

December 31st testing date, S<sub>2</sub> thus was a member of the P group for more than one-half of the number of days of its tax year ending on July 31, 2007, which days proceeded December 31st, 2007 (120 days (January 1–April 30 of 2007) out of 211 days (January 1–July 30 of 2007)). The allocation of the 15 percent tax-bracket amount to the P group members is determined in the same manner as in Example 2 and, therefore, the bracket amounts allocated to P, S<sub>1</sub>, S<sub>2</sub> and S<sub>3</sub> are the same as determined in Example 2. The allocation of the bracket amounts would be the same if, at the time P sold all of the S<sub>2</sub> stock, the parties had made a section 338(h)(10) election.

**Example 4. Short tax year including a December 31st date.** Corporation X owns all of the stock of corporations Y and Z. X, Y and Z each file separate returns. X and Y are on a calendar tax year and Z is on a fiscal tax year beginning October 1 and ending September 30. On January 2, 2007, Z liquidates. Because Z's final tax year (beginning on October 1, 2006 and ending on January 2, 2007) includes a December 31st date, that is, December 31, 2006, it is therefore not subject to the short taxable year rule provided by section 1561(b) and paragraph (e) of this section. Accordingly, Z is a component member of the X–Y–Z group, for the group's December 31st, 2006 testing date. Thus, the rules of this paragraph (e) do not limit the amount of any of the tax-benefit items of section 1561(a) available to Z or to this controlled group.

(f) *Effective/applicability date.* This section applies to any tax year beginning on or after December 21, 2009. However, taxpayers may apply this section to any Federal income tax return filed on or after December 21, 2009. For tax years beginning before December 21, 2009, see § 1.1561–2T as contained in 26 CFR part 1 in effect on April 1, 2009.

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[TD 9564]

RIN 1545–BJ93

#### Guidance Regarding Deduction and Capitalization of Expenditures Related to Tangible Property: Correction

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Temporary regulations; correcting amendment.

**SUMMARY:** This document contains correcting amendments to temporary regulations (TD 9564), which were published in the **Federal Register** relating to guidance regarding deduction and capitalization of expenditures related to tangible property.

**DATES:** *Effective Date:* March 28, 2012.

**FOR FURTHER INFORMATION CONTACT:** Merrill D. Feldstein (202) 622–4950 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

The temporary regulations that are the subject of these corrections are under sections 162, 167, 168, and 263 of the Internal Revenue Code.

##### Need for Correction

As published on December 27, 2011 (76 FR 81060), the temporary regulations (TD 9564), contain errors which may prove to be misleading and are in need of clarification.

##### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Accordingly, 26 CFR Part 1 is corrected by making the following correcting amendments:

#### PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

■ **Par. 2.** Section 1.162–3 is revised to read as follows:

##### § 1.162–3 Materials and Supplies

(a) through (k) [Reserved]. For further guidance, see § 1.163–3T(a) through (k).

■ **Par. 2.** Section 1.162–3T is amended by:

- 1. Revising the third sentence of paragraph (d)(3).
- 2. Redesignating paragraphs (i) and (j) as (j) and (k), respectively.
- 3. Redesignating the second paragraph (h), “Accounting method changes” as paragraph (i).
- 4. In newly redesignated paragraph (j) the second sentence is revised.

The revisions read as follows:

##### § 1.162–3T Materials and supplies (temporary).

\* \* \* \* \*

(d) \* \* \*

(3) \* \* \* See § 1.263(a)–2T for the treatment of amounts paid to acquire or produce real or personal tangible property. \* \* \*

\* \* \* \* \*

(j) \* \* \* However, a taxpayer may apply § 1.162–3T(e) (the optional method of accounting for rotatable and temporary spare parts) to taxable years beginning on or after January 1, 2012. \* \* \*

\* \* \* \* \*

■ **Par. 3.** Section 1.168(i)–1T is amended by:

■ 1. In paragraph (e)(3)(ii)(B), redesignating *Example 2(iii)* as *Example 2(ii)*.

■ 2. Adding a new sentence at the end of paragraph (m)(2).

The addition reads as follows:

##### § 1.168(i)–1T General asset accounts (temporary).

\* \* \* \* \*

(m) \* \* \*

(2) \* \* \* This paragraph (m)(2) does not apply to a change to comply with paragraph (e)(3)(ii), (e)(3)(iii) or paragraph (l) of this section.

