

26 CFR 1.168(i)-4: Changes in use.
(Also Part I, §§ 163(j), 168, 446; 1.446-1, 1.163(j)-9.)

Rev. Proc. 2021-28

SECTION 1. PURPOSE

This revenue procedure provides guidance under § 202 of the Taxpayer Certainty and Disaster Tax Relief Act of 2020 (TCDTRA), enacted as Division EE of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, 134 Stat. 1182 (December 27, 2020). Section 202 of the TCDTRA retroactively provides a recovery period of 30 years under the alternative depreciation system in § 168(g) (ADS) of the Internal Revenue Code (Code) for certain residential rental property, as defined in § 168(e)(2)(A) of the Code, placed in service before January 1, 2018, held by an electing real property trade or business as defined in § 163(j)(7)(B) of the Code, and not previously subject to the ADS. This revenue procedure explains how a taxpayer changes its method of computing depreciation under § 168(g) of the Code for such property to comply with § 202 of the TCDTRA. This revenue procedure also modifies Rev. Proc. 2019-08, 2019-03 I.R.B. 347, which provides guidance under § 168(g) of the Code related to certain property held by an electing real property trade or business. Finally, this revenue procedure modifies Rev. Proc. 2019-43, 2019-48 I.R.B. 1107, which provides the list of automatic changes in methods of accounting, to expand the applicability of automatic changes for a change in use of certain depreciable property.

SECTION 2. BACKGROUND

.01 Alternative depreciation system under § 168(g) for residential rental property.

(1) Prior to amendment by §§ 13204 and 13205 of Public Law 115-97, 131 Stat. 2054 (2017), commonly referred to as the Tax Cuts and Jobs Act (TCJA), § 168(g)(1) of the Code provided that the depreciation deduction provided by § 167(a) of the Code is determined under the ADS for: (A) any tangible property that during the taxable year is used predominantly outside the United States; (B) any tax-exempt use property; (C) any tax-exempt bond financed property; (D) any imported property covered by an Executive order under § 168(g)(6) of the Code; and (E) any property to which an election under § 168(g)(7) of the Code applies. Sections 13204(a)(3)(A) and 13205(a) of the TCJA amended § 168(g)(1) of the Code by requiring the depreciation deduction provided by § 167(a) of the Code to be determined under the ADS for the following additional property: nonresidential real property, residential rental property, and qualified improvement property held by an electing real property trade or business as defined in § 163(j)(7)(B) of the Code; and any property with a recovery period of 10 years or more that is held by an electing farming business as defined in § 163(j)(7)(C) of the Code. These amendments apply to taxable years beginning after December 31, 2017, without regard to when the property is or was placed in service. See TCJA § 13204(b)(2) and § 13205(b).

(2) Prior to amendment by the TCJA, the table of recovery periods under § 168(g)(2)(C) of the Code provided that the recovery period under the ADS was 40 years for residential rental property. Section 13204(a)(3)(C) of the TCJA amended that

table by providing that the ADS recovery period is 30 years for residential rental property. Prior to the enactment of the TCDTRA, this amendment applied only to property placed in service after December 31, 2017. See TCJA § 13204(b)(1).

(3) Therefore, although the TCJA added residential rental property held by an electing real property trade or business to the list of property to which the ADS is applicable, the change in recovery period from 40 years to 30 years for all residential rental property applied only to property placed in service after December 31, 2017. See TCJA § 13204(b)(1) and (2).

(4) Section 202 of the TCDTRA amended § 13204(b) of the TCJA to add new § 13204(b)(3) of the TCJA. Section 13204(b)(3) of the TCJA provides that in the case of any residential rental property (i) that was placed in service before January 1, 2018, (ii) that is held by an electing real property trade or business, as defined in § 163(j)(7)(B) of the Code (electing real property trade or business), and (iii) for which § 168(g)(1)(A) through (E) of the Code did not apply prior to January 1, 2018, the amendments made by § 13204(a)(3)(C) of the TCJA apply to taxable years beginning after December 31, 2017. Accordingly, such residential rental property has a 30-year recovery period under the ADS for taxable years beginning after December 31, 2017.

(5) Unless otherwise provided, all references hereinafter in this revenue procedure to § 168(g) of the Code are references to § 168(g) of the Code as in effect on December 28, 2020, the day after the enactment date of the TCDTRA.

.02 Rev. Proc. 2019-08.

(1) On January 14, 2019, the Department of Treasury (Treasury Department) and the Internal Revenue Service (IRS) published Rev. Proc. 2019-08 to provide guidance, in part, on the recovery period under the ADS for residential rental property placed in service before 2018 and on how taxpayers can change their computation of depreciation to the ADS for certain properties held by electing real property trades or businesses.

