

Further, a change in computing depreciation under section 167 (other than a change under section 168, section 1400I, section 1400L, or former section 168) is permitted only with respect to all assets in a particular account (as defined in § 1.167(a)-7) or vintage account.

#### *Special Rules*

The regulations also provide rules for the following: (1) A change from a declining balance method under section 168(b)(1) or (2) to the straight line method; (2) changes in certain depreciation methods under section 167 (other than under section 168, section 1400I, section 1400L, or former section 168); and (3) section 481 adjustments.

With respect to a change from the 200-percent or 150-percent declining balance method under section 168(b)(1) or (2) to the straight line method, the regulations provide that this change may be made without the consent of the Commissioner in the first taxable year in which the depreciation allowance under the straight line method is greater than the depreciation allowance under the declining balance method.

With respect to changes in depreciation methods under section 167 (other than under section 168, section 1400I, section 1400L, or former section 168), the regulations provide cross-references to regulations under section 167 that allow certain depreciation method changes to be made without the consent of the Commissioner.

With respect to section 481 adjustments, the regulations also clarify that except as otherwise expressly provided by the Code, the regulations under the Code, or other guidance published in the Internal Revenue Bulletin, a change from one permissible method of computing depreciation to another permissible method of computing depreciation for a depreciable or amortizable asset is implemented on either a cut-off method (as described in section 2.06 of Rev. Proc. 97-27 (1997-1 C.B. 680) and in section 2.06 of Rev. Proc. 2002-9 (2002-1 C.B. 327)) or a modified cut-off method (under which the adjusted depreciable basis of the asset as of the beginning of the year of change is recovered using the new permissible method of accounting). Because no items are duplicated or omitted from income when the cut-off method or the modified cut-off method is used to effect the change in method of accounting, no section 481 adjustment is required or permitted. However, a change from an impermissible method of computing depreciation to a permissible method of computing depreciation results in a

negative or positive section 481 adjustment because the adjusted depreciable basis of the asset as of the beginning of the year of change is changed as a result of the change in computing depreciation. Similarly, a change in the treatment of an asset from nondepreciable to depreciable (or vice versa) or a change from expensing to depreciating an asset (or vice versa) will also result in a negative or positive section 481 adjustment.

#### *Application of the Allowed or Allowable Rule to Changes in Method of Accounting*

Section 1016(a)(2) provides that the basis of property is adjusted in respect of any period since February 28, 1913, for exhaustion, wear and tear, obsolescence, amortization, and depletion, to the extent of the amount allowed as deductions in computing taxable income and resulting in a reduction for any taxable year of the taxpayer's taxes, but not less than the amount allowable.

Concurrently with the issuance of these regulations, the IRS and Treasury Department will issue a revenue procedure that will allow a taxpayer to change the taxpayer's method of determining depreciation for a depreciable or amortizable asset after its disposition if the taxpayer did not take into account any depreciation allowance, or did take into account some depreciation but less than the depreciation allowable, for the asset in computing taxable income in the year of disposition or in prior taxable years. Because the taxpayer is permitted to claim the allowable depreciation not taken into account for this asset, the taxpayer's lifetime income is not permanently affected by the "allowed or allowable" rule under section 1016(a)(2). Accordingly, the regulations provide that section 1016(a)(2) does not permanently affect a taxpayer's lifetime income for purposes of determining whether a change in depreciation is a change in method of accounting under section 446(e) and the regulations under section 446(e).

The revenue procedure also will revise the depreciation changes included in Rev. Proc. 2002-9 (2002-1 C.B. 327), the automatic change in method of accounting revenue procedure, to conform with these regulations and will waive the application of Rev. Rul. 90-38 (1990-1 C.B. 57) for changes in depreciation made under Rev. Proc. 97-27 (1997-1 C.B. 680) or Rev. Proc. 2002-9.

#### **Special Analyses**

It has been determined that this Treasury decision 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. For the applicability of the Regulatory Flexibility Act (5 U.S.C. chapter 6), refer to the Special Analyses section of the preamble to the cross-reference notice of proposed rulemaking published in the **Federal Register**. Pursuant to section 7805(f) of the Code, these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

#### **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.

#### **Amendments to the Regulations**

■ Accordingly, 26 CFR part 1 is amended as follows:

#### **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 1.167(e)-1 is amended by:

■ 1. Revising paragraph (a).

■ 2. Adding new paragraph (e).

The addition and revision read as follows:

#### **§ 1.167(e)-1 Change in method.**

(a) *In general.* [Reserved]. For further guidance, see § 1.167(e)-1T(a).

\* \* \* \* \*

(e) *Effective date.* [Reserved]. For further guidance, see the first two sentences of § 1.167(e)-1T(e).

■ **Par. 3.** Section 1.167(e)-1T is added to read as follows:

#### **§ 1.167(e)-1T Change in method (temporary).**

(a) *In general.* (1) Any change in the method of computing the depreciation allowances with respect to a particular account (other than a change in method