a deduction to the taxpayer which, but for an election under subsection (d)(3), would have been capitalized with respect to the plant.

(2) EFFECTS OF ELECTION ON DEPRECIATION.—

(A) IN GENERAL.—If the taxpayer (or any related person) makes an election under subsection (d)(3), the provisions of section 168(g)(2) (relating to alternative depreciation) shall apply to all property of the taxpayer used predominantly in the farming business and placed in service in any taxable year during which any such election is in effect.

(B) RELATED PERSON.—For purposes of subparagraph (A), the term "related person" means—

(i) the taxpayer and members of the taxpayer's family,

(ii) any corporation (including an S corporation) if 50 percent or more (in value) of the stock of such corporation is owned (directly or through the application of section 318) by the taxpayer or members of the taxpayer's family,

(iii) a corporation and any other corporation which is a member of the same controlled group described in section 1563(a)(1), and

(iv) any partnership if 50 percent or more (in value) of the interests in such partnership is owned directly or indirectly by the taxpayer or members of the taxpayer's family.

(C) MEMBERS OF FAMILY.—For purposes of this paragraph, the term "family" means the taxpayer, the spouse of the taxpayer, and any of their children who have not attained age 18 before the close of the taxable year.

(3) PREPRODUCTIVE PERIOD.—

(A) IN GENERAL.—For purposes of this section, the term "preproductive period" means—

(i) in the case of a plant which will have more than 1 crop or yield, the period before the 1st marketable crop or yield from such plant, or

(ii) in the case of any other plant, the period before such plant is reasonably expected to be disposed of.

For purposes of this subparagraph, use by the taxpayer in a farming business of any supply produced in such business shall be treated as a disposition.

(B) RULE FOR DETERMINING PERIOD.—In the case of a plant grown in commercial quantities in the United States, the preproductive period for such plant if grown in the United States shall be based on the nationwide weighted average preproductive period for such plant.

(4) FARMING BUSINESS.—For purposes of this section—

(A) IN GENERAL.—The term "farming business" means the trade or business of farming.

(B) CERTAIN TRADES AND BUSINESSES INCLUDED.—The term "farming business" shall include the trade or business of—

(i) operating a nursery or sod farm, or

(ii) the raising or harvesting of trees bearing fruit, nuts, or other crops, or ornamental trees.

For purposes of clause (ii), an evergreen tree which is more than 6 years old at the time severed from the roots shall not be treated as an ornamental tree.

(5) CERTAIN INVENTORY VALUATION METHODS PERMITTED.—The Secretary shall by regulations permit the taxpayer to use reasonable inventory valuation methods to compute the amount required to be capitalized under subsection (a) in the case of any plant.

(f) SPECIAL RULES FOR ALLOCATION OF INTEREST TO PROPERTY PRODUCED BY THE TAXPAYER.—

(1) INTEREST CAPITALIZED ONLY IN CERTAIN CASES.—Subsection (a) shall only apply to interest costs which are—

(A) paid or incurred during the production period, and

(B) allocable to property which is described in subsection (b)(1) and which has—

(i) a long useful life,

(ii) an estimated production period exceeding 2 years, or

(iii) an estimated production period exceeding 1 year and a cost exceeding $1,000,000.

(2) ALLOCATION RULES.—

(A) IN GENERAL.—In determining the amount of interest required to be capitalized under subsection (a) with respect to any property—

(i) interest on any indebtedness directly attributable to production expenditures with respect to such property shall be assigned to such property, and

(ii) interest on any other indebtedness shall be assigned to such property to the extent that the taxpayer's interest costs could have been reduced if production expenditures (not attributable to indebtedness described in clause (i)) had not been incurred.

(B) EXCEPTION FOR QUALIFIED RESIDENCE INTEREST.—Subparagraph (A) shall not apply to any qualified residence interest (within the meaning of section 163(h)).

(C) SPECIAL RULE FOR FLOW-THROUGH ENTITIES.—Except as provided in regulations, in the case of any flow-through entity, this paragraph shall be applied first at the entity level and then at the beneficiary level.