(2) Section 4.01(1) of Rev. Proc. 2019-08 provides that the recovery period under the table in § 168(g)(2)(C) of the Code is 30 years for residential rental property placed in service by the taxpayer after December 31, 2017, and 40 years for residential rental property placed in service by the taxpayer before January 1, 2018. To comply with § 202 of the TCDTRA, section 6 of this revenue procedure modifies section 4.01 of Rev. Proc. 2019-08 to provide that the 30-year recovery period also applies to certain residential rental property placed in service before January 1, 2018, and held by an electing real property trade or business for taxable years beginning after December 31, 2017.

(3) Sections 4.02(1) and 4.02(2)(a) of Rev. Proc. 2019-08 provide that for the election year (that is, the first taxable year for which a trade or business makes an election under § 163(j)(7)(B) and the regulations thereunder), the electing real property trade or business must begin depreciating nonresidential real property, residential rental property, and qualified improvement property in accordance with the ADS. This rule applies to such properties placed in service by the electing real property trade or business in the election year and all subsequent taxable years (newly-acquired

property), and to such properties placed in service by the electing real property trade or business in taxable years beginning before the election year (existing property).

Pursuant to section 4.02(2)(b) of Rev. Proc. 2019-08, a change in use occurs under § 168(i)(5) and § 1.168(i)-4(d) of the Income Tax Regulations for existing property as a result of an election under § 163(j)(7)(B). Therefore, depreciation for such property is determined in accordance with the rules under § 1.168(i)-4(d).

.03 Method of accounting.

(1) Section 446(e) and § 1.446-1(e)(2) require a taxpayer to secure the consent of the Commissioner of Internal Revenue (Commissioner) before changing a method of accounting for Federal income tax purposes. Section 1.446-1(e)(3)(ii) authorizes the Commissioner to prescribe administrative procedures setting forth the limitations, terms, and conditions necessary to permit a taxpayer to obtain consent to change a method of accounting.

(2) Section 2.05 of Rev. Proc. 2015-13, 2015-5 I.R.B 419, 425, provides that a taxpayer may not request, or otherwise make, a retroactive change in method of accounting, unless specifically authorized by the Commissioner or by statute.

(3) Section 1.446-1(e)(2)(ii)(d)(3)(ii) provides that a change in computing depreciation or amortization allowances in the taxable year in which the use of an asset changes in the hands of the same taxpayer is not a change in method of accounting.

See also § 1.168(i)-4(f).

(4) Section 1.446-1(e)(2)(ii)(d)(5)(iii) provides that a change from an impermissible method of computing depreciation to a permissible method of computing depreciation for an asset results in a § 481(a) adjustment.

(5) With the enactment of the TCDTRA, immediate guidance is needed under § 168(g) of the Code for taxpayers who are affected by the retroactive effective date of § 13204(b)(3) of the TCJA. Accordingly, this revenue procedure permits taxpayers to file an amended Federal income tax return or information return, administrative adjustment request under § 6227 of the Code (AAR), or a Form 3115, *Application for Change in Accounting Method*, to change their method of computing depreciation of certain residential rental property held by an electing real property trade or business to use a 30-year ADS recovery period and, if such property is included in a general asset account, to change their general asset account treatment for such property to comply with § 1.168(i)-1(h)(2). See section 4.04 of this revenue procedure for the procedures to change to a 30-year recovery period.

(6) The Treasury Department and the IRS are aware that some taxpayers may have elected to be an electing real property trade or business for their taxable year beginning in 2019 (2019 taxable year), and thereby changed to a 40-year ADS recovery period for residential rental property placed in service before 2018 under the change in use rules for the 2019 taxable year. The Treasury Department and the IRS also are aware that some of those taxpayers may not have made the adjustments to general asset accounts under the change in use rules in § 1.168(i)-1(h)(2) for the 2019 taxable year. To the extent those taxpayers have not yet filed their Federal income tax return or

Form 1065, *U.S. Return of Partnership Income*, for the taxable year beginning in 2020, the change to the 30-year recovery period for residential rental property to comply with the TCDTRA or to the method of accounting provided in § 1.168(i)-1(h)(2) would be made on an amended Federal income tax return or information return, or an AAR, as applicable. See Rev. Rul. 90-38, 1990-1 C.B. 57 (a taxpayer adopts an impermissible method of accounting for a material item by treating the item in the same way in determining the gross income or deductions in two or more consecutively filed Federal income tax returns). However, consistent with section 4 of Rev. Proc. 2007-16, 2007-1 C.B. 358, this revenue procedure provides these taxpayers with the option of changing to a 30-year recovery period or to the method of accounting provided in § 1.168(i)-1(h)(2) by filing a Form 3115 in lieu of an amended Federal income tax return or information return, or an AAR. See sections 4.01(2) and 4.04(2) of this revenue procedure for the procedures to change to a 30-year recovery period by filing a Form 3115. See sections 4.02(3) and 4.04(2) of this revenue procedure for the procedures to change to the method of accounting provided in § 1.168(i)-1(h)(2).