\* \* \* \* \*

■ **Par. 4.** Section 1.168(i)–8T is amended by:

■ 1. Redesignating the second paragraph (c)(4)(ii)(E) as paragraph (c)(4)(ii)(F).

■ 2. Revising the first sentence of paragraph (g)(3).

The revision reads as follows:

##### § 1.168(i)–8T Dispositions of MACRS property (temporary).

\* \* \* \* \*

(g) \* \* \*

(3) \* \* \* This paragraph (g)(3) applies only to a taxpayer that uses a reasonable, consistent method to treat each of the asset's components as the asset in accordance with paragraph (c)(4)(ii)(F) of this section. \* \* \*

\* \* \* \* \*

■ **Par. 5.** Section 1.263(a)–2T is amended by:

■ 1. Revising the eighth sentence of paragraph (g)(8) *Example 2*.

■ 2. Revising the last sentence of paragraph (k).

The revisions read as follows:

##### § 1.263(a)–2T Amounts paid to improve tangible property (temporary).

\* \* \* \* \*

(g) \* \* \*

\* \* \* \* \*

(8) *Examples.* \* \* \*

\* \* \* \* \*

*Example 2.* \* \* \* Thus, in order to meet the criteria of paragraph (g)(1)(iv) of this section for Year 1, the total aggregate amounts paid and not capitalized by X under paragraphs (g)(1)(i), (ii), and (iii) of this section must be less than or equal to the greater of \$125,000 (0.1 percent of X's total gross receipts of \$125,000,000) or \$140,000 (2 percent of X's total depreciation and amortization of \$7,000,000). \* \* \*

\* \* \* \* \*

(k) \* \* \* For the applicability of regulations to taxable years beginning before January 1, 2012, see § 1.263(a)–2 in effect prior to January 1, 2012 (§ 1.263(a)–2 as contained in 26 CFR part 1 edition revised as of April 1, 2011).

\* \* \* \* \*

■ **Par. 6.** Section 1.263(a)–3T is amended by:

- 1. Revising paragraph (b).
- 2. Revising the sixth sentence of paragraph (e)(6), *Example 17*.
- 3. Revising the seventh sentence of paragraph (i)(5), *Example 20*.
- 4. Revising the third sentence of paragraph (i)(5), *Example 22* paragraph (ii).
- 5. Revising the last sentence of paragraph (i)(5), *Example 23*.
- 6. Revising paragraph (q).

The revisions read as follows:

**§ 1.263(a)–3T Amounts paid to improve tangible property (temporary).**

(b) \* \* \* For purposes of this section, the following definitions apply:

\* \* \* \* \*

(e) \* \* \*

(6) *Examples.* \* \* \*

\* \* \* \* \*

*Example 17.* \* \* \* In year 7, X changed its method of accounting to use a 15-year recovery period for the improvement. \* \* \*

\* \* \* \* \*

(i) \* \* \*

(5) \* \* \*

\* \* \* \* \*

*Example 20.* \* \* \* The plumbing fixtures in all the restrooms perform a discrete and critical function in the operation of the plumbing system and comprise a large portion of the physical structure of the plumbing system. \* \* \*

\* \* \* \* \*

*Example 22.* (i) \* \* \*

(ii) \* \* \* All the bathtubs, toilets, sinks, and plumbing fixtures in the hotel building perform a discrete and critical function in the operation of the plumbing system and comprise a large portion of the physical structure of the plumbing system. \* \* \*

*Example 23.* \* \* \* Accordingly, X is not required to treat the amount paid to replace the windows as a restoration of a building system under paragraph (i)(1)(iv) of this section.

\* \* \* \* \*

(q) \* \* \* The applicability of this section expires on December 23, 2014.

■ **Par. 7.** Section 1.263(a)–6T is amended by revising paragraphs (b)(13) and (d) to read as follows:

**§ 1.263(a)–6T Election to deduct or capitalize certain expenditures (temporary).**

\* \* \* \* \*

(b) \* \* \*

(13) Section 193 (tertiary injectants);

\* \* \* \* \*

(d) *Expiration date.* The applicability of this section expires on December 23, 2014.

