



Department of the Treasury
Internal Revenue Service

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Highlights of the Job Creation and Worker Assistance Act of 2002



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Introduction

All of the changes discussed in this publication resulted from the Job Creation and Worker Assistance Act of 2002. This publication highlights tax law changes that took effect retroactively for 2001 and others that take effect in 2002 and later years. The chapters are divided into separate sections based on when the changes take effect.

For example, this publication covers the following topics.

- Tax benefits for the area of New York City damaged in terrorist attacks on September 11, 2001.
- New deduction available for educator expenses.
- Limit on the use of the non-accrual experience method of accounting.
- Pension changes such as the new tax credit for certain pension plan startup costs, an increased SEP contribution limit, figuring 403(b) catch-up contributions, and a provision for deemed IRAs.
- Extension of the welfare-to-work credit and work opportunity credit.
- New 5-year carryback rule for net operating losses (NOLs).

See the discussion of each topic for more information.

Certain changes had a major effect on two of the publications we issued for 2001. We published supplements to those two publications and they have been included in this publication as follows.

- Chapter 4 contains the supplement to Publication 463, *Travel, Entertainment, Gift, and Car Expenses*. This discusses the increase in the amount of depreciation deduction for certain automobiles.
- Chapter 5 contains the supplement to Publication 946, *How To Depreciate Property*. This discusses the special depreciation allowance for property acquired after September 10, 2001.

Adjusting your withholding or estimated tax payments for 2002.

If your tax for 2002 will be more or less than your 2001 tax, you may need to adjust your withholding or estimated tax payments accordingly. If your tax will decrease, you can get the benefit of lower taxes throughout the year. If you will owe more tax, you can avoid a penalty when you file your tax return.

See the following table for forms and publications that will help you adjust your withholding or estimated tax payments. See chapter 6 for information on ordering forms and publications.

To adjust your....	Get Form...	And Publication...
Withholding	W-4 , <i>Employee's Withholding Allowance Certificate</i>	919 , <i>How Do I Adjust My Tax Withholding?</i>
Estimated tax payments	1040-ES , <i>Estimated Tax for Individuals</i>	505 , <i>Tax Withholding and Estimated Tax</i>

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Comments and suggestions. We welcome your comments about this publication.

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1.

Tax Changes for Individuals

2001 Changes

New 5-Year Carryback Rule for Net Operating Losses (NOLs)

If you have an NOL from a tax year ending during 2001 or 2002, you must generally carry back the entire amount of the NOL to the 5 tax years before the NOL year (the carryback period). However, you can still choose to use the previous carryback period. You also can choose not to carry back an NOL and only carry it forward.

Individuals, estates, and trusts can file Form 1045, *Application for Tentative Refund*. The instructions for this form will be revised to reflect the new law.

Wash Sale Rules Do Not Apply to Section 1256 Contracts

The wash sale rules that generally apply to losses from the sale of stock or securities, do not apply to any loss arising from a section 1256 contract.

A section 1256 contract is any:

- Regulated futures contract,
- Foreign currency contract,
- Nonequity option,
- Dealer equity option, or
- Dealer securities futures contract.

Wash sales and section 1256 contracts are explained in detail in Publication 550, *Investment Income and Expenses*.

Other 2001 Changes

Other changes are discussed in the following chapters.

Chapter 4	Car Expenses
Chapter 5	Depreciation

2002 Changes

Deduction for Educator Expenses

If you are an eligible educator, you can deduct as an adjustment to income up to \$250 in qualified expenses. You can deduct these expenses even if you do not itemize deductions on Schedule A (Form 1040). This adjustment to income is for expenses paid or incurred in tax years beginning during 2002 or 2003. Previously, these expenses were deductible only as a miscellaneous itemized deduction subject to the 2% of adjusted gross income limit.

Eligible educator. You are an eligible educator if, for the tax year, you meet the following requirements.

- 1) You are a kindergarten through grade 12:
 - a) Teacher,
 - b) Instructor,
 - c) Counselor,
 - d) Principal, or
 - e) Aide.
- 2) You work at least 900 hours during a school year in a school that provides elementary or secondary education, as determined under state law.

Qualified expenses. These are unreimbursed expenses you paid or incurred for books, supplies, computer equipment (including related software and services), other equipment, and supplementary materials that you use in the classroom. For courses in health and physical education, expenses for supplies are qualified expenses only if they are related to athletics.

To be deductible as an adjustment to income, the qualified expenses must be more than the following amounts for the tax year.

- The interest on qualified U.S. savings bonds that you excluded from income because you paid qualified higher education expenses,
- Any distribution from a qualified tuition program that you excluded from income, or
- Any tax-free withdrawals from your Coverdell education savings account.

Personal Credits Still Allowed Against Alternative Minimum Tax

The provision that allowed certain nonrefundable personal credits to reduce both your regular tax and any alternative minimum tax (AMT) has been extended and will be in effect for 2002 and 2003. This provision, as it applies to the AMT, was originally scheduled to expire after 2001. With-

out the extension, these credits could not have been used to reduce any AMT in 2002 or 2003.

Later Change

Child and Dependent Care Expenses

For the purpose of figuring the child and dependent care credit, your spouse is treated as having at least a minimum

amount of earned income for any month that he or she is a full-time student or not able to care for himself or herself. Beginning in 2003, this amount is increased to \$250 a month if there is one qualifying person and to \$500 a month if there are two or more qualifying persons. Before 2003, the amounts were \$200 and \$400. The same rule applies for the exclusion of employer-provided dependent care benefits. For more information about the credit and exclusion, see Publication 503, *Child and Dependent Care Expenses*.

2.

Tax Changes for Businesses

2001 Changes

New 5-Year Carryback Rule for Net Operating Losses (NOLs)

If you have an NOL from a tax year ending during 2001 or 2002, you must generally carry back the entire amount of the NOL to the 5 tax years before the NOL year (the carryback period). However, you can still choose to use the previous carryback period. You also can choose not to carry back an NOL and only carry it forward.

Individuals, estates, and trusts can file Form 1045, *Application for Tentative Refund*. Corporations can file Form 1139, *Corporation Application for Tentative Refund*. The instructions for these forms will be revised to reflect the new law.

Electronic Form 1099

For tax years ending after March 9, 2002, most Forms 1099 can be furnished electronically if the recipient consents, according to IRS regulations, to receive it that way.

Tax Incentives for New York Liberty Zone

New tax benefits are provided for the parts of New York City damaged in the terrorist attacks on September 11, 2001. These benefits apply to the newly created New York Liberty Zone, which is the area located on or south of Canal Street, East Broadway (east of its intersection with Canal Street), or Grand Street (east of its intersection with East Broadway), in the Borough of Manhattan.

Tax benefits for the New York Liberty Zone include the following.

- A special depreciation allowance equal to 30% of the adjusted basis of qualified Liberty Zone property. It is allowed for the year the property is placed in service.
- No alternative minimum tax depreciation adjustment for qualified Liberty Zone property.
- Classification of Liberty Zone leasehold improvement property as 5-year property.
- Authorization of the issuance of tax-exempt New York Liberty bonds to finance the acquisition, construction, reconstruction, and renovation of nonresidential real property, residential rental property, and public utility property in the Liberty Zone.