.04 Earnings and profits. In the case of tangible property to which § 168 applies, § 312(k)(3)(A) provides that the adjustment to earnings and profits for depreciation for any taxable year generally is determined under the ADS within the meaning of § 168(g)(2). If a change in use occurs for such property under § 168(i)(5) and § 1.168(i)-4 for Federal income tax purposes, the adjustment to earnings and profits for depreciation under § 312(k)(3)(A) for such property beginning for the year of change, as defined in § 1.168(i)-4(a), is determined under the ADS in accordance with § 1.168(i)-4.

However, if the depreciation method and recovery period for such property under the ADS are the same before and after the change in use for § 312(k)(3)(A), the adjustment to earnings and profits for depreciation under § 312(k)(3)(A) is not affected by the change in use.

SECTION 3. SCOPE

.01 In general. This revenue procedure applies to residential rental property:

(1) that was placed in service by (a) the taxpayer before January 1, 2018, or (b) the transferor of the residential rental property before January 1, 2018, if the acquisition of such property by the transferee-taxpayer is subject to § 168(i)(7) as provided in section 3.03 of this revenue procedure;

(2) that is held by an electing real property trade or business; and

(3) that was not subject to § 168(g)(1)(A), (B), (C), (D), or (E) prior to January 1, 2018, in the hands of (a) the taxpayer or (b) the transferor if the acquisition of such property by the transferee-taxpayer is subject to § 168(i)(7) as provided in section 3.03 of this revenue procedure.

.02 Exclusions. This revenue procedure does not apply to:

(1) A taxpayer that makes an election under § 163(j)(7)(B) and the regulations thereunder on its Federal income tax return or information return for a taxable year ending after December 27, 2020. See section 4.02(2) of Rev. Proc. 2019-08 for the method of changing depreciation for residential rental property or other depreciable property for the election year and for subsequent taxable years;

(2) A taxpayer that makes a late election under § 163(j)(7)(B) on an amended Federal income tax return, amended Form 1065, or an AAR, as applicable, filed after December 27, 2020, pursuant to section 4 of Rev. Proc. 2020-22, 2020-18 I.R.B. 745. See sections 4.02 and 4.03 of Rev. Proc. 2020-22 for the method of changing depreciation for residential rental property or other depreciable property; or

(3) A taxpayer that withdraws the election under § 163(j)(7)(B) pursuant to section 5 of Rev. Proc. 2020-22. See section 5.02 of Rev. Proc. 2020-22 for the method of changing depreciation for residential rental property or other depreciable property.

.03 Transferor in a § 168(i)(7)(B) transaction.

(1) Section 168(i)(7)(A) provides that, in the case of any property transferred in a transaction described in § 168(i)(7)(B), the transferee is treated as the transferor for purposes of computing the depreciation deduction determined under § 168 with respect to so much of the basis in the hands of the transferee as does not exceed the adjusted basis in the hands of the transferor. As a result, where the transferee-taxpayer acquires residential rental property in a transaction described in § 168(i)(7)(B) (for example, §§ 351 and 721) and such residential rental property was placed in service by the transferor, the transferee-taxpayer is treated as placing in service the residential rental property on the same date as the transferor, but only for the portion of the transferee-taxpayer's basis in such property that does not exceed the transferor's adjusted depreciable basis (as defined in § 1.168(b)-1(a)(4)) in such property. Similarly, where the transferee-taxpayer acquires residential rental property in a transaction described in § 168(i)(7)(B) and such residential rental property was placed in service by the transferor

and was subject to § 168(g)(1)(A), (B), (C), (D), or (E) before January 1, 2018, in the hands of the transferor, the property is treated as being subject to § 168(g)(1)(A), (B), (C), (D), or (E) before January 1, 2018, in the hands of the transferee-taxpayer, but only for the portion of the transferee-taxpayer's basis in such property that does not exceed the transferor's adjusted depreciable basis in such property. Therefore, where the transferee-taxpayer acquires residential rental property in a transaction described in § 168(i)(7)(B), the determination under sections 3.01(1) and (3) of this revenue procedure must be made by taking into account the transferee-taxpayer, the transferor, or both as described above, but only for the portion of the transferee-taxpayer's basis in such property that does not exceed the transferor's adjusted depreciable basis of this property.

.04 Examples. The following examples illustrate section 3 of this revenue procedure.

(1) Example 1. In January 2016, B purchased and placed in service a residential rental property at a cost of \$1,000,000. B depreciates the residential rental property under the general depreciation system of § 168(a) (GDS) by using the straight-line method, a 27.5-year recovery period, and the mid-month convention. In January 2018, B and D form an equal partnership, BD. D contributes cash to BD, and B contributes the residential rental property to BD. The contribution of the residential rental property by B to BD is a transaction described in § 721. At the time of the contribution, B's adjusted basis in the residential rental property was \$928,790. Pursuant to § 723, BD's basis in the residential rental property contributed by B is

\$928,790. On its Form 1065 for the 2019 taxable year, BD makes an election under § 163(j)(7)(B) and the regulations thereunder to be an electing real property trade or business. Because the contribution of the residential rental property by B to BD is a transaction described in § 168(i)(7)(B), § 168(i)(7)(A) and section 3.03 of this revenue procedure apply. To the extent of BD's basis of \$928,790 in the residential rental property, BD is treated as placing in service such property in January 2016 and as depreciating such property under the GDS before January 1, 2018. Accordingly, this residential rental property is within the scope of section 3.01 of this revenue procedure and is subject to the 30-year recovery period under the ADS beginning in the 2019 taxable year, which is the election year.

