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## **Reg. Section 1.168(k)-2(b)(2)(i)(D)**

Additional first year depreciation deduction for property acquired and placed in service after September 27, 2017.

### (a) Scope and definitions.

(1) Scope. This section provides rules for determining the additional first year depreciation deduction allowable under section 168(k) for qualified property acquired and placed in service after September 27, 2017.

### (2) Definitions. For purposes of this section-

(i) Act is the Tax Cuts and Jobs Act, Public Law 115-97 (131 Stat. 2054 (December 22, 2017));

(ii) Applicable percentage is the percentage provided in section 168(k)(6);

(iii) Initial live staged performance is the first commercial exhibition of a production to an audience. However, the term initial live staged performance does not include limited exhibition prior to commercial exhibition to general audiences if the limited exhibition is primarily for purposes of publicity, determining the need for further production activity, or raising funds for the completion of production. For example, an initial live staged performance does not include a preview of the production if the preview is primarily to determine the need for further production activity; and

### (iv) Predecessor includes-

(A) A transferor of an asset to a transferee in a transaction to which section 381(a) applies;

(B) A transferor of an asset to a transferee in a transaction in which the transferee's basis in the asset is determined, in whole or in part, by reference to the basis of the asset in the hands of the transferor;

(C) A partnership that is considered as continuing under section 708(b)(2) and §1.708-1;

(D) The decedent in the case of an asset acquired by the estate; or

(E) A transferor of an asset to a trust.

### (b) Qualified property.

(1) In general. Qualified property is depreciable property, as defined in §1.168(b)-1(a)(1), that meets all the following requirements in the first taxable year in which the property is

subject to depreciation by the taxpayer whether or not depreciation deductions for the property are allowable:

- (i) The requirements in §1.168(k)-2(b)(2) (description of qualified property);
- (ii) The requirements in §1.168(k)-2(b)(3) (original use or used property acquisition requirements);
- (iii) The requirements in §1.168(k)-2(b)(4) (placed-in-service date); and
- (iv) The requirements in §1.168(k)-2(b)(5) (acquisition of property).

(2) Description of qualified property.

(i) In general. Depreciable property will meet the requirements of this paragraph (b)(2) if the property is-

(A) MACRS property, as defined in §1.168(b)-1(a)(2), that has a recovery period of 20 years or less. For purposes of this paragraph (b)(2)(i)(A) and section 168(k)(2)(A)(i)(I), the recovery period is determined in accordance with section 168(c) regardless of any election made by the taxpayer under section 168(g)(7). This paragraph (b)(2)(i)(A) includes the following MACRS property that is acquired by the taxpayer after September 27, 2017, and placed in service by the taxpayer after September 27, 2017, and before January 1, 2018:

(1) Qualified leasehold improvement property as defined in section 168(e)(6) as in effect on the day before amendment by section 13204(a)(1) of the Act;

(2) Qualified restaurant property, as defined in section 168(e)(7) as in effect on the day before amendment by section 13204(a)(1) of the Act, that is qualified improvement property as defined in § 1.168(b)-1(a)(5)(i)(C) and (a)(5)(ii); and

(3) Qualified retail improvement property as defined in section 168(e)(8) as in effect on the day before amendment by section 13204(a)(1) of the Act;

(B) Computer software as defined in, and depreciated under, section 167(f)(1) and §1.167(a)-14;

(C) Water utility property as defined in section 168(e)(5) and depreciated under section 168;

(D) Qualified improvement property as defined in §1.168(b)-1(a)(5)(i)(C) and (a)(5)(ii) and depreciated under section 168;

(E) A qualified film or television production, as defined in section 181(d) and §1.181-3, for which a deduction would have been allowable under section 181 and Sec. §1.181-1 through 1.181-6 without regard to section 181(a)(2) and (g), §1.181-1(b)(1)(i) and (ii), and (b)(2)(i), or section 168(k). Only production costs of a qualified film or television production



are allowable as a deduction under section 181 and Sec. §1.181-1 through 1.181-6 without regard, for purposes of section 168(k), to section 181(a)(2) and (g), §1.181-1(b)(1)(i) and (ii), and (b)(2)(i). The taxpayer that claims the additional first year depreciation deduction under this section for the production costs of a qualified film or television production must be the owner, as defined in §1.181-1(a)(2), of the qualified film or television production. See §1.181-1(a)(3) for the definition of production costs;