- An increased section 179 deduction for certain Liberty Zone property.
- Extension of the replacement period from 2 years to 5 years for certain property involuntarily converted as a result of the terrorist attacks on September 11, 2001, but only if substantially all of the use of the replacement property is in New York City. For more information about involuntary conversions, see *Postponement of Gain* in Publication 547, *Casualties, Disasters, and Thefts*.

In addition, for 2002 and 2003, the work opportunity credit is expanded by creating a new targeted group, consisting generally of employees who work in the Liberty Zone or, in certain cases, in New York City outside the Liberty Zone. For more information, see *Work Opportunity Credit Expanded in New York Liberty Zone* under *2002 Changes*, later.

For more information about the 30% special depreciation allowance, Liberty Zone leasehold improvement property, or increased section 179 deduction, see *New York Liberty Zone Benefits*, in chapter 5. In addition, the tax benefits for the Liberty Zone will be covered in a new edition of Publication 954, *Tax Incentives for Empowerment Zones and Other Distressed Communities*, available later in 2002.

Other 2001 Changes

Other changes are discussed in the following chapters.

Chapter 4	Car Expenses
Chapter 5	Depreciation

2002 Changes

Nonaccrual-Experience Method

Under current law, if you perform services and use an accrual method of accounting, you do not accrue income which, based on experience, you expect to be uncollectible. Beginning in 2002, this rule only applies if you perform services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, and consulting, or your average annual gross receipts for the 3 prior tax years does not exceed \$5,000,000. As under current law, the nonaccrual-experience method will not apply to amounts on which you charge interest or a late payment penalty. For more information, see *Nonaccrual-Experience Method* in chapter 11 of Publication 535, *Business Expenses*.

Issuance of Qualified Zone Academy Bonds

State and local governments issue qualified zone academy bonds to raise funds for the use of qualified zone

academies. The amount of bonds that may be issued was limited to \$400 million each year for 1998, 1999, 2000, and 2001. This provision has been extended to provide for an additional \$400 million of bonds to be issued each year for 2002 and 2003. For more information about qualified zone academy bonds, see Publication 954, *Tax Incentives for Empowerment Zones and Other Distressed Communities*.

Depletion

The suspension of the taxable income limit on percentage depletion from the marginal production of oil and natural gas that was scheduled to expire for tax years beginning after 2001 has been extended to tax years beginning before 2004. For more information on marginal production, see section 613A(c) of the Internal Revenue Code.

Work Opportunity Credit Expanded in New York Liberty Zone

The work opportunity credit is expanded to include a new targeted group consisting generally of employees who perform substantially all their services:

- In the New York Liberty Zone (defined earlier under *Tax Incentives for New York Liberty Zone*, under *2001 Changes*), or
- Elsewhere in New York City for a business that relocated from the Liberty Zone due to the destruction or damage of its place of business by the September 11, 2001, terrorist attack.

The credit is available to employers for wages paid to new employees and existing employees for work performed during 2002 or 2003. Certain limits apply. For more information about the work opportunity credit, see Publication 954, *Tax Incentives for Empowerment Zones and Other Distressed Communities*.

Credit For Pension Plan Startup Costs

The credit for pension plan startup costs is now allowed for plans that **become effective** after December 31, 2001. Previously, the credit was only allowed for plans **established** after December 31, 2001. For more information on the credit, see *Important Changes for 2002* in Publication 560, *Retirement Plans for Small Business*.

Welfare-to-Work Credit Extended

The welfare-to-work credit that was scheduled to expire for wages paid to individuals who began working for you after 2001 has been extended to include wages paid to qualified individuals who begin work for you in 2002 or 2003. For more information on the welfare-to-work credit, see Publication 954, *Tax Incentives for Empowerment Zones and Other Distressed Communities*.

Work Opportunity Credit Extended

The work opportunity credit that was scheduled to expire for wages paid to individuals who began working for you after 2001 has been extended to include wages paid to qualified individuals who begin work for you in 2002 or 2003. For more information about the work opportunity credit, see Publication 954, *Tax Incentives for Empowerment Zones and Other Distressed Communities*.

Electric and Clean-Fuel Vehicles

The maximum clean-fuel vehicle deduction and qualified electric vehicle credit were scheduled to be 25% lower for 2002 and both were scheduled to be phased out completely by 2005. The full deduction and credit are now allowed for qualified property placed in service in 2002 and 2003. The phaseout of the deduction and the credit will begin in 2004, and no deduction or credit will be allowed for property placed in service after 2006. For more information about electric and clean-fuel vehicles, see chapter 12 in Publication 535, *Business Expenses*.

Renewable Electricity Production Credit

The renewable electricity production credit is extended to include electricity produced by facilities placed in service after 2001 and before 2004.

Later Changes

Special Depreciation Allowance

You can claim the special depreciation allowance (an additional 30% depreciation deduction) for new property that you acquire before September 11, 2004, and place in service for your business generally before January 1, 2005, if you meet the other requirements for qualified property covered in chapter 5. Accordingly, you will generally no longer be able to claim the special depreciation allowance for the qualified property if you acquire it after September 10, 2004, or place it in service for your business after December 31, 2004. However, you will be able to claim the special Liberty Zone depreciation allowance (an additional 30% depreciation deduction) for most qualified property if you place it in service in the Liberty Zone after December 31, 2004, and generally before January 1, 2007, provided you meet the other requirements for qualified Liberty Zone property covered in chapter 5.

Extension of Placed in Service Date

To qualify for the special depreciation allowance, your property must meet certain tests, including the placed in service date test, as well as the other requirements covered in chapter 5 of this publication. To meet the placed in service date test, your property must generally be placed in

service for use in your trade or business or for the production of income after September 10, 2001, and before January 1, 2005. However, certain property placed in service before January 1, 2006, may meet this test. Transportation property and property with a recovery period of 10 years or longer meet the test if one of the following applies.

- The property has an estimated production period of more than 2 years.
- The property has an estimated production period of more than 1 year and it costs more than \$1 million.

Transportation property is any tangible personal property used in the trade or business of transporting persons or property.

For property that qualifies for the special depreciation allowance solely because of the one-year extension of the placed in service date, only the part of the basis attributable to manufacture, construction, or production before September 11, 2004, is eligible for the special depreciation allowance.

Special Liberty Zone Depreciation Allowance for New and Used Property

You can claim the special Liberty Zone depreciation allowance (an additional 30% depreciation deduction) for used

property that you acquire after September 10, 2001, if the property meets the requirements listed under *Qualified Liberty Zone Property* in chapter 5 of this publication. You will be able to claim the allowance for both new and used property that you acquire after September 10, 2004, provided the property meets the other requirements for qualified Liberty Zone property.

Depreciation of Property Used on Indian Reservations

The special depreciation rules that apply to qualified property used on an Indian reservation were scheduled to expire for property placed in service after 2003. These special rules have been extended to include property placed in service in 2004. For more information about these rules, see Publication 946, *How To Depreciate Property*.

Indian Employment Credit Extended

The Indian employment credit that was scheduled to expire for tax years beginning after 2003 has been extended to include a tax year beginning in 2004. For more information about this credit, see Publication 954, *Tax Incentives for Empowerment Zones and Other Distressed Communities*.

3.

