

Treasury Depreciation Study: Request for Public Comment

Notice 99-34

PURPOSE

As directed by Congress in the Tax and Trade Relief Extension Act of 1998 (the Act), the Treasury Department is conducting a comprehensive study of the recovery periods and depreciation methods under section 168 of the Internal Revenue Code. This notice invites public comment on the determination of depreciation recovery periods and methods. The Treasury Department will review and consider all comments and other information received in response to this notice in preparing its depreciation study.

BACKGROUND

Section 167 provides for a depreciation deduction representing a reasonable allowance for the exhaustion, wear and tear (including a reasonable allowance for obsolescence) of property used in a trade or business, or property held for the production of income.

Section 168 provides a modified Accelerated Cost Recovery System (MACRS) for determining depreciation deductions for most tangible property placed in service after December 31, 1986. Section 168(e) classifies tangible property into a number of asset types based on either a specific statutory provision or the property's class life. The class life of tangible property is determined with reference to the list of class lives provided by the Treasury Department that was in effect as of January 1, 1986, now listed in Rev. Proc. 87-56, 1987-2 C.B. 674. A property's classification determines the applicable depreciation method under section 168(b), recovery period under section 168(c), and first-year convention under section 168(d) that are used to calculate the property's allowable depreciation deductions.

Special recovery periods and methods apply in certain situations. In particular, section 168(g) establishes an Alternative Depreciation System (ADS) for certain property, including tangible property used predominantly outside the United States,

tax-exempt use property, tax-exempt bond financed property, and property for which an election is made to use the ADS. The ADS specifies use of the straight-line method with alternative recovery periods (generally equal to the property's class life) for calculating allowable depreciation deductions. The ADS also is used to determine depreciation allowances for most tangible property for the purpose of computing corporate earnings and profits (section 312(k)(3)).

Section 205 of the Act directed the Secretary of the Treasury (or the Secretary's delegate) to conduct a comprehensive study of the recovery periods and depreciation methods under section 168. The Secretary is directed to submit the results of the study, together with recommendations for determining such periods and methods in a more rational manner, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate no later than March 31, 2000.

REQUEST FOR PUBLIC COMMENT

In accordance with the Act's directive to study depreciation recovery periods and methods, the Treasury Department's Office of Tax Analysis (OTA) requests public comment and information relating to problems encountered under current law. OTA also seeks recommendations for possible improvements to the current system.

OTA is specifically interested in information pertaining to alternative approaches to measuring asset depreciation and in alternative frameworks for analyzing current issues in depreciation. Where appropriate, each public submission should include an analysis (with supporting data) that informs OTA on specific depreciation issues. Issues may include, but need not be limited to, the following: (1) principles that should govern the classification of tangible depreciable property, (2) the meaning of a class life and the method or methods that should be used to estimate class lives, (3) the institutions and procedures under which asset class definitions and class lives should be reviewed and (if necessary) modified, (4) methods by which class lives should be

estimated for newly developing industries (where historical data may not be available), (5) the rules under which depreciation recovery periods and methods should be derived from asset class lives, (6) the application of the methods used to compute depreciation allowances, and (7) situations in which the application of the current section 168 approach is inappropriate or unnecessary for the determination of a reasonable measure of tangible property depreciation.

Because the Treasury Department was directed to provide general recommendations for determining depreciation recovery periods and methods in a more rational manner, the study is not intended to recommend specific changes in particular current class lives, recovery periods, or depreciation methods. Thus, this notice is an invitation to the public to submit information, including specific examples, that will highlight general problems with the current depreciation system, rather than narrower problems with respect to particular class lives or types of property. It is also a request for analysis and commentary that can lead to improvements that will cause depreciation allowances to better reflect the actual reductions in tangible asset values over time or that reduce taxpayer compliance and IRS administrative burdens.

Taxpayers should be aware that all comments and information submitted are subject to public disclosure. Consideration will be given to all submissions received by November 1, 1999.

Written submissions should be sent to:

Depreciation Study
Office of Tax Analysis
Room 4217, Main Treasury Building
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Alternatively, comments may be submitted through the Internet to: taxpolicy@do.treas.gov. The Internet e-mail subject line must include "Depreciation Study".

DRAFTING INFORMATION

The principal author of this notice is David Brazell, Financial Economist, Office of Tax Analysis. For further information regarding this notice, please contact

Mr. Brazell on (202) 622-1786 (not a toll-free call).