(2) Example 2. The facts are the same as in Example 1, except B made an election under § 168(g)(7) on its timely filed 2016 Federal income tax return to depreciate the residential rental property under the ADS by using the straight-line method, a 40-year recovery period, and the mid-month convention. As a result, B's adjusted basis in the residential rental property was \$951,040 at the time of the contribution and BD's basis in the residential rental property contributed by B is \$951,040. Because the contribution of the residential rental property by B to BD is a transaction described in § 168(i)(7)(B), § 168(i)(7)(A) and section 3.03 of this revenue procedure apply. To the extent of BD's basis of \$951,040 in the residential rental property, BD is treated as placing in service such property in January 2016 and such property is treated as being subject to § 168(g)(1)(E) in the hands of BD before January 1, 2018. Accordingly, this residential rental property is not within the scope of section

3.01 of this revenue procedure and continues to be subject to the 40-year recovery period under the ADS.

(3) Example 3. In January 2016, C purchased and placed in service a residential rental property at a cost of \$1,000,000. C made an election under § 168(g)(7) on its timely filed 2016 Federal income tax return to depreciate the residential rental property under the ADS by using the straight-line method, a 40-year recovery period, and the mid-month convention. In January 2017, C transfers this residential rental property to X Corporation in exchange for 80 percent of its only class of stock, plus cash of \$10,000. The transfer of the residential rental property by C to X Corporation is a transaction described in § 351, and C recognized gain of \$10,000 on such transfer. At the time of the transfer, C's adjusted basis in the residential rental property was \$976,040. Pursuant to § 362(a), X Corporation's basis in the residential rental property transferred by C is \$986,040. For the 2017 taxable year, X Corporation depreciates its excess basis of \$10,000 (\$986,040-\$976,040) in the residential rental property under the GDS by using the straight-line method, a 27.5-year recovery period, and the mid-month convention. On its Federal income tax return for the 2018 taxable year, X Corporation makes an election under § 163(j)(7)(B) and the regulations thereunder to be an electing real property trade or business. Because the transfer of the residential rental property by C to X Corporation is a transaction described in § 168(i)(7)(B), § 168(i)(7)(A) and section 3.03 of this revenue procedure apply. To the extent of X Corporation's basis of \$976,040 in the residential rental property, X Corporation is treated as placing in service such property in January 2016 and such

property is treated as being subject to § 168(g)(1)(E) in the hands of X Corporation before January 1, 2018, and, accordingly, this residential rental property with a basis of \$976,040 is not within the scope of section 3.01 of this revenue procedure and continues to be subject to the 40-year recovery period under the ADS. X Corporation is treated as placing in service its excess basis of \$10,000 (\$986,040-\$976,040) in the residential rental property, in January 2017 and as depreciating such property under the GDS before January 1, 2018. Accordingly, this residential rental property with an excess basis of \$10,000 is within the scope of section 3.01 of this revenue procedure and is subject to the 30-year recovery period under the ADS beginning in the 2018 taxable year, which is the election year.

SECTION 4. CHANGE IN METHOD OF COMPUTING DEPRECIATION FOR RESIDENTIAL RENTAL PROPERTY HELD BY AN ELECTING REAL PROPERTY TRADE OR BUSINESS

.01 Impermissible method to permissible method of determining depreciation.

(1) In general. Beginning with the election year, an electing real property trade or business within the scope of section 3 of this revenue procedure must depreciate residential rental property within the scope of section 3 of this revenue procedure in accordance with the ADS using a 30-year recovery period. For such property, a change in use occurs under § 168(i)(5) and § 1.168(i)-4(d) for the election year and depreciation for the election year and each subsequent taxable year is determined in accordance with § 1.168(i)-4(d)(4) or § 1.168(i)-4(d)(5)(ii)(B), as applicable. If an electing real property trade or business within the scope of section 3 of this revenue procedure does not

depreciate residential rental property within the scope of section 3 of this revenue procedure under the ADS using a 30-year recovery period for the election year and the subsequent taxable year in accordance with § 1.168(i)-4(d)(4) or § 1.168(i)-4(d)(5)(ii)(B), as applicable, then that trade or business has adopted an impermissible method of accounting for depreciation for that residential rental property. As a result, a change from that impermissible method of accounting to a method of accounting for depreciation under which the electing real property trade or business determines depreciation for the residential rental property in accordance with § 1.168(i)-4(d)(4) or § 1.168(i)-4(d)(5)(ii)(B), as applicable, by using the straight-line method, the 30-year recovery period, and the mid-month convention under the ADS is a change in method of accounting under § 446(e). See § 1.446-1(e)(2)(ii)(d)(2)(i). An electing real property trade or business within the scope of section 3 of this revenue procedure may change from the impermissible method of determining depreciation to the permissible method of determining depreciation for residential rental property within the scope of section 3 of this revenue procedure in accordance with section 4.04 of this revenue procedure.