IRAs and Other Retirement Plans

2002 Changes

Simplified Employee Pensions (SEPs)

Contribution limit increased. For plan years beginning after December 31, 2001, the annual limit on the amount of employer contributions to a SEP increases to the lesser of the following amounts.

- 25% of an eligible employee's compensation.
- \$40,000 (subject to cost-of-living adjustments after 2002).

Deduction limit. For years beginning after 2001, the following changes apply to the SEP deduction limit.

Elective deferrals (SARSEPs). Elective deferrals under a SARSEP are not subject to the deduction limit that applies to employer contributions. Also, elective deferrals are not taken into account when figuring the amount you can deduct for employer contributions that are not elective deferrals.

Definition of compensation. Compensation for figuring the deduction for employer contributions includes elective deferrals under a SARSEP.

More information. For more information about SEPs, see Publication 560, *Retirement Plans for Small Business*.

403(b) Plans

Figuring catch-up contributions. When figuring allowable catch-up contributions, combine all contributions made by your employer on your behalf to the following plans.

- Qualified retirement plans.
- 403(b) plans.
- Simplified employee pensions (SEP).
- SIMPLE plans.

The total amount of the catch-up contributions to all plans maintained by your employer cannot exceed the annual limit. For 2002, the limit is \$1,000.

Rollovers to and from 403(b) plans. If a distribution includes both pre-tax contributions and after-tax contribu-

tions, the portion of the distribution that is rolled over is treated as consisting first of pre-tax amounts (contributions and earnings that would be includible in income if no rollover occurred). This means that if you roll over an amount that is at least as much as the pre-tax portion of the distribution, you do not have to include any of the distribution in income.

Years of service for church employees and ministers.

If you are a minister or church employee, treat all of your years of service as an employee of a church or a convention or association of churches as years of service with one employer. Prior law required church employees and ministers to figure years of service separately for each employer.

As a minister or church employee, all contributions made to 403(b) plans on your behalf, as an employee of a church or a convention or association of churches, are considered made by one employer.

Foreign missionaries. If you are a foreign missionary, contributions to your 403(b) account will not be treated as exceeding the limit on annual additions if the contributions are not more than the greater of:

- \$3,000, or
- Your includible compensation.

More information. For more information about 403(b) plans, see Publication 571, *Tax-Sheltered Annuity Plans (403(b) Plans)*.

Later Change

Deemed IRAs

For plan years beginning after 2002, a qualified employer plan can provide for voluntary employee contributions to a separate account or annuity that is deemed to be an IRA.

For this purpose, a qualified employer plan includes a deferred compensation plan (section 457(b) plan) maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state.

The term qualified employer plan also includes:

- A qualified pension, profit-sharing, or stock bonus plan (section 401(a) plan),
- A qualified employee annuity plan (section 403(a) plan), and
- A tax-sheltered annuity plan (section 403(b) plan).

More information about IRAs can be found in Publication 590, *Individual Retirement Arrangements (IRAs)*.

4.

Car Expenses

If you purchased a car after September 10, 2001, for use in your business (or as an employee) and figure your deductible expenses using the actual car expense method, new law contains provisions that may affect your depreciation deduction for that car.

Publication 463, *Travel, Entertainment, Gift, and Car Expenses*, contains information on figuring depreciation on your car. However, Publication 463 does not contain the new provisions because it was printed before the law was enacted. The new provisions are in the *Supplement to Publication 463*, which is reprinted below.

Supplement to Publication 463 *Travel, Entertainment, Gift, and Car Expenses*

Introduction

This supplemental publication is for taxpayers who purchased a car for business purposes after September 10, 2001, and figure their deductible expenses, including a deduction for depreciation, using the actual car expense method.

After Publication 463 was printed, the Job Creation and Worker Assistance Act of 2002 was signed into law by the President. Certain provisions of this new law may reduce your taxes for 2001. The new law contains the following provisions.

- 1) A new depreciation deduction, the special depreciation allowance.
- 2) An increase in the limit on depreciation for any car for which you claim the new special depreciation allowance.

If you have already filed your 2001 return, you may wish to file an amended return to claim any of these benefits. See *Amended Return*, later.

Depreciation of Car

If you used the actual car expense method to figure your deduction for a car you own and use in your business (or as an employee), you generally can claim a depreciation deduction. However, there is a limit on the depreciation deduction you can take for your car each year. See *Depreciation Limit* later.

Special Depreciation Allowance

The new law allows you to claim a special depreciation allowance. This special allowance is a deduction equal to 30% of the depreciable basis of qualified property. You figure the amount of the special depreciation allowance after any section 179 deduction you choose to claim, but before figuring your regular depreciation deduction under the Modified Accelerated Cost Recovery System (MACRS). See *Depreciation Deduction* under *Actual Car Expenses* in chapter 4 of Publication 463 for information about MACRS.

You can claim the special depreciation allowance only for the year the qualified property is placed in service.

Qualified property. Qualified property includes a car (any four-wheeled vehicle, including a truck or van not more than 6,000 pounds, that is made primarily for use on public streets, roads, and highways) that meets all of the following requirements.

- 1) You bought it new.
- 2) You bought it after September 10, 2001. (But a car is not qualified property if a binding written contract for you to buy the car was in effect before September 11, 2001.)
- 3) You began using it for business after September 10, 2001, and used it more than 50% in a qualified business use.

Example. Bob bought a new car on October 15, 2001, for \$20,000 and placed it in service immediately, using it 75% for business. Bob's car is qualified property.

Bob chooses not to take a section 179 deduction for the car. He does claim the new special depreciation allowance. Bob first must figure the car's depreciable basis, which is \$15,000 ($\$20,000 \times .75$). He then figures the special depreciation allowance of \$4,500 ($\$15,000 \times .30$).

The remaining depreciable basis of \$10,500 ($\$15,000 - \$4,500$) is depreciated using MACRS (200% declining balance method, half-year convention) and results in a deduction of \$2,100 ($\$10,500 \times .20$), for a total depreciation deduction for 2001 of \$6,600 ($\$4,500 + \$2,100$). However, Bob's depreciation deduction is limited to \$5,745 ($\$7,660 \times .75$), as discussed next.

Depreciation Limit

The limit on your depreciation deduction for 2001 is increased to \$7,660 for a car that is qualified property (defined above) and for which you claim the special depreciation allowance. The limit is increased to \$23,080 if the car is an electric car. The section 179 deduction is treated as depreciation for purposes of this limit.

If you use a car less than 100% in your business or work, the limit is \$7,660 (or \$23,080 for an electric car) multiplied by the percentage of business and investment use during the year.

For cars that do not qualify for (or for which you choose not to claim) the special depreciation allowance, the limit remains \$3,060 (\$9,280 for electric cars).

Amended Return

If you filed your 2001 calendar year return before June 1, 2002, and did not claim the new special depreciation allowance for a qualified car, you can claim it by filing an amended return on Form 1040X, *Amended U.S. Individual Income Tax Return*, by April 15, 2003. At the top of the Form 1040X, print "Filed pursuant to Revenue Procedure 2002-33." If you are an employee, attach Form 2106, *Employee Business Expenses* (revised March 2002). If you are self-employed, attach Form 4562, *Depreciation and Amortization* (revised March 2002).

