Part III - Administrative, Procedural, and Miscellaneous

Exchange of MACRS Property for MACRS Property

Notice 2000-4

This notice provides guidance about the depreciation of property subject to § 168 of the Internal Revenue Code (MACRS property) that is acquired in a like-kind exchange under § 1031 or as a result of an involuntary conversion under § 1033. The Internal Revenue Service and the Department of Treasury intend to issue regulations under § 168 that will address these transactions. Taxpayers should follow this notice until these regulations are issued. Public comments to aid in the development of the regulations are requested by March 31, 2000.

BACKGROUND

Section 167 allows as a depreciation deduction a reasonable allowance for the exhaustion, wear and tear of property used a trade or business or held for the production of income. The depreciation allowable for depreciable tangible property placed in service after 1986 generally is determined under § 168 (MACRS).

Section 1031(a)(1) provides that no gain or loss is recognized on the exchange of property held for productive use in a trade or business or for investment if the property is exchanged solely for property of like kind that is to be held either for productive use in a trade or business or for investment.

Section 1033(a)(1) provides that if property (as a result of its destruction in whole or in part, theft, seizure, or requisition or condemnation or threat or imminence thereof) is compulsorily or involuntarily converted into property similar or related in service or use to the property so converted, no gain is recognized.

The basis of property acquired in a transaction to which § 1031 or § 1033 applies generally is the same as the property surrendered in the transaction less any cash received plus any gain recognized. However, there is no guidance as to how to depreciate the basis of the acquired property under § 168.

APPLICATION

For purposes of determining the depreciation allowable for MACRS property acquired in an exchange of MACRS property for like-kind property to which § 1031 applies, or acquired in replacement of involuntarily converted MACRS property to which § 1033 applies, the acquired MACRS property should be treated in the same manner as the exchanged or involuntarily converted MACRS property with respect to so much of the taxpayer's basis in the acquired MACRS property as does not exceed the taxpayer's adjusted basis in the exchanged or involuntarily converted MACRS property. Thus, the acquired MACRS property is depreciated over the remaining recovery period of, and using the same depreciation method and convention as that of, the exchanged or involuntarily converted MACRS property. Any excess of the basis in the acquired MACRS property over the adjusted basis in the exchanged or involuntarily converted MACRS property is treated as newly purchased MACRS property.

For acquired MACRS property placed in service on or after January 3, 2000, in a like-kind exchange of MACRS property under § 1031 or as a result of an involuntary conversion of MACRS property under § 1033, a taxpayer must follow the principles set out in this notice.

For acquired MACRS property placed in service before January 3, 2000, in a like-kind exchange of, or as a result of an involuntary conversion of, MACRS property, the Service is aware that taxpayers are depreciating this acquired property either (i) in the manner set out in this notice consistent with §1.168-5(f) of the proposed Income Tax Regulations, published in the Federal Register on February 16, 1984 (49 Fed. Reg. 5940), under former § 168 (ACRS); or (ii) as newly purchased MACRS property. The Service will allow a taxpayer to continue to use its present method of depreciating the acquired property and will treat these methods as allowable methods of depreciation. However, a taxpayer presently treating the acquired property as newly purchased MACRS property may change to treating the property under the principles in this notice, provided the property has been treated by the taxpayer as acquired in a § 1031 like-kind exchange or § 1033 involuntary conversion and the change is made for the first or second taxable year ending after January 3, 2000.

CHANGE IN METHOD OF ACCOUNTING

A change from treating MACRS property acquired in a § 1031 like-kind exchange or § 1033 involuntary conversion as newly purchased MACRS property to treating the property under the principles of this notice is a change in method of accounting to which the provisions of § 446 and § 481 and the regulations thereunder apply. A taxpayer changing its method of accounting for the acquired MACRS property must follow the automatic change in accounting method provisions of Rev. Proc. 99-49, 1999-52 I.R.B. 725, provided the taxpayer makes the change in method of accounting for the first or second taxable year ending after January 3, 2000, and takes into account any necessary § 481(a) adjustment in accordance with the provisions of Rev. Proc. 99-49. The scope limitations in section 4.02 of Rev. Proc. 99-49 do not apply to the taxpayer. However, if the taxpayer is under examination, before an appeals office, or before a federal court, the taxpayer must provide a copy of the Form 3115, Application for Change in Accounting Method, to the examining agent(s), appeals officer, or counsel for the government, as appropriate, at the same time that the taxpayer files the copy of the Form 3115 with the national office. The Form 3115 must contain the name(s) and telephone number(s) of the examining agent(s), appeals officer, or counsel for the government, as appropriate.

REQUEST FOR COMMENTS

The Service and the Treasury Department intend to issue regulations under § 168 to address the depreciation of MACRS property acquired in a § 1031 like-kind exchange or § 1033 involuntary conversion. Before issuing proposed regulations, the Service and the Treasury Department invite comments from the public to aid in the development of these regulations. Comments should be submitted in writing by March 31, 2000, to:

Internal Revenue Service

EXCHANGE OF MACRS PROPERTY FOR MACRS PROPERTY

CC:DOM:P&SI:6, Room 5112

P.O. Box 7604

Benjamin Franklin Station

Washington, DC 20044

Alternatively, comments may be submitted electronically via:

http://www.irs.gov/prod/tax_regs/comments.html (the Service Internet site).

EFFECT ON OTHER DOCUMENTS

Rev. Proc. 99-49 is modified and amplified to include this automatic accounting method change in the Appendix.

DRAFTING INFORMATION

The principal author of this notice is Alan H. Cooper of the Office of Assistant Chief Counsel (Passthroughs and Special Industries). For further information regarding this notice contact Mr. Cooper at (202) 622-3110 (not a toll-free call).