(F) A qualified live theatrical production, as defined in section 181(e), for which a deduction would have been allowable under section 181 and Sec. §1.181-1 through 1.181-6 without regard to section 181(a)(2) and (g), §1.181-1(b)(1)(i) and (ii), and (b)(2)(i), or section 168(k). Only production costs of a qualified live theatrical production are allowable as a deduction under section 181 and Sec. §1.181-1 through 1.181-6 without regard, for purposes of section 168(k), to section 181(a)(2) and (g), §1.181-1(b)(1)(i) and (ii), and (b)(2)(i). The taxpayer that claims the additional first year depreciation deduction under this section for the production costs of a qualified live theatrical production must be the owner, as defined in §1.181-1(a)(2), of the qualified live theatrical production. In applying §1.181-1(a)(2)(ii) to a person that acquires a finished or partially-finished qualified live theatrical production, such person is treated as an owner of that production, but only if the production is acquired prior to its initial live staged performance. Rules similar to the rules in §1.181-1(a)(3) for the definition of production costs of a qualified film or television production apply for defining production costs of a qualified live theatrical production; or

(G) A specified plant, as defined in section 168(k)(5)(B), for which the taxpayer has properly made an election to apply section 168(k)(5) for the taxable year in which the specified plant is planted, or grafted to a plant that has already been planted, by the taxpayer in the ordinary course of the taxpayer's farming business, as defined in section 263A(e)(4) (for further guidance, see paragraph (f) of this section).

(ii) Property not eligible for additional first year depreciation deduction.

Depreciable property will not meet the requirements of this paragraph (b)(2) if the property is-

(A) Described in section 168(f) (for example, automobiles for which the taxpayer uses the optional business standard mileage rate);

(B) Required to be depreciated under the alternative depreciation system of section 168(g) pursuant to section 168(g)(1)(A), (B), (C), (D), (F), or (G), or other provisions of the Internal Revenue Code (for example, property described in section 263A(e)(2)(A) if the taxpayer or any related person, as defined in section 263A(e)(2)(B), has made an election under section 263A(d)(3), or property described in section 280F(b)(1)). If section 168(h)(6) applies to the property, only the tax-exempt entity's

proportionate share of the property, as determined under section 168(h)(6), is treated as tax-exempt use property described in section 168(g)(1)(B) and in this paragraph (b)(2)(ii)(B). This paragraph (b)(2)(ii)(B) does not apply to property for which the adjusted basis is required to be determined using the alternative depreciation system of section 168(g) pursuant to section 250(b)(2)(B) or 951A(d)(3), as applicable, or to property for which the adjusted basis is required to be determined using the alternative depreciation system of section 168(g) for allocating business interest expense between excepted and non-excepted trades or businesses under section 163(j), but only if the property is not required to be depreciated under the alternative depreciation system of section 168(g) pursuant to section 168(g)(1)(A), (B), (C), (D), (F), or (G), or other provisions of the Code, other than section 163(j), 250(b)(2)(B), or 951A(d)(3), as applicable;

(C) Included in any class of property for which the taxpayer elects not to deduct the additional first year depreciation (for further guidance, see paragraph (f) of this section);

(D) A specified plant that is placed in service by the taxpayer during the taxable year and for which the taxpayer made an election to apply section 168(k)(5) for a prior taxable year;

(E) Included in any class of property for which the taxpayer elects to apply section 168(k)(4). This paragraph (b)(2)(ii)(E) applies to property placed in service by the taxpayer in any taxable year beginning before January 1, 2018;

(F) Primarily used in a trade or business described in section 163(j)(7)(A)(iv), and placed in service by the taxpayer in any taxable year beginning after December 31, 2017; or

(G) Used in a trade or business that has had floor plan financing indebtedness, as defined in section 163(j)(9), if the floor plan financing interest, as defined in section 163(j)(9), related to such indebtedness is taken into account under section 163(j)(1)(C) for the taxable year. Such property also must be placed in service by the taxpayer in any taxable year beginning after December 31, 2017.

(iii) Examples. The application of this paragraph (b)(2) is illustrated by the following examples. Unless the facts specifically indicate otherwise, assume that the parties are not related within the meaning of section 179(d)(2)(A) or (B) and §1.179-4(c), and are not described in section 163(j)(3):

(A)

Example (1). On February 8, 2018, A finishes the production of a qualified film, as defined in §1.181-3. On June 4, 2018, B acquires this finished production from A. The initial release or broadcast, as defined in §1.181-1(a)(7), of this qualified film is on July 28, 2018. Because B acquired the qualified film before its initial release or broadcast, B is

treated as the owner of the qualified film for purposes of section 181 and §1.181-1(a)(2). Assuming all other requirements of this section are met and all requirements of section 181 and Sec. §1.181-1 through 1.181-6, other than section 181(a)(2) and (g), and §1.181-1(b)(1)(i) and (ii), and (b)(2)(i), are met, B's acquisition cost of the qualified film qualifies for the additional first year depreciation deduction under this section.