Or, you can claim the special depreciation allowance by filing Form 3115, *Application for Change in Accounting Method*, with your 2002 return. For details, see Revenue Procedure 2002-33. (But, filing Form 1040X for 2001 enables you to claim the special allowance earlier than attaching Form 3115 to your 2002 return.)

You cannot claim the special depreciation allowance on an amended return (or by using Form 3115) if you made, or are treated as having made, the election not to claim it described later.

Example. The facts are the same as in the previous example except that Bob filed his original 2001 income tax return on April 15, 2002, and claimed a \$3,000 ($\$20,000 \times .75 \times .20$) depreciation deduction for his new car using MACRS.

Bob now wishes to claim the special depreciation allowance for his new car on an amended 2001 return. Bob, who is an employee, files Form 1040X, by April 15, 2003, with an updated Form 2106 (revised March 2002) attached, increasing his total depreciation deduction to \$5,745, as figured in the earlier example.

Bob's new filled-in Form 2106 is shown later.

Election Not To Claim Special Allowance

You can elect **not** to claim the special depreciation allowance for a car by making a statement attached to, or written on, your return indicating that you are electing not to claim the special depreciation allowance for 5-year property. As a general rule, you must make this election by the due date (including extensions) of your return.

You can have an automatic extension of 6 months from the due date of your return (excluding extensions) to make the election with an amended return. To get this extension, you must have filed your original return by the due date (including extensions). At the top of the statement, print "Filed pursuant to section 301.9100-2."

If you elect not to claim the special depreciation allowance for a car, you cannot claim it for any other 5-year property placed in service during the same year.

Unless you elect (or are treated as electing) not to claim the special depreciation allowance, you must reduce the car's adjusted basis by the amount of the allowance, even if the allowance was not claimed.

Deemed election for return filed before June 1, 2002. If you did not make the election not to claim the special depreciation allowance in the time and manner described above, you will still be treated as electing not to claim it if all of the following apply.

- 1) You filed your 2001 return before June 1, 2002.
- 2) You claimed depreciation on your return but did not claim the special depreciation allowance.
- 3) You did not file an amended 2001 return by April 15, 2003, or a Form 3115 with your 2002 return, to claim the special depreciation allowance.

Employee Business Expenses

▶ See separate instructions.

▶ Attach to Form 1040.

Your name <i>Bob Smith</i>	Occupation in which you incurred expenses <i>Sales</i>	Social security number <i>555 00 0000</i>
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Part I Employee Business Expenses and Reimbursements

Step 1 Enter Your Expenses	Column A Other Than Meals and Entertainment	Column B Meals and Entertainment
1 Vehicle expense from line 22 or line 29. (Rural mail carriers: See instructions.)	1 6,233	
2 Parking fees, tolls, and transportation, including train, bus, etc., that did not involve overnight travel or commuting to and from work	2 150	
3 Travel expense while away from home overnight, including lodging, airplane, car rental, etc. Do not include meals and entertainment	3	
4 Business expenses not included on lines 1 through 3. Do not include meals and entertainment	4	
5 Meals and entertainment expenses (see instructions).		5
6 Total expenses. In Column A, add lines 1 through 4 and enter the result. In Column B, enter the amount from line 5	6 6,383	6

Note: If you were not reimbursed for any expenses in Step 1, skip line 7 and enter the amount from line 6 on line 8.

Step 2 Enter Reimbursements Received From Your Employer for Expenses Listed in Step 1

7 Enter reimbursements received from your employer that were not reported to you in box 1 of Form W-2. Include any reimbursements reported under code "L" in box 12 of your Form W-2 (see instructions)	7 450	
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Step 3 Figure Expenses To Deduct on Schedule A (Form 1040)

8 Subtract line 7 from line 6. If zero or less, enter -0-. However, if line 7 is greater than line 6 in Column A, report the excess as income on Form 1040, line 7 Note: If both columns of line 8 are zero, you cannot deduct employee business expenses. Stop here and attach Form 2106 to your return.	8 5,933	
9 In Column A, enter the amount from line 8. In Column B, multiply line 8 by 50% (.50). (Employees subject to Department of Transportation (DOT) hours of service limits: Multiply meal expenses by 60% (.60) instead of 50%. For details, see instructions.)	9 5,933	
10 Add the amounts on line 9 of both columns and enter the total here. Also, enter the total on Schedule A (Form 1040), line 20. (Fee-basis state or local government officials, qualified performing artists, and individuals with disabilities: See the instructions for special rules on where to enter the total.) ▶	10 5,933	10

Part II Vehicle Expenses

Section A—General Information (You must complete this section if you are claiming vehicle expenses.)		(a) Vehicle 1	(b) Vehicle 2
11	Enter the date the vehicle was placed in service	10 / 15 / 2001	/ /
12	Total miles the vehicle was driven during 2001	4,200 miles	miles
13	Business miles included on line 12	3,150 miles	miles
14	Percent of business use. Divide line 13 by line 12	75 %	%
15	Average daily roundtrip commuting distance	10 miles	miles
16	Commuting miles included on line 12	500 miles	miles
17	Other miles. Add lines 13 and 16 and subtract the total from line 12.	500 miles	miles
18	Do you (or your spouse) have another vehicle available for personal use?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
19	Was your vehicle available for personal use during off-duty hours?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
20	Do you have evidence to support your deduction?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
21	If "Yes," is the evidence written?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

Section B—Standard Mileage Rate (See the instructions for Part II to find out whether to complete this section or Section C.)

22	Multiply line 13 by 34½¢ (.345)	22	
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Section C—Actual Expenses		(a) Vehicle 1	(b) Vehicle 2
23	Gasoline, oil, repairs, vehicle insurance, etc.	650	
24a	Vehicle rentals		
24b	b Inclusion amount (see instructions)		
24c	c Subtract line 24b from line 24a		
25	Value of employer-provided vehicle (applies only if 100% of annual lease value was included on Form W-2—see instructions)		
26	Add lines 23, 24c, and 25	650	
27	Multiply line 26 by the percentage on line 14	488	
28	Depreciation. Enter amount from line 38 below	5,745	
29	Add lines 27 and 28. Enter total here and on line 1.	6,233	

Section D—Depreciation of Vehicles (Use this section only if you owned the vehicle and are completing Section C for the vehicle.)

		(a) Vehicle 1	(b) Vehicle 2
30	Enter cost or other basis (see instructions)	20,000	
31	Enter section 179 deduction and special allowance (see instructions)	4,500	
32	Multiply line 30 by line 14 (see instructions if you claimed the section 179 deduction or special allowance)	10,500	
33	Enter depreciation method and percentage (see instructions)	200 DB 20%	
34	Multiply line 32 by the percentage on line 33 (see instructions)	2,100	
35	Add lines 31 and 34	6,600	
36	Enter the limit from the table in the line 36 instructions	7,660	
37	Multiply line 36 by the percentage on line 14	5,745	
38	Enter the smaller of line 35 or line 37. Also enter this amount on line 28 above	5,745	

5.

Depreciation

If you depreciate business property that you acquired and placed in service after September 10, 2001, new law contains provisions that may affect your depreciation deduction for that property.

Publication 946, *How To Depreciate Property*, contains information on depreciation. However, Publication 946 does not contain the new provisions because it was printed before the law was enacted. The new provisions are in the *Supplement to Publication 946*, which is reprinted below.