(3) INTEREST RELATING TO PROPERTY USED TO PRODUCE PROPERTY.—This subsection shall apply to any interest on indebtedness allocable (as determined under paragraph (2)) to property used to produce property to which this subsection applies to the extent such interest is allocable (as so determined) to the produced property.

(4) DEFINITIONS.—For purposes of this subsection—

(A) LONG USEFUL LIFE.—Property has a long useful life if such property is—

(i) real property, or

(ii) property with a class life of 20 years or more (as determined under section 168).

(B) PRODUCTION PERIOD.—The term "production period" means, when used with respect to any property, the period—

(i) beginning on the date on which production of the property begins, and

(ii) ending on the date on which the property is ready to be placed in service or is ready to be held for sale.

(C) PRODUCTION EXPENDITURES.—The term "production expenditures" means the costs (whether or not incurred during the production period) required to be capitalized under subsection (a) with respect to the property.

(g) PRODUCTION.—For purposes of this section—

(1) IN GENERAL.—The term "produce" includes construct, build, install, manufacture, develop, or improve.

(2) TREATMENT OF PROPERTY PRODUCED UNDER CONTRACT FOR THE TAXPAYER.—The taxpayer shall be treated as producing any property produced for the taxpayer under a contract with the taxpayer; except that only costs paid or incurred by the taxpayer (whether under such contract or otherwise) shall be taken into account in applying subsection (a) to the taxpayer.

(h) EXEMPTION FOR FREE LANCE AUTHORS, PHOTOGRAPHERS, AND ARTISTS.—

(1) IN GENERAL.—Nothing in this section shall require the capitalization of any qualified creative expense.

(2) QUALIFIED CREATIVE EXPENSE.—For purposes of this subsection, the term "qualified creative expense" means any expense—

(A) which is paid or incurred by an individual in the trade or business of such individual (other than as an employee) of being a writer, photographer, or artist, and

(B) which, without regard to this section, would be allowable as a deduction for the taxable year.

Such term does not include any expense related to printing, photographic plates, motion picture films, video tapes, or similar items.

(3) DEFINITIONS.—For purposes of this subsection—

(A) WRITER.—The term "writer" means any individual if the personal efforts of such individual create (or may reasonably be expected to create) a literary manuscript, musical composition (including any accompanying words), or dance score.

(B) PHOTOGRAPHER.—The term "photographer" means any individual if the personal efforts of such individual create (or may reasonably be expected to create) a photograph or photographic negative or transparency.

(C) ARTIST.—

(i) IN GENERAL.—The term "artist" means any individual if the personal efforts of such individual create (or may reasonably be expected to create) a picture, painting, sculpture, statue, etching, drawing, cartoon, graphic design, or original print edition.

(ii) CRITERIA.—In determining whether any expense is paid or incurred in the trade or business of being an artist, the following criteria shall be taken into account:

(I) The originality and uniqueness of the item created (or to be created).

(II) The predominance of aesthetic value over utilitarian value of the item created (or to be created).

(D) TREATMENT OF CERTAIN CORPORATIONS.—

(i) IN GENERAL.—If—

(I) substantially all of the stock of a corporation is owned by a qualified employee-owner and members of his family (as defined in section 267(c)(4)), and

(II) the principal activity of such corporation is performance of personal services directly related to the activities of the qualified employee-owner and such services are substantially performed by the qualified employee-owner,

this subsection shall apply to any expense of such corporation which directly relates to the activities of such employee-owner in the same manner as if such expense were incurred by such employee-owner.

(ii) QUALIFIED EMPLOYEE-OWNER.—For purposes of this subparagraph, the term "qualified employee-owner" means any individual who is an employee-owner of the corporation (as defined in section 269A(b)(2)) and who is a writer, photographer, or artist.

(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including—

(1) regulations to prevent the use of related parties, pass-thru entities, or intermediaries to avoid the application of this section, and

(2) regulations providing for simplified procedures for the application of this section in the case of property described in subsection (b)(2).

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Subchapter E—Accounting Periods and Methods of Accounting

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PART II—METHODS OF ACCOUNTING

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Subpart B—Taxable Year for Which Items of Gross Income Included

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SEC. 460. SPECIAL RULES FOR LONG-TERM CONTRACTS.