(B)

Example (2). The facts are the same as in Example 1 of paragraph (b)(2)(iii)(A) of this section, except that B acquires a limited license or right to release the qualified film in Europe. As a result, B is not treated as the owner of the qualified film pursuant to §1.181-1(a)(2). Accordingly, paragraph (b)(2)(i)(E) of this section is not satisfied, and B's acquisition cost of the license or right does not qualify for the additional first year depreciation deduction.

(C)

Example (3). C owns a film library. All of the films in this film library are completed and have been released or broadcasted. In 2018, D buys this film library from C. Because D acquired the films after their initial release or broadcast, D's acquisition cost of the film library does not qualify for a deduction under section 181. As a result, paragraph (b)(2)(i)(E) of this section is not satisfied, and D's acquisition cost of the film library does not qualify for the additional first year depreciation deduction.

(D)

Example (4). During 2019, E Corporation, a domestic corporation, acquired new equipment for use in its manufacturing trade or business in Mexico. To determine its qualified business asset investment for purposes of section 250, E Corporation must determine the adjusted basis of the new equipment using the alternative depreciation system of section 168(g) pursuant to sections 250(b)(2)(B) and 951A(d)(3). E Corporation also is required to depreciate the new equipment under the alternative depreciation system of section 168(g) pursuant to section 168(g)(1)(A). As a result, the new equipment does not qualify for the additional first year depreciation deduction pursuant to paragraph (b)(2)(ii)(B) of this section.

(E)

Example (5). The facts are the same as in Example 4 of paragraph (b)(2)(iii)(D) of this section, except E Corporation acquired the new equipment for use in its manufacturing trade or business in California. The new equipment is not described in section 168(g)(1)(A), (B), (C), (D), (F), or (G). No other provision of the Internal Revenue Code, other than section 250(b)(2)(B) or 951A(d)(3), requires the new equipment to be depreciated using the alternative depreciation system of section 168(g). To determine its qualified business asset investment for purposes of section 250, E Corporation must determine the adjusted basis of the new equipment using the alternative depreciation system of section 168(g) pursuant to sections 250(b)(2)(B) and 951A(d)(3). Because E Corporation

is not required to depreciate the new equipment under the alternative depreciation system of section 168(g), paragraph (b)(2)(ii)(B) of this section does not apply to this new equipment. Assuming all other requirements are met, the new equipment qualifies for the additional first year depreciation deduction under this section.

(3) Original use or used property acquisition requirements.

(i) In general. Depreciable property will meet the requirements of this paragraph (b)(3) if the property meets the original use requirements in paragraph (b)(3)(ii) of this section or if the property meets the used property acquisition requirements in paragraph (b)(3)(iii) of this section.

(ii) Original use.

(A) In general. Depreciable property will meet the requirements of this paragraph (b)(3)(ii) if the original use of the property commences with the taxpayer. Except as provided in paragraphs (b)(3)(ii)(B) and (C) of this section, original use means the first use to which the property is put, whether or not that use corresponds to the use of the property by the taxpayer. Additional capital expenditures paid or incurred by a taxpayer to recondition or rebuild property acquired or owned by the taxpayer satisfy the original use requirement. However, the cost of reconditioned or rebuilt property does not satisfy the original use requirement (but may satisfy the used property acquisition requirements in paragraph (b)(3)(iii) of this section). The question of whether property is reconditioned or rebuilt property is a question of fact. For purposes of this paragraph (b)(3)(ii)(A), property that contains used parts will not be treated as reconditioned or rebuilt if the cost of the used parts is not more than 20 percent of the total cost of the property, whether acquired or self-constructed.

(B) Conversion to business or income-producing use.

(1) Personal use to business or income-producing use. If a taxpayer initially acquires new property for personal use and subsequently uses the property in the taxpayer's trade or business or for the taxpayer's production of income, the taxpayer is considered the original user of the property. If a person initially acquires new property for personal use and a taxpayer subsequently acquires the property from the person for use in the taxpayer's trade or business or for the taxpayer's production of income, the taxpayer is not considered the original user of the property.

