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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

REG-157164-02

RIN 1545-BB57

Special Depreciation Allowance

AGENCY: Internal Revenue Service (IRS), Treasury

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations relating to the depreciation of property subject to section 168 of the Internal Revenue Code (MACRS property) and the depreciation of computer software subject to section 167. Specifically, the temporary regulations provide guidance regarding the additional first year depreciation allowance provided by sections 168(k) and 1400L(b) for certain MACRS property and computer software. The text of those temporary regulations also serves as the text of these proposed regulations. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written or electronic comments must be received by December 7, 2003.

Requests to speak and outlines of topics to be discussed at the public hearing scheduled for December 18, 2003, at 10:00am must be received by November 29, 2003.

Addresses: Send submissions to CC:PA:LPD:PR (REG-157164-02), room 5207, Internal

Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

Alternatively, submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-157164-02), Courier-s Desk, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC, or sent electronically, via the IRS Internet site at: www.irs.gov/regs.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Douglas Kim, (202) 622-3110; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, Sonya Cruse, (202) 622-4693 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend 26 CFR part 1 relating to sections 168 and 1400L of the Internal Revenue Code (Code). The temporary regulations contain rules relating to the additional first year depreciation deduction provided by sections 168(k) and 1400L(b).

The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations and these proposed regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the

Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations and, because these regulations do not impose on small entities a collection of information requirement, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury Department specifically request comments on the clarity of the proposed rules and how they may be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for December 18, 2003, beginning at 10:00am in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **AFOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by November 29, 2003. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these regulations is Douglas H. Kim, Office of Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1---INCOME TAXES

Paragraph 1. The authority citation for part 1 reads as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.167(a)-14 is amended as follows:

' 1.167(a)-14 Treatment of certain intangible property excluded from section 197.

[The text of this amendment is the same as the text of ' 1.167(a)-14T published elsewhere in this issue of the **Federal Register**].

Par. 3. Section 1.168(d)-1 is amended as follows:

' 1.168(d)-1 Applicable conventions^BHalf-year and mid-quarter conventions.

[The text of this amendment is the same as the text of ' 1.168(d)-1T published elsewhere in this issue of the **Federal Register**].

Par. 4. Section 1.168(k)-0 is added to read as follows:

§1.168(k)-0 Table of contents.

[The text of this proposed section is the same as the text of ' 1.168(k)-0T published elsewhere in this issue of the **Federal Register**].

Par. 5. Section 1.168(k)-1 is added to read as follows:

' 1.168(k)-1 Additional first year depreciation deduction.

[The text of this proposed section is the same as the text of ' 1.168(k)-1T published elsewhere in this issue of the **Federal Register**].

Par. 6. Section 1.169-3 is amended as follows:

' 1.169-3 Amortizable basis.

[The text of this amendment is the same as the text of ' 1.169-3T published elsewhere in this issue of the **Federal Register**].

Par. 7. Section 1.1400L(b)-1 is added to read as follows:

' 1.1400L(b)-1 Additional first year depreciation deduction for qualified New York Liberty

Zone property.

[The text of this proposed section is the same as the text of ' 1.1400L(b)-1T published elsewhere in this issue of the **Federal Register**].

Deputy Commissioner for Services and Enforcement.