(2) Electing real property trade or business has not adopted a method of accounting for the residential rental property. For residential rental property that is within the scope of section 3 of this revenue procedure and held by a trade or business that is within the scope of section 3 of this revenue procedure and that made the election under § 163(j)(7)(B) and the regulations thereunder for the taxable year immediately preceding the year of change, as defined in section 3.19 of Rev. Proc. 2015-13 (1-year residential rental property), the electing real property trade or business may change from the

impermissible method of determining depreciation to the permissible method of determining depreciation for the 1-year residential rental property. This change may be accomplished by filing a Form 3115 in accordance with section 4.04(2) of this revenue procedure, provided the § 481(a) adjustment reported on the Form 3115 includes the amount of any adjustment attributable to all property, including the 1-year residential rental property, subject to the Form 3115. Alternatively, the electing real property trade or business may change its depreciation for the 1-year residential rental property by filing an amended Federal income tax return or information return, or an AAR, as applicable, for the election year provided the amended Federal income tax return or information return, or AAR, as applicable, is filed prior to the date the electing real property trade or business files its Federal income tax return or information return for the taxable year succeeding the election year.

.02 Impermissible method to permissible method of general asset account treatment.

(1) In general. If the residential rental property is within the scope of section 3 of this revenue procedure and is included in a general asset account, an electing real property trade or business within the scope of section 3 of this revenue procedure must change to the general asset account treatment for such property provided in § 1.168(i)-1(h)(2) for the election year. If an electing real property trade or business within the scope of section 3 of this revenue procedure does not change to such general asset account treatment for the election year and the subsequent taxable year, then that trade or business has adopted an impermissible method of accounting for general asset

account treatment of that residential rental property. As a result, a change from that impermissible method of accounting to the method of accounting provided in § 1.168(i)-1(h)(2) is a change in method of accounting under § 446(e). See § 1.446-1(e)(2)(ii)(d)(2)(vi). An electing real property trade or business within the scope of section 3 of this revenue procedure may make this change in method of accounting for residential rental property within the scope of section 3 of this revenue procedure in accordance with section 4.04 of this revenue procedure.

(2) Ordering rules. If, for the same taxable year, an electing real property trade or business within the scope of section 3 of this revenue procedure makes the change in method of accounting described in section 4.01 of this revenue procedure and also makes the change in method of accounting described in this section 4.02 for the same residential rental property, the taxpayer applies the change in method of accounting described in section 4.01 of this revenue procedure first.

(3) Electing real property trade or business has not adopted a method of accounting for the residential rental property. For residential rental property that is within the scope of section 3 of this revenue procedure, is included in a general asset account, and is held by a trade or business that is within the scope of section 3 of this revenue procedure and that made the election under § 163(j)(7)(B) and the regulations thereunder in the taxable year immediately preceding the year of change, as defined in section 3.19 of Rev. Proc. 2015-13 (1-year residential rental property), the electing real property trade or business may change to the method of accounting provided in § 1.168(i)-1(h)(2) for the 1-year residential rental property. This change is accomplished

by filing a Form 3115 in accordance with section 4.04(2) of this revenue procedure.

Alternatively, the electing real property trade or business may change to the method of accounting provided in § 1.168(i)-1(h)(2) for the 1-year residential rental property by filing an amended Federal income tax return or information return, or an AAR, as applicable, for the election year provided the amended Federal income tax return or information return, or AAR, as applicable, is filed prior to the date the electing real property trade or business files its Federal tax return or information return for the taxable year succeeding the election year.

.03 Retroactive change in method of accounting. The Commissioner allows an electing real property trade or business within the scope of section 3 of this revenue procedure to make the change in methods of accounting described in sections 4.01(1) and 4.02(1) of this revenue procedure retroactively for residential rental property within the scope of section 3 of this revenue procedure under section 4.04(1) of this revenue procedure for a limited period of time, provided the electing real property trade or business files the amended Federal income tax return(s) or information return(s), or AAR(s), as applicable, within the time and manner provided in section 4.04(1) of this revenue procedure. A Form 3115 is not required to be filed with such amended Federal income tax return(s) or information return(s), or AAR(s).