(a) REQUIREMENT THAT PERCENTAGE OF COMPLETION METHOD BE USED.—In the case of any long-term contract, the taxable income from such contract shall be determined under the percentage of completion method (as modified by subsection (b)).

(b) PERCENTAGE OF COMPLETION METHOD.—

(1) REQUIREMENTS OF PERCENTAGE OF COMPLETION METHOD.—Except as provided in paragraph (3), in the case of any long-term contract with respect to which the percentage of completion method is used—

(A) the percentage of completion shall be determined by comparing costs allocated to the contract under subsection (c) and incurred before the close of the taxable year with the estimated total contract costs, and

(B) upon completion of the contract (or, with respect to any amount properly taken into account after completion of the contract, when such amount is so properly taken into account), the taxpayer shall pay (or shall be entitled to receive) interest computed under the look-back method of paragraph (2).

In the case of any long-term contract with respect to which the percentage of completion method is used, except for purposes of applying the look-back method of paragraph (2), any income under the contract (to the extent not previously includible in gross income) shall be included in gross income for the taxable year following the taxable year in which the contract was completed. For purposes of subtitle F (other than sections 6654 and 6655), any interest required to be paid by the taxpayer under subparagraph (B) shall be treated as an increase in the tax imposed by this chapter for the taxable year in which the contract is completed (or, in the case of interest payable with respect to any amount properly taken into account after completion of the contract, for the taxable year in which the amount is so properly taken into account).

(2) LOOK-BACK METHOD.—The interest computed under the look-back method of this paragraph shall be determined by—

(A) first allocating income under the contract among taxable years before the year in which the contract is completed on the basis of the actual contract price and costs instead of the estimated contract price and costs,

(B) second, determining (solely for purposes of computing such interest) the overpayment or underpayment of tax for each taxable year referred to in subparagraph (A) which would result solely from the application of subparagraph (A), and

(C) then using the adjusted overpayment rate (as defined in paragraph (7)), compounded daily, on the overpayment or underpayment determined under subparagraph (B).

For purposes of the preceding sentence, any amount properly taken into account after completion of the contract shall be taken into account by discounting (using the Federal mid-term rate determined under section 1274(d) as of the time such amount was properly taken into account) such amount to its value as of the completion of the contract. The taxpayer may elect with respect to any contract to have the preceding sentence not apply to such contract.

(3) SPECIAL RULES.—

(A) SIMPLIFIED METHOD OF COST ALLOCATION.—In the case of any long-term contract, the Secretary may prescribe a simplified procedure for allocation of costs to such contract in lieu of the method of allocation under subsection (c).

(B) LOOK-BACK METHOD NOT TO APPLY TO CERTAIN CONTRACTS.—Paragraph (1)(B) shall not apply to any contract—

(i) the gross price of which (as of the completion of the contract) does not exceed the lesser of—

(I) $1,000,000, or

(II) 1 percent of the average annual gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the contract was completed, and

(ii) which is completed within 2 years of the contract commencement date.

For purposes of this subparagraph, rules similar to the rules of subsections (e)(2) and (f)(3) shall apply.

(4) SIMPLIFIED LOOK-BACK METHOD FOR PASS-THRU ENTITIES.—

(A) IN GENERAL.—In the case of a pass-thru entity—

(i) the look-back method of paragraph (2) shall be applied at the entity level,

(ii) in determining overpayments and underpayments for purposes of applying paragraph (2)(B)—

(I) any increase in the income under the contract for any taxable year by reason of the allocation under paragraph (2)(A) shall be treated as giving rise to an underpayment determined by applying the highest rate for such year to such increase, and

(II) any decrease in such income for any taxable year by reason of such allocation shall be treated as giving rise to an overpayment determined by applying the highest rate for such year to such decrease, and

(iii) any interest required to be paid by the taxpayer under paragraph (2) shall be paid by such entity (and any interest entitled to be received by the taxpayer under paragraph (2) shall be paid to such entity).