■ **Par. 8.** Section 1.1016–3T is amended by revising the second sentence of paragraph (j)(3) to read as follows:

**§ 1.1016–3T Exhaustion, wear and tear, obsolescence, amortization, and depletion for periods since February 13, 1913 (temporary).**

\* \* \* \* \*

(j) \* \* \*

(3) \* \* \* For the applicability of § 1.1016–3(a)(1)(ii) to taxable years beginning before January 1, 2012, see § 1.1016–3(a)(1)(ii) in effect prior to January 1, 2012 (§ 1.1016–3(a)(1)(ii) as contained in 26 CFR part 1 edition revised as of April 1, 2011).

\* \* \* \* \*

**Guy R. Traynor,**

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[FR Doc. 2012–7263 Filed 3–27–12; 8:45 am]

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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[Docket No. USCG–2012–0199]

**RIN 1625–AA00**

**Safety Zone; Chicago Harbor, Navy Pier Southeast, Chicago, IL**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of enforcement of regulation.

**SUMMARY:** The Coast Guard will enforce the Navy Pier Southeast Safety Zone in Chicago Harbor during various periods from May 19, 2012 through June 30, 2012. This action is necessary and intended to ensure safety of life on the navigable waters of the United States immediately prior to, during, and immediately after fireworks events. Enforcement of this safety zone will establish restrictions upon, and control movement of, vessels in a specified area immediately prior to, during, and immediately after various fireworks events. During the enforcement period, no person or vessel may enter the safety zones without permission of the Captain of the Port, Sector Lake Michigan.

**DATES:** The regulations in 33 CFR 165.931 will be enforced at various times between 9 p.m. on May 19, 2012 through 10:30 p.m. on June 30, 2012.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this notice, call or email MST2 Rebecca Stone, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI at 414–747–7154, email [Rebecca.R.Stone@uscg.mil](mailto:Rebecca.R.Stone@uscg.mil).

**SUPPLEMENTARY INFORMATION:** The Coast Guard will enforce the Safety Zone; Chicago Harbor, Navy Pier Southeast, Chicago, IL listed in 33 CFR 165.931 for the following events:

- (1) *Navy Pier Fireworks*; on May 19, 2012 from 9 p.m. through 11 p.m.; on May 26, 2012 from 10 p.m. through 10:30 p.m.; on May 30, 2012 from 9:15 p.m. through 9:45 p.m.; on June 2, 2012 from 10 p.m. through 10:30 p.m.; on June 6, 2012 from 9:15 p.m. through 9:45 p.m.; on June 9, 2012 from 10 p.m. through 10:30 p.m.; on June 13, 2012 from 9:15 p.m. through 9:45 p.m.; on June 16, 2012 from 10 p.m. through 10:30 p.m.; on June 20, 2012 from 9:15 p.m. through 9:45 p.m.; on June 23, 2012 from 10 p.m. through 10:30 p.m.; on June 27, 2012 from 9:15 p.m. through 9:45 p.m.; and on June 30, 2012 from 10:00 through 10:30.

All vessels must obtain permission from the Captain of the Port, Sector Lake Michigan, or his or her on-scene representative to enter, move within or exit the safety zone. Vessels and persons granted permission to enter the safety zone shall obey all lawful orders or directions of the Captain of the Port, Sector Lake Michigan, or his or her on-scene representative. While within a safety zone, all vessels shall operate at the minimum speed necessary to maintain a safe course.

This notice is issued under authority of 33 CFR 165.931 and 5 U.S.C. 552 (a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of these enforcement periods via broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port, Sector Lake Michigan, will issue a Broadcast Notice to Mariners notifying the public when enforcement of the safety zone established by this section is suspended. If the Captain of the Port, Sector Lake Michigan, determines that the safety zone need not be enforced for the full duration stated in this notice, he or she may use a Broadcast Notice to Mariners to grant general permission to enter the safety zone. The Captain of the Port, Sector Lake Michigan, or his or her on-scene representative may be contacted via VHF Channel 16.

Dated: March 14, 2012.

**M.W. Sibley,**

*Captain, U.S. Coast Guard, Captain of the Port, Lake Michigan.*

[FR Doc. 2012–7388 Filed 3–27–12; 8:45 am]

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