Supplement to Publication 946 *How To Depreciate Property*

Introduction

After Publication 946 was printed, the Job Creation and Worker Assistance Act of 2002 was signed into law by the President. The new law made several changes in the tax rules explained in the publication. Some of the changes apply to property placed in service during 2001. This supplemental publication describes those changes and explains what you should do if you are affected by them.

The situations and examples in Publication 946 do not reflect any of the changes made by the Job Creation and Worker Assistance Act of 2002.

The new law contains the following provisions.

- 30% depreciation deductions (special depreciation allowance and special New York Liberty Zone (Liberty Zone) depreciation allowance) for the year qualified property is placed in service after September 10, 2001.
- An increased dollar limit on the section 179 deduction for qualified Liberty Zone property purchased after September 10, 2001.
- A shorter recovery period for qualified Liberty Zone leasehold improvement property placed in service after September 10, 2001.
- An increase in the maximum depreciation deduction for 2001 for a qualified passenger automobile placed in service after September 10, 2001.

If you believe you qualify for an increased deduction under any of these new rules, you must file the revised 2001 Form 4562 (dated March 2002) for 2001 calendar or fiscal years and 2000 fiscal years ending after September 10, 2001. If you have already filed a tax return, this supple-

mental publication explains how to claim these benefits and how to elect *not* to claim the special depreciation allowance or special Liberty Zone depreciation allowance. See *Table 2* at the end of the supplement for an overview of the rules that apply if you filed your return before June 1, 2002.

Special Depreciation Allowance

You can take a special depreciation allowance for qualified property you place in service after September 10, 2001. The allowance is an additional deduction of 30% of the property's depreciable basis. To figure the depreciable basis, you must first multiply the property's cost or other basis by the percentage of business/investment use and then reduce that amount by any section 179 deduction and certain other deductions and credits for the property. See *What Is the Basis for Depreciation?* on page 23 in Publication 946 for more information on figuring depreciable basis.

The allowance is deductible for both regular tax and alternative minimum tax (AMT) purposes. There is no AMT adjustment required for any depreciation figured on the remaining basis of the property. In the year you claim the allowance (generally the year you place the property in service), you must reduce the depreciable basis of the property by the allowance before figuring your regular depreciation deduction.

Example 1. On November 1, 2001, you bought and placed in service in your business qualified property that cost \$100,000. You did not elect to claim a section 179 deduction. You can deduct 30% of the cost (\$30,000) as a special depreciation allowance for 2001. You use the remaining \$70,000 of cost to figure your regular depreciation deduction for 2001 and later years.

Example 2. The facts are the same as in Example 1, except that you choose to deduct \$24,000 of the property's cost as a section 179 deduction. You use the remaining \$76,000 of cost to figure your special depreciation allowance of \$22,800 (\$76,000 × 30%). You use the remaining \$53,200 of cost to figure your regular depreciation deduction for 2001 and later years.

Qualified Property

To qualify for the special depreciation allowance, your property must meet the following requirements.

- 1) It is new property of one of the following types.
 - a) Property depreciated under the modified accelerated cost recovery system (MACRS) with a recovery period of 20 years or less. See *Can You Use MACRS To Depreciate Your Property and Which Recovery Period Applies?* on pages 7 and 23, respectively, in Publication 946.

- b) Water utility property. See *25-year property* on page 22 in Publication 946.
 - c) Computer software that is not a section 197 intangible as described in *Computer software* on page 5 in Publication 946. (The cost of some computer software is treated as part of the cost of hardware and is depreciated under MACRS.)
 - d) Qualified leasehold improvement property (defined later).
- 2) It meets the following tests (explained later under *Tests To Be Met*).
- a) Acquisition date test.
 - b) Placed in service date test.
 - c) Original use test.
- 3) It is **not** excepted property (explained later under *Excepted Property*).

Qualified leasehold improvement property. Generally, this is any improvement to an interior part of a building that is nonresidential real property, provided all of the following requirements are met.

- The improvement is made under or pursuant to a lease by the lessee (or any sublessee) or the lessor of that part of the building.
- That part of the building is to be occupied exclusively by the lessee (or any sublessee) of that part.
- The improvement is placed in service more than 3 years after the date the building was first placed in service.

However, a qualified leasehold improvement does not include any improvement for which the expenditure is attributable to any of the following.

- The enlargement of the building.
- Any elevator or escalator.
- Any structural component benefiting a common area.
- The internal structural framework of the building.

Generally, a binding commitment to enter into a lease is treated as a lease and the parties to the commitment are treated as the lessor and lessee. However, a binding commitment between related persons is not treated as a lease.

Related persons. For this purpose, the following are related persons.

- Members of an affiliated group.
- The persons listed in items (1) through (9) under *Related persons* on page 8 of Publication 946 (except that “80% or more” should be substituted for “more than 10%” each place it appears).

- An executor and a beneficiary of the same estate.

Tests To Be Met

To qualify for the special depreciation allowance, the property must meet all of the following tests.

Acquisition date test. Generally, you must have acquired the property either:

- After September 10, 2001, and before September 11, 2004, but only if no written binding contract for the acquisition was in effect before September 11, 2001, or
- Pursuant to a written binding contract entered into after September 10, 2001, and before September 11, 2004.

Property you manufacture, construct, or produce for your own use meets this test if you began the manufacture, construction, or production of the property after September 10, 2001, and before September 11, 2004.

Placed in service date test. Generally, the property must be placed in service for use in your trade or business or for the production of income after September 10, 2001, and before January 1, 2005.

If you sold property you placed in service after September 10, 2001, and you leased it back within 3 months after the property was originally placed in service, the property is treated as placed in service no earlier than the date it is used under the leaseback.

Original use test. The original use of the property must have begun with you after September 10, 2001. “Original use” means the first use to which the property is put, whether or not by you. Additional capital expenditures you incurred after September 10, 2001, to recondition or rebuild your property meet the original use test.

Excepted Property

The following property does not qualify for the special depreciation allowance.

- Property used by any person before September 11, 2001.
- Property required to be depreciated using ADS. This includes listed property used 50% or less in a qualified business use.
- Qualified New York Liberty Zone leasehold improvement property (defined next).

Qualified New York Liberty Zone leasehold improvement property. This is any qualified leasehold improvement property (as defined earlier) if all of the following requirements are met.

- The improvement is to a building located in the New York Liberty Zone (defined later under *New York Liberty Zone Benefits*).

- The improvement is placed in service after September 10, 2001, and before January 1, 2007.
- No written binding contract for the improvement was in effect before September 11, 2001.

Election Not To Claim the Allowance

You can elect **not** to claim the special depreciation allowance for qualified property. If you make this election for any property, it applies to all property in the same property class placed in service during the year. To make this election, attach a statement to your return indicating you elect not to claim the allowance and the class of property for which you are making the election.

When to make election. Generally, you must make the election on a timely filed tax return (including extensions) for the year in which you place the property in service.

However, if you timely filed your return for the year without making the election, you can still make the election by filing an amended return within 6 months of the due date of the original return (not including extensions). Attach the election statement to the amended return. At the top of the election statement, write “Filed pursuant to section 301.9100–2.”

