

AN ALERT FROM THE BDO FEDERAL TAX PRACTICE

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FEDERAL TAX



► SUBJECT

FINAL REGULATIONS ON DISPOSITIONS OF TANGIBLE DEPRECIABLE PROPERTY

On Thursday, August 14, the Treasury Department and the Internal Revenue Service issued final regulations on dispositions of tangible depreciable property (T.D. 9689). The final regulations provide guidance for taxpayers regarding dispositions of property subject to depreciation under section 168 of the Internal Revenue Code.

► IMPACT

The final regulations affect business dispositions of MACRS property.

► EFFECTIVE DATES

The final regulations are generally effective for taxable years beginning on or after January 1, 2014. A taxpayer may choose to apply the final regulations to taxable years beginning on or after January 1, 2012.

Taxpayers also may choose to adopt the 2013 proposed regulations or the 2011 temporary regulations for taxable years beginning on or after January 1, 2012, and beginning before January 1, 2014.

► DISPOSITIONS

The final regulations are generally consistent with the provisions of the 2013 proposed regulations on dispositions of tangible depreciable property. The final regulations provide the rules for dispositions of assets in both single/multiple asset accounts and general asset accounts. Where a taxpayer is depreciating assets without a general asset account election in place, the regulations allow taxpayers to claim, by election, a partial disposition without identifying the component before the disposition event.

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The final regulations provide guidance on how to identify the asset being disposed and how to determine the adjusted basis of a disposed asset if it is impractical to determine the exact basis from the books and records. If the taxpayer uses a reasonable method to identify the basis of the disposed asset, the method must be consistently applied to all portions of the same asset. The final regulations no longer allow the Consumer Price Index as an example of a reasonable method for estimating the cost of a replacement asset. Instead, the regulations identify, as one method of estimating disposed basis, the Producer Price Index for Finished Goods as a more accurate calculation for inflation. The final regulations also state that the Producer Price Index can only be used for discounting the cost of a replacement asset if the cost is determined to be a restoration and is not deemed to be a betterment or adaptation to a new or different use. The final regulations also add examples of other reasonable methods for determining basis in a partial disposition. The Service expects that reasonable methods can be used that do not require an expensive study.

► GENERAL ASSET ACCOUNTS

The final regulations are generally unchanged from the 2013 proposed regulations for general asset accounts. The final regulations provide rules to determine when a disposition from a general asset account occurs and how to identify the disposed asset. When an asset in a general asset account is disposed, proceeds received are recognized as ordinary income, and loss is generally not recognized from a disposition of the asset. The final regulations retain the 2013 proposed disposition rules for making the election to terminate a general asset account or making the qualifying disposition election.

The final regulations also clarify how to make certain disposition elections for assets when section 280B (demolition of structures) applies.

► LATE PARTIAL DISPOSITION ELECTION

The final regulations allow a loss upon a partial disposition if a taxpayer makes an election on a timely-filed return in the year of the partial disposition. Rev. Proc. 2014-17 allows a late partial disposition election under the 2013 proposed disposition regulations, which includes a section 481(a) catch-up adjustment for dispositions in prior taxable years but only for taxable years beginning before January 1, 2014. The Service has stated that it is considering extending the late partial disposition election method change for one more year to taxable years beginning on or after January 1, 2014. Therefore, taxpayers may have an additional year to make late partial disposition elections. The Service is expected to issue a revenue procedure to allow taxpayers to change their methods of accounting in order to implement the final disposition regulations.

► NEXT STEPS

BDO will issue a more comprehensive discussion on the final disposition regulations in the near future. Taxpayers should evaluate their current disposition accounting methods and determine if those methods comply with the final disposition regulations. After the Service releases the related revenue procedures, taxpayers should also determine the timing for making accounting method changes to comply with the new rules.

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