.04 Changing to the permissible method of determining depreciation. The electing real property trade or business within the scope of section 3 of this revenue procedure may change from the impermissible methods of accounting to the permissible methods of accounting described in sections 4.01(1) and 4.02(1) of this revenue procedure for

residential rental property within the scope of section 3 of this revenue procedure by filing either:

(1) Except as provided in Rev. Proc. 2021-29, 2021-27 I.R.B. ___, released on www.irs.gov on June 17, 2021, regarding the time to file amended returns by a partnership subject to the centralized partnership audit regime enacted as part of the Bipartisan Budget Act of 2015 (BBA partnership), an amended Federal income tax return or amended Form 1065 for the election year on or before April 15, 2022, but in no event later than the applicable period of limitations on assessment for the taxable year for which the amended return is being filed. In the case of a BBA partnership that chooses not to file an amended Form 1065 as permitted under Rev. Proc. 2021-29 or that cannot file an amended Form 1065 because the date for doing so has expired under Rev. Proc. 2021-29, the BBA partnership may file an AAR for the election year on or before April 15, 2022, but in no event later than the applicable period of limitations on making adjustments under § 6235 for the reviewed year as defined in § 301.6241-1(a)(8) of the Procedure and Administration Regulations. This amended return or Form 1065, or AAR, must include the adjustment to taxable income for the change in determining depreciation of the residential rental property and any collateral adjustments to taxable income or to tax liability. Such collateral adjustments also must be made on original or amended Federal income tax returns or Forms 1065, or AARs, for any affected succeeding taxable years. If the residential rental property is included in a general asset account, the taxpayer also must make the adjustments in § 1.168(i)-1(h)(2)(ii) and (iii)(B);

or

(2) A Form 3115 under the automatic change procedures or non-automatic change procedures, as applicable, in Rev. Proc. 2015-13 (or any successor). If the electing real property trade or business is eligible to make this method change under the automatic change procedures--

(a) The method change described in section 4.01 of this revenue procedure is described in section 6.05 of Rev. Proc. 2019-43, 2019-48 I.R.B. 1107 (or any successor), as modified by section 5.02 of this revenue procedure. The § 481(a) adjustment for such method change as of the first day of the year of change is calculated as though the change in use occurred for the residential rental property in the election year; and

(b) The method change described in section 4.02 of this revenue procedure is described in section 6.04 of Rev. Proc. 2019-43 (or any successor), as modified by section 5.02 of this revenue procedure. This change is made on a modified cut-off basis, as defined in § 1.446-1(e)(2)(ii)(d)(5)(iii).

SECTION 5. MODIFICATION TO REV. PROC. 2019-43

.01 In general. Section 6.04 of Rev. Proc. 2019-43 provides the procedures for obtaining automatic consent to change the method of accounting for general asset account treatment of MACRS property due to a change in the use. Section 6.05 of Rev. Proc. 2019-43 provides the procedures for obtaining automatic consent to change the method of accounting for depreciation due to a change in the use of MACRS property.

.02 Modifications to existing automatic changes.

(1) Section 6.01(1)(c)(viii) of Rev. Proc. 2019-43 is modified to read as follows:

(viii) any depreciable property for which the use changes in the hands of the same taxpayer. See § 1.446-1(e)(2)(ii)(d)(3)(ii). But see sections 6.04 and 6.05 of this revenue procedure for changing to the methods of accounting provided in § 1.168(i)-1(c)(2)(ii)(I) or § 1.168(i)-1(h)(2), and § 1.168(i)-4, respectively. However, an original Form 3115 for a change in method of accounting described in section 6.04 of this revenue procedure and section 4.02 of Rev. Proc. 2021-28, 2021-27 I.R.B. ___, may be filed under this section 6.01 instead of section 6.04 of this revenue procedure if the original Form 3115 was filed before June 17, 2021, and such change was made on a modified cut-off basis pursuant to section 6.04(3)(a) of this revenue procedure. Also, an original Form 3115 for a change in method of accounting described in section 6.05 of this revenue procedure and section 4.01 of Rev. Proc. 2021-28, 2021-27 I.R.B. ___, may be filed under this section 6.01 instead of section 6.05 of this revenue procedure if the original Form 3115 was filed before June 17, 2021, and the § 481(a) adjustment for such change was determined in accordance with section 6.05(4) of this revenue procedure.

(2) Section 6.04 of Rev. Proc. 2019-43, as modified by section 6.02(2) of Rev. Proc. 2020-25, 2020-19 I.R.B. 785, is modified as follows:

(a) Section 6.04(1)(b) is redesignated as section 6.04(1)(c).

(b) New section 6.04(1)(b) is added to read as follows:

(b) Taxpayer has not adopted a method of accounting for the item of property. If a taxpayer does not satisfy section 6.04(1)(a) of this revenue procedure for an item of MACRS property because a change in the use of this item of MACRS

property occurred in the taxable year immediately preceding the year of change (1-year change in use property), the taxpayer may change from the impermissible method for general asset account treatment to the permissible method provided in § 1.168(i)-1(c)(2)(ii)(I) or § 1.168(i)-1(h)(2) for the 1-year change in use property by filing a Form 3115. Alternatively, the taxpayer may change from the impermissible method for general asset account treatment to the permissible method provided in § 1.168(i)-1(c)(2)(ii)(I) or § 1.168(i)-1(h)(2) for a 1-year change in use property by filing an amended Federal income tax return or information return, or an administrative adjustment request under § 6227 (AAR), as applicable, for the year of change in the use of such property provided such filing occurs prior to the date the taxpayer files its Federal income tax return or information return for the taxable year succeeding the year of change in the use of such property.