(B) EXCEPTIONS.—

(i) CLOSELY HELD PASS-THRU ENTITIES.—This paragraph shall not apply to any closely held pass-thru entity.

(ii) FOREIGN CONTRACTS.—This paragraph shall not apply to any contract unless substantially all of the income from such contract is from sources in the United States.

(C) OTHER DEFINITIONS.—For purposes of this paragraph—

(i) HIGHEST RATE.—The term “highest rate” means—

(I) the highest rate of tax specified in section 11, or

(II) if at all times during the year involved more than 50 percent of the interests in the entity are held by individuals directly or through 1 or more other pass-thru entities, the highest rate of tax specified in section 1.

(ii) PASS-THRU ENTITY.—The term “pass-thru entity” means any—

(I) partnership,

(II) S corporation, or

(III) trust.

(iii) CLOSELY HELD PASS-THRU ENTITY.—The term “closely held pass-thru entity” means any pass-thru entity if, at any time during any taxable year for which there is income under the contract, 50 percent or more (by value) of the beneficial interests in such entity are held (directly or indirectly) by or for 5 or fewer persons. For purposes of the preceding sentence, rules similar to the constructive ownership rules of section 1563(e) shall apply.

(5) ELECTION TO USE 10-PERCENT METHOD.—

(A) GENERAL RULE.—In the case of any long-term contract with respect to which an election under this paragraph is in effect, the 10-percent method shall apply in determining the taxable income from such contract.

(B) 10-PERCENT METHOD.—For purposes of this paragraph—

(i) IN GENERAL.—The 10-percent method is the percentage of completion method, modified so that any item which would otherwise be taken into account in computing taxable income with respect to a contract for any taxable year before the 10-percent year is taken into account in the 10-percent year.

(ii) 10-PERCENT YEAR.—The term "10-percent year" means the 1st taxable year as of the close of which at least 10 percent of the estimated total contract costs have been incurred.

(C) ELECTION.—An election under this paragraph shall apply to all long-term contracts of the taxpayer which are entered into during the taxable year in which the election is made or any subsequent taxable year.

(D) COORDINATION WITH OTHER PROVISIONS.—

(i) SIMPLIFIED METHOD OF COST ALLOCATION.—This paragraph shall not apply to any taxpayer which uses a simplified procedure for allocation of costs under paragraph (3)(A).

(ii) LOOK-BACK METHOD.—The 10-percent method shall be taken into account for purposes of applying the look-back method of paragraph (2) to any taxpayer making an election under this paragraph.

(6) ELECTION TO HAVE LOOK-BACK METHOD NOT APPLY IN DE MINIMIS CASES.—

(A) AMOUNTS TAKEN INTO ACCOUNT AFTER COMPLETION OF CONTRACT.—Paragraph (1)(B) shall not apply with respect to any taxable year (beginning after the taxable year in which the contract is completed) if—

(i) the cumulative taxable income (or loss) under the contract as of the close of such taxable year, is within

(ii) 10 percent of the cumulative look-back taxable income (or loss) under the contract as of the close of the most recent taxable year to which paragraph (1)(B) applied (or would have applied but for subparagraph (B)).

(B) DE MINIMIS DISCREPANCIES.—Paragraph (1)(B) shall not apply in any case to which it would otherwise apply if—

(i) the cumulative taxable income (or loss) under the contract as of the close of each prior contract year, is within

(ii) 10 percent of the cumulative look-back income (or loss) under the contract as of the close of such prior contract year.

(C) DEFINITIONS.—For purposes of this paragraph—

(i) CONTRACT YEAR.—The term "contract year" means any taxable year for which income is taken into account under the contract.

(ii) LOOK-BACK INCOME OR LOSS.—The look-back income (or loss) is the amount which would be the taxable income (or loss) under the contract if the allocation method set forth in paragraph (2)(A) were used in determining taxable income.

(iii) DISCOUNTING NOT APPLICABLE.—The amounts taken into account after the completion of the contract shall be determined without regard to any discounting under the 2nd sentence of paragraph (2).