Revoking an election. Once you elect not to deduct the special depreciation allowance for a class of property, you cannot revoke the election without IRS consent. A request to revoke the election is subject to a user fee.

Rules for Returns Filed Before June 1, 2002

The following rules apply if you placed qualified property in service after September 10, 2001, and filed your return before June 1, 2002. The rules apply to returns for the following years.

- 2000 fiscal years that end after September 10, 2001.
- 2001 calendar and fiscal years.

Claiming the allowance. If you did not claim the allowance on your return and did not make the election not to claim the allowance, you can do either of the following to claim the allowance.

- File an amended return by the due date (not including extensions) of your return for the year following the year the property was placed in service. Write “Filed Pursuant to Rev. Proc. 2002–33” at the top of the amended return.
- File Form 3115, *Application for Change in Accounting Method*, with your return for the year following the year the property was placed in service. Your return must be filed by the due date (including extensions). Write “Automatic Change Filed Under Rev. Proc. 2002–33” on the appropriate line of Form 3115. You must also file a copy (with signature) of

the completed Form 3115 with the IRS National Office no later than when you file the original with your return. For more information about filing Form 3115, including the address to send it to, see Revenue Procedure 2002–9, Revenue Procedure 2002–19, and Revenue Procedure 2002–33.

Example 1. You are an individual and you use the calendar year. You placed qualified property in service for your business in December 2001. You filed your 2001 income tax return before April 15, 2002. You did not claim the special depreciation allowance for the property and did not make the election not to claim the allowance. You can claim the special allowance by filing an amended 2001 return by April 15, 2003, with “Filed Pursuant to Rev. Proc. 2002–33” at the top of the amended return. You must file an amended return by April 15, 2003, even if you get an extension of time to file your 2002 tax return.

Example 2. The facts concerning your 2001 return are the same as in *Example 1*. In addition, you got an automatic 4-month extension of time (to August 15, 2003) to file your 2002 return. You can claim the special allowance by filing a Form 3115 (with “Filed Pursuant to Rev. Proc. 2002–33” on the appropriate line) with your 2002 return by August 15, 2003. You must also file a copy of this Form 3115 with the IRS National Office no later than when you file your 2002 return.

Electing not to claim the allowance. Generally, you have elected **not** to claim the special depreciation allowance for a class of property if you:

- Filed your return timely (including extensions) for the year you placed qualified property in service and indicated on a statement with the return that you are not claiming the allowance, or
- Filed your return timely and filed an amended return within 6 months of the due date of the original return (not including extensions) and indicated on a statement with the amended return that you are not claiming the allowance.

The statement must indicate that you are not deducting the special depreciation allowance and the class of property to which the election applies. The statement can be either attached to or written on the return. You can, for example, write “not deducting 30%” on Form 4562.

Deemed election. If you have not followed either of the procedures described above to elect **not** to claim the allowance, you may still be treated as making the election. You will be treated as making the election if you meet both of the following conditions.

- You filed your return for the year you placed the property in service and claimed depreciation, but not the special allowance, for any class of property.
- You do not file an amended return or a Form 3115 within the time prescribed for claiming the special allowance. See *Claiming the allowance*, earlier.

Passenger Automobiles

The limit on your depreciation deduction (including any section 179 deduction) for any passenger automobile that is qualified property (defined earlier) placed in service after September 10, 2001, and for which you claim the special depreciation allowance is increased. Generally, the limit is increased from \$3,060 to \$7,660. However, if the automobile is a qualified electric car, the limit is increased from \$9,280 to \$23,080 (\$22,980 if placed in service in 2002). *Table 1* shows the maximum deduction amounts for 2001.

Table 1. Maximum Deduction for 2001

Qualified Vehicle	Placed in Service Before Sept. 11	Placed in Service After Sept. 10
Passenger automobile	\$3,060	\$ 7,660
Electric car	9,280	23,080 ¹
¹ \$22,980 if you place an electric car in service in 2002.		

Election not to claim the allowance. The increased maximum depreciation deduction does not apply if you elected *not* to claim the special depreciation allowance as explained earlier under *Election Not To Claim the Allowance and Rules for Returns Filed Before June 1, 2002*.

New York Liberty Zone Benefits

Several benefits are available for property you place in service in the New York Liberty Zone (Liberty Zone). They include a special depreciation allowance for the year you place the property in service, an increased section 179 deduction, and the classification of certain leasehold improvement property as 5-year property.

Area defined. The New York Liberty Zone is the area located on or south of Canal Street, East Broadway (east of its intersection with Canal Street), or Grand Street (east of its intersection with East Broadway) in the Borough of Manhattan in the City of New York, New York.

Special Liberty Zone Depreciation Allowance

You can take a special depreciation allowance for qualified Liberty Zone property you place in service after September 10, 2001. The allowance is an additional deduction of 30% of the property's depreciable basis. To figure the depreciable basis, you must first multiply the property's cost or other basis by the percentage of business/investment use and then reduce that amount by any section 179 deduction and certain other deductions and credits for the property. See *What Is the Basis for Depreciation?* on page 23 in

Publication 946 for more information on figuring depreciable basis.

The allowance is deductible for both regular tax and alternative minimum tax (AMT) purposes. There is no AMT adjustment required for any depreciation figured on the remaining basis of the property. In the year you claim the allowance (generally the year you place the property in service), you must reduce the depreciable basis of the property by the allowance before figuring your regular depreciation deduction.



You cannot claim the special Liberty Zone depreciation allowance for property eligible for the special depreciation allowance explained earlier in Qualified Property under Special Depreciation Allowance. Qualified property is eligible for only one special depreciation allowance.

Example 1. On November 1, 2001, you bought and placed in service in your business, which is in the Liberty Zone, qualified Liberty Zone property that cost \$200,000. You did not elect to claim a section 179 deduction. You can deduct 30% of the cost (\$60,000) as a special Liberty Zone depreciation allowance for 2001. You use the remaining \$140,000 of cost to figure your regular depreciation deduction for 2001 and later years.

Example 2. The facts are the same as in *Example 1*, except that you choose to deduct \$59,000 of the property's cost as a section 179 deduction. (See *Increased Section 179 Deduction*, later, for information concerning how this section 179 deduction amount is figured). You use the remaining \$141,000 of cost to figure your special Liberty Zone depreciation allowance of \$42,300 (\$141,000 × 30%). You use the remaining \$98,700 of cost to figure your regular depreciation deduction for 2001 and later years.

Qualified Liberty Zone Property

For a 2001 calendar or fiscal year and a 2000 fiscal year that ends after September 10, 2001, property qualifies for the special Liberty Zone depreciation allowance if it meets the following requirements.

- 1) It is one of the following types of property.
 - a) Used property depreciated under MACRS with a recovery period of 20 years or less. See *Can You Use MACRS To Depreciate Your Property and Which Recovery Period Applies?* on pages 7 and 23, respectively, in Publication 946.
 - b) Used water utility property. See *25-year property* on page 22 in Publication 946.
 - c) Used computer software that is not a section 197 intangible as described in *Computer software* on page 5 in Publication 946. (The cost of some computer software is treated as part of the cost of hardware and is depreciated under MACRS.)
 - d) Certain nonresidential real property and residential rental property (defined later).