(c) Redesignated section 6.04(1)(c) is modified to read as follows:

(c) Inapplicability.

(i) The change described in section 6.04(1)(a) of this revenue procedure does not apply to any property to which section 4.05 of Rev. Proc. 2020-22, 2020-18 I.R.B. 745, applies unless the taxpayer and property are within the scope of Rev. Proc. 2021-28, 2021-27 I.R.B. ___. (See sections 4.02 and 4.03 of Rev. Proc. 2020-22, as applicable, for making such change for such property.); and

(ii) The change described in section 6.04(1)(a) of this revenue procedure does not apply to any property to which section 5.04 of Rev. Proc. 2020-22, 2020-18 I.R.B. 745, applies. (See section 5.02 of Rev. Proc. 2020-22 for making such change

for such property.).

(d) Sections 6.04(2) through (5) are redesignated as sections 6.04(3) through (6).

(e) New section 6.04(2) is added to read as follows:

(2) Certain eligibility rules inapplicable.

(a) In general. The eligibility rule in section 5.01(1)(d) of Rev. Proc. 2015-13, 2015-5 I.R.B. 419, does not apply to a taxpayer making this change.

(b) Special rule. The eligibility rule in section 5.01(1)(f) of Rev. Proc. 2015-13, 2015-5 I.R.B. 419, does not apply to a taxpayer within the scope of section 3 of Rev. Proc. 2021-28, 2021-27 I.R.B. ___, making this change for any residential rental property within the scope of section 3 of Rev. Proc. 2021-28, 2021-27 I.R.B. ___, for a taxable year beginning in 2019, 2020, 2021, or 2022.

(f) Redesignated section 6.04(3)(b) is modified to read as follows:

(b) Reduced filing requirement for qualified small taxpayers. A qualified small taxpayer, as defined in section 6.01(4)(b) of this revenue procedure, is required to complete only the following information on Form 3115 (Rev. December 2018) to make this change:

- (i) The identification section of page 1 (above Part I);
- (ii) The signature section at the bottom of page 1;
- (iii) Part I;
- (iv) Part II, all lines except lines 13, 15b, 16, 17, and 19;
- (v) Part IV, line 25; and

(vi) Schedule E, all lines except lines 1, 4c, 5, 6, 7b, and 7c.

(g) Redesignated section 6.04(4) is modified to read as follows:

(4) Concurrent automatic change.

(a) A taxpayer making this change for more than one asset for the same year of change should file a single Form 3115 for all such assets.

(b) A taxpayer making this change and a change under section 6.05, section 6.12(3)(b), and/or section 6.15 of this revenue procedure for the same year of change should file a single Form 3115 for all such changes and must enter the designated automatic accounting method change numbers for the changes on the appropriate line on the Form 3115. See section 6.03(1)(b) of Rev. Proc. 2015-13 for information on making concurrent changes.

(3) Section 6.05 of Rev. Proc. 2019-43, as modified by section 6.02(3) of Rev. Proc. 2020-25, is modified as follows:

(a) Section 6.05(1)(b) is redesignated as section 6.05(1)(c).

(b) New section 6.05(1)(b) is added to read as follows:

(b) Taxpayer has not adopted a method of accounting for the item of property. If a taxpayer does not satisfy section 6.05(1)(a)(i) of this revenue procedure for an item of MACRS property because a change in the use of this item of MACRS property occurred in the taxable year immediately preceding the year of change (1-year change in use property), the taxpayer may change from the impermissible method of determining depreciation to the permissible method of determining depreciation provided in § 1.168(i)-4 for the 1-year change in use property by filing a Form 3115 for

this change, provided the § 481(a) adjustment reported on the Form 3115 includes the amount of any adjustment that is attributable to all property (including the 1-year change in use property) subject to the Form 3115. Alternatively, the taxpayer may change from the impermissible method of determining depreciation to the permissible method of determining depreciation provided in § 1.168(i)-4 for a 1-year change in use property by filing an amended Federal income tax return or information return, or an administrative adjustment request under § 6227 (AAR), as applicable, for the year of change in the use of such property provided such filing occurs prior to the date the taxpayer files its Federal income tax return or information return for the taxable year succeeding the year of change in the use of such property.

(c) Redesignated section 6.05(1)(c) is modified to read as follows:

(c) Inapplicability.