(D) CONTRACTS TO WHICH PARAGRAPH APPLIES.—This paragraph shall only apply if the taxpayer makes an election under this subparagraph. Unless revoked with the consent of the Secretary, such an election shall apply to all long-term contracts completed during the taxable year for which election is made or during any subsequent taxable year.

(7) ADJUSTED OVERPAYMENT RATE.—

(A) IN GENERAL.—The adjusted overpayment rate for any interest accrual period is the overpayment rate in effect under section 6621 for the calendar quarter in which such interest accrual period begins.

(B) INTEREST ACCRUAL PERIOD.—For purposes of subparagraph (A), the term "interest accrual period" means the period—

(i) beginning on the day after the return due date for any taxable year of the taxpayer, and

(ii) ending on the return due date for the following taxable year.

For purposes of the preceding sentence, the term "return due date" means the date prescribed for filing the return of the tax imposed by this chapter (determined without regard to extensions).

(c) ALLOCATION OF COSTS TO CONTRACT.—

(1) DIRECT AND CERTAIN INDIRECT COSTS.—In the case of a long-term contract, all costs (including research and experimental costs) which directly benefit, or are incurred by reason of, the long-term contract activities of the taxpayer shall be allocated to such contract in the same manner as costs are allocated to extended period long-term contracts under section 451 and the regulations thereunder.

(2) COSTS IDENTIFIED UNDER COST-PLUS AND CERTAIN FEDERAL CONTRACTS.—In the case of a cost-plus long-term contract or a Federal long-term contract, any cost not allocated to such contract under paragraph (1) shall be allocated to such contract if such cost is identified by the taxpayer (or a related person), pursuant to the contract or Federal, State, or local law or regulation, as being attributable to such contract.

(3) ALLOCATION OF PRODUCTION PERIOD INTEREST TO CONTRACT.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), in the case of a long-term contract, interest costs shall be allocated to the contract in the same manner as interest costs are allocated to property produced by the taxpayer under section 263A(f).

(B) PRODUCTION PERIOD.—In applying section 263A(f) for purposes of subparagraph (A), the production period shall be the period—

(i) beginning on the later of—

(I) the contract commencement date, or

(II) in the case of a taxpayer who uses an accrual method with respect to long-term contracts, the date by which at least 5 percent of the total estimated costs (including design and planning costs) under the contract have been incurred, and

(ii) ending on the contract completion date.

(C) APPLICATION OF DE MINIMIS RULE.—In applying section 263A(f) for purposes of subparagraph (A), paragraph (1)(B)(iii) of such section shall be applied on a contract-by-contract basis; except that, in the case of a taxpayer described in subparagraph (B)(i)(II) of this paragraph, paragraph (1)(B)(iii) of section 263A(f) shall be applied on a property-by-property basis.

(4) CERTAIN COSTS NOT INCLUDED.—This subsection shall not apply to any—

(A) independent research and development expenses,

(B) expenses for unsuccessful bids and proposals, and

(C) marketing, selling, and advertising expenses.

(5) INDEPENDENT RESEARCH AND DEVELOPMENT EXPENSES.—For purposes of paragraph (4), the term "independent research and development expenses" means any expenses incurred in the performance of research or development, except that such term shall not include—

(A) any expenses which are directly attributable to a long-term contract in existence when such expenses are incurred, or

(B) any expenses under an agreement to perform research or development.

(6) SPECIAL RULE FOR ALLOCATION OF BONUS DEPRECIATION WITH RESPECT TO CERTAIN PROPERTY.—

(A) IN GENERAL.—Solely for purposes of determining the percentage of completion under subsection (b)(1)(A), the cost of qualified property shall be taken into account as a cost allocated to the contract as if subsection (k) of section 168 had not been enacted.

(B) QUALIFIED PROPERTY.—For purposes of this paragraph, the term "qualified property" means property described in section 168(k)(2) [which—] *which has a recovery period of 7 years or less.*

[(i) has a recovery period of 7 years or less, and

[(ii) is placed in service after December 31, 2009, and before January 1, 2011 (January 1, 2012, in the case of property described in section 168(k)(2)(B)), or after December 31, 2012, and before January 1, 2015 (January 1, 2016, in the case of property described in section 168(k)(2)(B)).]