- 2) It meets the following tests (explained later under *Tests to be met*).
 - a) Acquisition date test.
 - b) Placed in service date test.
 - c) Substantial use test.
 - d) Original use test.
- 3) It is **not** excepted property (explained later under *Excepted property*).

Nonresidential real property and residential rental property. This property is qualifying property only to the extent it rehabilitates real property damaged, or replaces real property destroyed or condemned, as a result of the terrorist attack of September 11, 2001. Property is treated as replacing destroyed or condemned property if, as part of an integrated plan, such property replaces real property included in a continuous area that includes real property destroyed or condemned.

For these purposes, real property is considered destroyed (or condemned) only if an entire building or structure was destroyed (or condemned) as a result of the terrorist attack. Otherwise, the property is considered damaged real property. For example, if certain structural components of a building (such as walls, floors, or plumbing fixtures) are damaged or destroyed as a result of the terrorist attack, but the building is not destroyed (or condemned), then only costs related to replacing the damaged or destroyed structural components qualify for the special Liberty Zone depreciation allowance.

Tests to be met. To qualify for the special Liberty Zone depreciation allowance, your property must meet all of the following tests.

Acquisition date test. You must have acquired the property by purchase after September 10, 2001, and there must not have been a binding written contract for the acquisition in effect before September 11, 2001.

For information on the acquisition of property by purchase, see *Property Acquired by Purchase* on page 15 of Publication 946.

Property you manufacture, construct, or produce for your own use meets this test if you began the manufacture, construction, or production of the property after September 10, 2001.

Placed in service date test. Generally, the property must be placed in service for use in your trade or business or for the production of income before January 1, 2007 (January 1, 2010, in the case of qualifying nonresidential real property and residential rental property).

If you sold property you placed in service after September 10, 2001, and you leased it back within 3 months after the property was originally placed in service, the property is treated as placed in service no earlier than the date it is used under the leaseback.

Substantial use test. Substantially all use of the property must be in the Liberty Zone and in the active conduct of your trade or business in the Liberty Zone.

Original use test. The original use of the property in the Liberty Zone must have begun with you after September 10, 2001.

Used property can be qualified Liberty Zone property if it has not previously been used within the Liberty Zone. Also, additional capital expenditures you incurred after September 10, 2001, to recondition or rebuild your property meet the original use test if the original use of the property in the Liberty Zone began with you.

Excepted property. The following property does not qualify for the special Liberty Zone depreciation allowance.

- Property eligible for the special depreciation allowance explained earlier in *Qualified Property* under *Special Depreciation Allowance*.
- Property required to be depreciated using ADS. This includes listed property used 50% or less in a qualified business use.
- Qualified New York Liberty Zone leasehold improvement property (defined earlier in *Excepted Property* under *Special Depreciation Allowance*).

Example. In December 2001, you bought and placed in service in your business in the Liberty Zone the following property.

- New office furniture with a MACRS recovery period of 7 years.
- A used computer with a MACRS recovery period of 5 years.

The computer had not previously been used within the Liberty Zone.

Because the office furniture is new property, it qualifies for the special depreciation allowance, but not the special Liberty Zone depreciation allowance. Because the computer is used property that had not previously been used in the Liberty Zone, it qualifies for the special Liberty Zone depreciation allowance, but not the special depreciation allowance.

Election Not To Claim the Liberty Zone Allowance

You can elect **not** to claim the special Liberty Zone depreciation allowance for qualified property. If you make this election for any property, it applies to all property in the same property class placed in service during the year. To make this election, attach a statement to your return indicating you elect not to claim the allowance and the class of property for which you are making the election.

When to make the election. Generally, you must make the election on a timely filed tax return (including extensions) for the year in which you place the property in service.

However, if you timely filed your return for the year without making the election, you can still make the election by filing an amended return within 6 months of the due date of the original return (not including extensions). Attach the

election statement to the amended return. At the top of the election statement, write “Filed pursuant to section 301.9100–2.”

Revoking an election. Once you elect not to deduct the special Liberty Zone depreciation allowance for a class of property, you cannot revoke the election without IRS consent. A request to revoke the election is subject to a user fee.

Returns filed before June 1, 2002. The rules that apply to the special depreciation allowance discussed earlier in *Rules for Returns Filed Before June 1, 2002* under *Special Depreciation Allowance* also apply to the special Liberty Zone depreciation allowance.

Increased Section 179 Deduction

Under section 179 of the Internal Revenue Code, you can choose to recover all or part of the cost of certain qualifying property, up to a limit, by deducting it in the year you place the property in service. For tax years beginning in 2000, that limit was \$20,000. For tax years beginning in 2001 and 2002, that limit is generally \$24,000. If the cost of qualifying section 179 property placed in service in a year is over \$200,000, you must reduce the dollar limit (but not below zero) by the amount of the cost over \$200,000.

Increased Dollar Limit

The dollar limit on the section 179 deduction is increased for certain property placed in service in the Liberty Zone. The increase is the smaller of the following amounts.

- \$35,000.
- The cost of section 179 property that is qualified Liberty Zone property placed in service during the year.



If you use the revised 2001 Form 4562 (dated March 2002) for a tax year beginning in 2000, you must reduce the section 179 dollar limit to \$20,000 before adding the additional amount for qualified property.

Qualified property. To qualify for the increased section 179 deduction, your property must be section 179 property that is either:

- Qualified Liberty Zone property, or
- Property that would be qualified Liberty Zone property except that it is eligible for the special depreciation allowance.

Qualified Liberty Zone property is explained earlier in *Qualified Liberty Zone Property* under *Special Liberty Zone Depreciation Allowance*. Property eligible for the special depreciation allowance is explained earlier in *Qualified Property* under *Special Depreciation Allowance*. For information on the requirements that must be met for property to qualify for the section 179 deduction, see *What Property Qualifies?* on page 14 of Publication 946.

Example 1. In 2002, you place in service in your business, which is in the Liberty Zone, qualified property (defined earlier) costing \$25,000. Because this cost is less than \$35,000, the dollar limit on the section 179 deduction is increased by \$25,000 to \$49,000 (\$24,000 + \$25,000).

Example 2. In 2002, you place in service in your business, which is in the Liberty Zone, qualified property (defined earlier) costing \$75,000. Because \$35,000 is less than the cost of the property you place in service, the dollar limit on the section 179 deduction you can claim is increased by \$35,000 to \$59,000 (\$24,000 + \$35,000).

Reduced Dollar Limit

Generally, you must reduce the dollar limit for a year by the cost of qualifying section 179 property placed in service in the year that is more than \$200,000. However, if the cost of your Liberty Zone property exceeds \$200,000, you take into account only 50% (instead of 100%) of the cost of qualified property placed in service in a year.

Example. In 2002, you place in service in your business, which is in the Liberty Zone, qualified property costing \$460,000. Your increased dollar limit is \$59,000 (\$35,000 + \$24,000). Because 50% of the cost of the property you place in service (\$230,000) is \$30,000 more than \$200,000, you must reduce your \$59,000 dollar limit to \$29,000 (\$59,000 – \$30,000).

Recapture Rules

Rules similar to those explained on page 20 of Publication 946 under *When Must You Recapture the Deduction?* apply with respect to any qualified property you stop using in the Liberty Zone.