(i) The change described in section 6.05(1)(a)(i) of this revenue procedure does not apply to any property to which section 4.05 of Rev. Proc. 2020-22, 2020-18 I.R.B. 745, applies unless the taxpayer and property are within the scope of Rev. Proc. 2021-28, 2021-27 I.R.B. ___. (See sections 4.02 and 4.03 of Rev. Proc. 2020-22, as applicable, for making such change for such property.);

(ii) The change described in section 6.05(1)(a)(i) of this revenue procedure does not apply to any property to which section 5.04 of Rev. Proc. 2020-22, 2020-18 I.R.B. 745, applies. (See section 5.02 of Rev. Proc. 2020-22 for making such change for such property.); and

(iii) The change described in this section 6.05 does not apply to any

property that is not owned by the taxpayer at the beginning of the year of change.

(d) Sections 6.05(2) through (6) are redesignated as sections 6.05(3) through (7).

(e) New section 6.05(2) is added to read as follows:

(2) Certain eligibility rules inapplicable.

(a) In general. The eligibility rule in section 5.01(1)(d) of Rev. Proc. 2015-13, 2015-5 I.R.B. 419, does not apply to a taxpayer making this change.

(b) Special rule. The eligibility rule in section 5.01(1)(f) of Rev. Proc. 2015-13, 2015-5 I.R.B. 419, does not apply to a taxpayer within the scope of section 3 of Rev. Proc. 2021-28, 2021-27 I.R.B. ___, making this change for any residential rental property within the scope of section 3 of Rev. Proc. 2021-28, 2021-27 I.R.B. ___, for a taxable year beginning in 2019, 2020, 2021, or 2022.

(f) Redesignated section 6.05(3) is modified to read as follows:

(3) Reduced filing requirement for qualified small taxpayers. A qualified small taxpayer, as defined in section 6.01(4)(b) of this revenue procedure, is required to complete only the following information on Form 3115 (Rev. December 2018) to make this change:

(a) The identification section of page 1 (above Part I);

(b) The signature section at the bottom of page 1;

(c) Part I;

(d) Part II, all lines except lines 13, 15b, 16, 17, and 19;

(e) Part IV, all lines except line 25; and

(f) Schedule E, all lines except lines 1, 4c, 5, 6, 7b, and 7c.

(g) Redesignated section 6.05(5) is modified to read as follows:

(5) Concurrent automatic change.

(a) A taxpayer making this change for more than one asset for the same year of change should file a single Form 3115 for all such assets and provide a single net § 481(a) adjustment for all the changes included in that Form 3115. If one or more of the changes in that single Form 3115 generate a negative § 481(a) adjustment and other changes in that same Form 3115 generate a positive § 481(a) adjustment, the taxpayer may provide a single negative § 481(a) adjustment for all the changes that are included in that Form 3115 generating such adjustment and a single positive § 481(a) adjustment for all the changes that are included in that Form 3115 generating such adjustment.

(b) A taxpayer making this change and a change under section 6.04, section 6.12(3)(b), and/or section 6.15 of this revenue procedure for the same year of change should file a single Form 3115 for all such changes and must enter the designated automatic accounting method change numbers for the changes on the appropriate line on the Form 3115. See section 6.03(1)(b) of Rev. Proc. 2015-13 for information on making concurrent changes.

SECTION 6. MODIFICATION TO REV. PROC. 2019-08

New section 4.01(3) of Rev. Proc. 2019-08 is added to read as follows:

(3) Residential rental property held by an electing real property trade or business.

Notwithstanding section 4.01(1) of this revenue procedure, the recovery period under

the table in § 168(g)(2)(C) for taxable years beginning after December 31, 2017, is 30 years for residential rental property that:

(a) was placed in service by (i) the taxpayer before January 1, 2018, or (ii) the transferor of the residential rental property before January 1, 2018, if the acquisition of such property by the transferee-taxpayer is subject to § 168(i)(7),

(b) is held by an electing real property trade or business as defined in § 163(j)(7)(B) and the regulations thereunder, and

(c) was not subject to § 168(g)(1)(A), (B), (C), (D), or (E) prior to January 1, 2018, in the hands of (i) the taxpayer or (ii) the transferor if the acquisition of such property by the transferee-taxpayer is subject to § 168(i)(7).

See Rev. Proc. 2021-28, 2021-27 I.R.B. ___, for further guidance. In particular, see section 3.03 of Rev. Proc. 2021-28 regarding the rules applicable to acquisitions of residential rental property subject to § 168(i)(7).

SECTION 7. EFFECT ON OTHER DOCUMENTS

.01 Section 4.01 of Rev. Proc. 2019-08 is modified.

.02 Sections 6.01, 6.04, and 6.05 of Rev. Proc. 2019-43 are modified.

SECTION 8. EFFECTIVE DATE

This revenue procedure is effective June 17, 2021.

SECTION 9. DRAFTING INFORMATION

The principal author of this revenue procedure is Jaime C. Park of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information regarding

this revenue procedure contact Patrick Clinton at (202) 317-4651 (not a toll-free number).