(d) FEDERAL LONG-TERM CONTRACT.—For purposes of this section—

(1) IN GENERAL.—The term "Federal long-term contract" means any long-term contract—

(A) to which the United States (or any agency or instrumentality thereof) is a party, or

(B) which is a subcontract under a contract described in subparagraph (A).

(2) SPECIAL RULES FOR CERTAIN TAXABLE ENTITIES.—For purposes of paragraph (1), the rules of section 168(h)(2)(D) (relating to certain taxable entities not treated as instrumentalities) shall apply.

(e) EXCEPTION FOR CERTAIN CONSTRUCTION CONTRACTS.—

(1) IN GENERAL.—Subsections (a), (b), and (c)(1) and (2) shall not apply to—

(A) any home construction contract, or

(B) any other construction contract entered into by a taxpayer—

(i) who estimates (at the time such contract is entered into) that such contract will be completed within the 2-year period beginning on the contract commencement date of such contract, and

(ii) whose average annual gross receipts for the 3 taxable years preceding the taxable year in which such contract is entered into do not exceed $10,000,000.

In the case of a home construction contract with respect to which the requirements of clauses (i) and (ii) of subparagraph (B) are not met, section 263A shall apply notwithstanding subsection (c)(4) thereof.

(2) DETERMINATION OF TAXPAYER'S GROSS RECEIPTS.—For purposes of paragraph (1), the gross receipts of—

(A) all trades or businesses (whether or not incorporated) which are under common control with the taxpayer (within the meaning of section 52(b)),

(B) all members of any controlled group of corporations of which the taxpayer is a member, and

(C) any predecessor of the taxpayer or a person described in subparagraph (A) or (B),

for the 3 taxable years of such persons preceding the taxable year in which the contract described in paragraph (1) is entered into shall be included in the gross receipts of the taxpayer for the period described in paragraph (1)(B). The Secretary shall prescribe regulations which provide attribution rules that take into account, in addition to the persons and entities described in the preceding sentence, taxpayers who engage in construction contracts through partnerships, joint ventures, and corporations.

(3) CONTROLLED GROUP OF CORPORATIONS.—For purposes of this subsection, the term "controlled group of corporations" has the meaning given to such term by section 1563(a), except that—

(A) "more than 50 percent" shall be substituted for "at least 80 percent" each place it appears in section 1563(a)(1), and

(B) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

(4) CONSTRUCTION CONTRACT.—For purposes of this subsection, the term "construction contract" means any contract for the building, construction, reconstruction, or rehabilitation of, or the installation of any integral component to, or improvements of, real property.

(5) SPECIAL RULE FOR RESIDENTIAL CONSTRUCTION CONTRACTS WHICH ARE NOT HOME CONSTRUCTION CONTRACTS.—In the case of any residential construction contract which is not a home construction contract, subsection (a) (as in effect on the day before the date of the enactment of the Revenue Reconcili-

ation Act of 1989) shall apply except that such subsection shall be applied—

(A) by substituting "70 percent" for "90 percent" each place it appears, and

(B) by substituting "30 percent" for "10 percent".

(6) DEFINITIONS RELATING TO RESIDENTIAL CONSTRUCTION CONTRACTS.—For purposes of this subsection—

(A) HOME CONSTRUCTION CONTRACT.—The term "home construction contract" means any construction contract if 80 percent or more of the estimated total contract costs (as of the close of the taxable year in which the contract was entered into) are reasonably expected to be attributable to activities referred to in paragraph (4) with respect to—

(i) dwelling units (as defined in section 168(e)(2)(A)(ii)) contained in buildings containing 4 or fewer dwelling units (as so defined), and

(ii) improvements to real property directly related to such dwelling units and located on the site of such dwelling units.

For purposes of clause (i), each townhouse or rowhouse shall be treated as a separate building.

(B) RESIDENTIAL CONSTRUCTION CONTRACT.—The term "residential construction contract" means any contract which would be described in subparagraph (A) if clause (i) of such subparagraph reads as follows:

(i) dwelling units (as defined in section 168(e)(2)(A)(ii)), and".