Returns Filed Before June 1, 2002

If you filed a return before June 1, 2002, and did not deduct the increased section 179 amount for qualified property placed in service after September 10, 2001, you can deduct the increased amount by filing an amended return by the due date (not including extensions) of the return for the year after the year the property was placed in service. This rule applies to returns for the following years.

- 2000 fiscal years that end after September 10, 2001.
- 2001 calendar and fiscal years.

On the amended return, write “Filed Pursuant to Rev. Proc. 2002–33.”

Liberty Zone Leasehold Improvement Property

Qualified Liberty Zone leasehold improvement property (described earlier in *Qualified Property* under *Special Depreciation Allowance*) is 5-year property. This means that it

is depreciated over a recovery period of 5 years. For information about recovery periods, see *Which Recovery Period Applies?* on page 23 of Publication 946.

The straight-line method must be used with respect to qualified Liberty Zone leasehold improvement property.

Under ADS, the recovery period for qualified Liberty Zone leasehold improvement property is 9 years.

Returns Filed Before June 1, 2002

If you filed either of the following returns before June 1, 2002, and did not depreciate qualified Liberty Zone lease-

hold improvement property placed in service during the tax year as 5-year property using the straight line method, you should file an amended return before you file your return for the year after the year the property was placed in service.

- Your 2000 fiscal year return (for a 2000 fiscal year that ends after September 10, 2001).
- Your 2001 calendar or fiscal year return.

On the amended return, write "Filed Pursuant to Rev. Proc. 2002-33."

Table 2. Rules for Returns Filed Before June 1, 2002

Note: This chart highlights the rules for returns affected by the Job Creation and Worker Assistance Act of 2002 that were filed before June 1, 2002, without accounting for any of the new benefits under the law. See the text for definitions and examples. **Do not rely on this chart alone.**

IF you want to...	THEN you...	BY...
claim the special depreciation allowance or special Liberty Zone depreciation allowance	<ul style="list-style-type: none"> • must file an amended return 	<ul style="list-style-type: none"> • the due date (not including extensions) of your return for the year after the year the property was placed in service, or
	<ul style="list-style-type: none"> • must file Form 3115, <i>Application for Change in Accounting Method</i>, with your return for the year after the year the property was placed in service • must file a copy of your completed Form 3115 with the IRS National Office 	<ul style="list-style-type: none"> • the due date (including extensions) of your return for the year after the year the property was placed in service, and • the date you file the original Form 3115 with your return for the year after the year the property was placed in service.
elect not to claim the special depreciation allowance or the special Liberty Zone depreciation allowance ¹	<ul style="list-style-type: none"> • must have filed your return timely for the year the property was placed in service, and • must file an amended return stating you are not claiming the allowance 	<ul style="list-style-type: none"> • the date that is 6 months after the due date of the original return (not including extensions).
deduct the increased section 179 amount	<ul style="list-style-type: none"> • must file an amended return 	<ul style="list-style-type: none"> • the due date (not including extensions) of your return for the year after the year the property was placed in service.
use a 5-year recovery period for depreciating qualified Liberty Zone leasehold improvement property	<ul style="list-style-type: none"> • should file an amended return 	<ul style="list-style-type: none"> • the date you file your return for the year after the year the property was placed in service.

¹See also *Deemed election* under *Rules for Returns Filed Before June 1, 2002*, earlier.

6.

How To Get Tax Help

You can get help with unresolved tax issues, order free publications and forms, ask tax questions, and get more information from the IRS in several ways. By selecting the method that is best for you, you will have quick and easy access to tax help.

Contacting your Taxpayer Advocate. If you have attempted to deal with an IRS problem unsuccessfully, you should contact your Taxpayer Advocate.

The Taxpayer Advocate represents your interests and concerns within the IRS by protecting your rights and resolving problems that have not been fixed through normal channels. While Taxpayer Advocates cannot change the tax law or make a technical tax decision, they can clear up problems that resulted from previous contacts and ensure that your case is given a complete and impartial review.

To contact your Taxpayer Advocate:

- Call the Taxpayer Advocate at **1-877-777-4778**.
- Call the IRS at **1-800-829-1040**.
- Call, write, or fax the Taxpayer Advocate office in your area.
- Call **1-800-829-4059** if you are a TTY/TDD user.

For more information, see Publication 1546, *The Taxpayer Advocate Service of the IRS*.

Free tax services. To find out what services are available, get Publication 910, *Guide to Free Tax Services*. It contains a list of free tax publications and an index of tax topics. It also describes other free tax information services, including tax education and assistance programs and a list of TeleTax topics.



Personal computer. With your personal computer and modem, you can access the IRS on the Internet at **www.irs.gov**. While visiting our web site, you can:

- Find answers to questions you may have.
- Download forms and publications or search for forms and publications by topic or keyword.
- View forms that may be filled in electronically, print the completed form, and then save the form for recordkeeping.
- View Internal Revenue Bulletins published in the last few years.
- Search regulations and the Internal Revenue Code.
- Receive our electronic newsletters on hot tax issues and news.
- Get information on starting and operating a small business.

You can also reach us with your computer using File Transfer Protocol at **ftp.irs.gov**.



TaxFax Service. Using the phone attached to your fax machine, you can receive forms and instructions by calling **703-368-9694**. Follow the directions from the prompts. When you order forms, enter the catalog number for the form you need. The items you request will be faxed to you.

For help with transmission problems, call the FedWorld Help Desk at **703-487-4608**.



Phone. Many services are available by phone.

- *Ordering forms, instructions, and publications.* Call **1-800-829-3676** to order current and prior year forms, instructions, and publications.
- *Asking tax questions.* Call the IRS with your tax questions at **1-800-829-1040**.
- *TTY/TDD equipment.* If you have access to TTY/TDD equipment, call **1-800-829-4059** to ask tax questions or to order forms and publications.
- *TeleTax topics.* Call **1-800-829-4477** to listen to pre-recorded messages covering various tax topics.

Evaluating the quality of our telephone services. To ensure that IRS representatives give accurate, courteous, and professional answers, we evaluate the quality of our telephone services in several ways.

- A second IRS representative sometimes monitors live telephone calls. That person only evaluates the IRS assistor and does not keep a record of any taxpayer's name or tax identification number.
- We sometimes record telephone calls to evaluate IRS assistors objectively. We hold these recordings no longer than one week and use them only to measure the quality of assistance.
- We value our customers' opinions. Throughout this year, we will be surveying our customers for their opinions on our service.



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CD-ROM. You can order IRS Publication 1796, *Federal Tax Products on CD-ROM*, and obtain:

- Current tax forms, instructions, and publications.
- Prior-year tax forms and instructions.
- Popular tax forms that may be filled in electronically, printed out for submission, and saved for record-keeping.
- Internal Revenue Bulletins.

The CD-ROM can be purchased from National Technical Information Service (NTIS) by calling **1-877-233-6767** or on the Internet at **www.irs.gov**. The first release is available in mid-December and the final release is available in late January.

IRS Publication 3207, *Small Business Resource Guide*, is an interactive CD-ROM that contains information important to small businesses. It is available in mid-February. You can get a free copy by calling **1-800-829-3676** or visiting the IRS web site at **www.irs.gov**.

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