

account in the year of change. The IRS and Treasury Department invite comments on this matter.

#### Use Changes During Placed-In-Service Year

The proposed regulations provide rules for MACRS property if a change in the use occurs during the taxable year the property is placed-in-service and the property continues to be MACRS property in the hands of the taxpayer. If the use of MACRS property changes during its placed-in-service year, the depreciation allowance generally is determined by the primary use of the property during that taxable year. However, in determining whether MACRS property is used within or outside the United States during the placed-in-service year, the predominant use, instead of the primary use, of the MACRS property governs. Further, in determining whether MACRS property is tax-exempt use property or imported property covered by an Executive order during the placed-in-service year, the use of the property at the end of the placed-in-service year governs. Moreover, MACRS property is tax-exempt bond financed property during the placed-in-service year if a tax-exempt bond for the MACRS property is issued during that year.

#### General Asset Accounts

Finally, the proposed regulations amend the final regulations under section 168(i)(4) (TD 8566, 59 FR 51369 (1994)) for property accounted for in a general asset account for which the use changes, resulting in a different recovery period and/or depreciation method. While this change in use does not cause or permit the revocation of the election to account for the property in a general asset account, the property generally is removed from its existing general asset account and placed in a separate general asset account. Because this rule would require taxpayers to track each property in a general asset account, the IRS and Treasury Department request comments on whether the IRS and Treasury should adopt a rule that disregards any change in the use of any MACRS property accounted for in a general asset account, except for a conversion to personal use.

#### Proposed Effective Date

These regulations are proposed to be applicable for any changes in the use of MACRS property in taxable years ending on or after the date of publication of the final regulations in the **Federal Register**. For any changes in use of MACRS property after December 31, 1986, in taxable years ending before

the date of publication of the final regulations in the **Federal Register**, the IRS will allow any reasonable method of depreciating the property under section 168 in the year of change and the subsequent taxable years that is consistently applied to the MACRS property that changed use in the hands of the taxpayer.

#### Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations and, because these regulations do not impose on small entities a collection of information requirement, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply to these regulations. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

#### Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury Department request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for December 3, 2003, beginning at 10 a.m., in room number 4718, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit an outline of the topics to be discussed and the time to be devoted

to each topic (signed original and eight (8) copies) by November 12, 2003. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

#### Drafting Information

The principal author of these regulations is Sara Logan, Office of Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

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

Income taxes, Reporting and recordkeeping requirements.

#### Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

#### PART 1—INCOME TAXES

1. The authority citation for part 1 is amended by adding an entry in numerical order to read as follows:

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

§ 1.168(i)–1 also issued under 26 U.S.C. 168(i)(4).

§ 1.168(i)–4 also issued under 26 U.S.C. 168(i)(5).

2. Sections 1.168(a)–1 and 1.168(b)–1 are added to read as follows:

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

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