(f) LONG-TERM CONTRACT.—For purposes of this section—

(1) IN GENERAL.—The term "long-term contract" means any contract for the manufacture, building, installation, or construction of property if such contract is not completed within the taxable year in which such contract is entered into.

(2) SPECIAL RULE FOR MANUFACTURING CONTRACTS.—A contract for the manufacture of property shall not be treated as a long-term contract unless such contract involves the manufacture of—

(A) any unique item of a type which is not normally included in the finished goods inventory of the taxpayer, or

(B) any item which normally requires more than 12 calendar months to complete (without regard to the period of the contract).

(3) AGGREGATION, ETC..—For purposes of this subsection, under regulations prescribed by the Secretary—

(A) 2 or more contracts which are interdependent (by reason of pricing or otherwise) may be treated as 1 contract, and

(B) a contract which is properly treated as an aggregation of separate contracts may be so treated.

(g) CONTRACT COMMENCEMENT DATE.—For purposes of this section, the term "contract commencement date" means, with respect to any contract, the first date on which any costs (other than bidding expenses or expenses incurred in connection with negotiating the contract) allocable to such contract are incurred.

(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations to prevent the use of related parties, pass-thru entities, intermediaries, options, or other similar arrangements to avoid the application of this section.

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VII. DISSENTING VIEWS

DISSENTING VIEWS ON H.R. 2510

The five permanent, unpaid-for tax extender bills approved by the Republicans at the markup would add more than $411 billion to the deficit. Combined with the eleven tax bills that were approved by the Republicans in previous markups this Congress, these sixteen tax bills would add more than $1 trillion to the deficit. In the 113th Congress, Ways and Means Committee Republicans selectively approved fourteen of the more than fifty expired tax provisions, totaling more than $825 billion worth of deficit-financed, permanent tax cuts. This selective approach failed last Congress, with none of these permanent provisions being enacted into law. The bills marked up by the Committee set us down a partisan path, when we should be working in a responsible, bipartisan manner on tax reform.

Even though a number of these bills were introduced individually with some bipartisan support, our opposition to these bills is based on the position that these tax provisions should not be made permanent without any revenue offset. The fiscally irresponsible approach that the Committee Republicans are taking with respect to this and other legislation undermines the bipartisan support that some of the provisions enjoy. In fact, this provision was repealed in the Republican tax reform plan (H.R. 1) introduced by the Ways and Means Committee Chairman last Congress. The cost of making this provision permanent should be offset, and Republicans should stop playing games by passing these provisions outside of comprehensive tax reform. The American people expect a tax code that maintains and supports our shared priorities, and each time the Committee considers these bills in a piecemeal approach, it is taking a step in the wrong direction and away from comprehensive tax reform.

We all support provisions that help America's businesses grow. However, with respect to bonus depreciation, this bill would make permanent a provision that was intended to be temporary. As stated by the Congressional Research Service (CRS) in *Bonus Depreciation: Economic and Budgetary Issues* (March 24, 2014), bonus depreciation 'was enacted for a specific, short-term purpose: to provide an economic stimulus during the recession.' CRS explained: 'A temporary investment subsidy was expected to be more effective than a permanent one for short-term stimulus, encouraging firms to invest while the benefit was in place. *Its temporary nature is critical to its effectiveness*.' (Emphasis added.) The temporary nature of this provision is further supported by the history of bonus depreciation over the last decade. It was enacted during the recession at the beginning of the last decade before being allowed to expire in 2005 as the economy improved. In 2008, as a new, deeper recession took hold, the policy was put in place again.

Expired provisions must be dealt with in a comprehensive manner. The Republicans did not take up other tax extenders that also are important to Democratic Committee Members. Left to an uncertain fate are provisions like the Work Opportunity Tax Credit, the New Markets Tax Credit, and the renewable energy tax credits, as well as the long-term status of the Earned Income Tax Credit, the Child Tax Credit, and the American Opportunity Tax Credit.

SANDER M. LEVIN,
Ranking Member.