(2) Inventory to business or income-producing use. If a taxpayer initially acquires new property and holds the property primarily for sale to customers in the ordinary course of the taxpayer's business and subsequently withdraws the property from inventory and uses the property primarily in the taxpayer's trade or business or primarily for the taxpayer's production of income, the taxpayer is considered the original user of the property. If a person initially acquires new property and holds the property primarily for sale to customers in the ordinary course of the person's business and a

taxpayer subsequently acquires the property from the person for use primarily in the taxpayer's trade or business or primarily for the taxpayer's production of income, the taxpayer is considered the original user of the property. For purposes of this paragraph (b)(3)(ii)(B)(2), the original use of the property by the taxpayer commences on the date on which the taxpayer uses the property primarily in the taxpayer's trade or business or primarily for the taxpayer's production of income.

(C) Fractional interests in property. If, in the ordinary course of its business, a taxpayer sells fractional interests in new property to third parties unrelated to the taxpayer, each first fractional owner of the property is considered as the original user of its proportionate share of the property. Furthermore, if the taxpayer uses the property before all of the fractional interests of the property are sold but the property continues to be held primarily for sale by the taxpayer, the original use of any fractional interest sold to a third party unrelated to the taxpayer subsequent to the taxpayer's use of the property begins with the first purchaser of that fractional interest. For purposes of this paragraph (b)(3)(ii)(C), persons are not related if they do not have a relationship described in section 267(b) and §1.267(b)-1, or section 707(b) and §1.707-1.

(iii) Used property acquisition requirements.

(A) In general. Depreciable property will meet the requirements of this paragraph (b)(3)(iii) if the acquisition of the used property meets the following requirements:

(1) Such property was not used by the taxpayer or a predecessor at any time prior to such acquisition;

(2) The acquisition of such property meets the requirements of section 179(d)(2)(A), (B), and (C), and §1.179-4(c)(1)(ii), (iii), and (iv); or §1.179-4(c)(2) (property is acquired by purchase); and

(3) The acquisition of such property meets the requirements of section 179(d)(3) and §1.179-4(d) (cost of property) (for further guidance regarding like-kind exchanges and involuntary conversions, see paragraph (g)(5) of this section).

(B) Property was not used by the taxpayer at any time prior to acquisition.

(1) In general. Solely for purposes of paragraph (b)(3)(iii)(A)(1) of this section, the property is treated as used by the taxpayer or a predecessor at any time prior to acquisition by the taxpayer or predecessor if the taxpayer or the predecessor had a depreciable interest in the property at any time prior to such acquisition, whether or not the taxpayer or the predecessor claimed depreciation deductions for the property. To determine if the taxpayer or a predecessor had a depreciable interest in the property at any time prior to acquisition, only the five calendar years immediately prior to the taxpayer's current placed-in-service year

of the property is taken into account. If the taxpayer and a predecessor have not been in existence for this entire five-year period, only the number of calendar years the taxpayer and the predecessor have been in existence is taken into account. If a lessee has a depreciable interest in the improvements made to leased property and subsequently the lessee acquires the leased property of which the improvements are a part, the unadjusted depreciable basis, as defined in §1.168(b)-1(a)(3), of the acquired property that is eligible for the additional first year depreciation deduction, assuming all other requirements are met, must not include the unadjusted depreciable basis attributable to the improvements.

(2) Taxpayer has a depreciable interest in a portion of the property. If a taxpayer initially acquires a depreciable interest in a portion of the property and subsequently acquires a depreciable interest in an additional portion of the same property, such additional depreciable interest is not treated as used by the taxpayer at any time prior to its acquisition by the taxpayer under paragraphs (b)(3)(iii)(A)(1) and (b)(3)(iii)(B)(1) of this section. This paragraph (b)(3)(iii)(B)(2) does not apply if the taxpayer or a predecessor previously had a depreciable interest in the subsequently acquired additional portion. For purposes of this paragraph (b)(3)(iii)(B)(2), a portion of the property is considered to be the percentage interest in the property. If a taxpayer holds a depreciable interest in a portion of the property, sells that portion or a part of that portion, and subsequently acquires a depreciable interest in another portion of the same property, the taxpayer will be treated as previously having a depreciable interest in the property up to the amount of the portion for which the taxpayer held a depreciable interest in the property before the sale.

(3) Substantial renovation of property. If a taxpayer acquires and places in service substantially renovated property and the taxpayer or a predecessor previously had a depreciable interest in the property before it was substantially renovated, the taxpayer's or predecessor's depreciable interest in the property before it was substantially renovated is not taken into account for determining whether the substantially renovated property was used by the taxpayer or a predecessor at any time prior to its acquisition by the taxpayer under paragraphs (b)(3)(iii)(A)(1) and (b)(3)(iii)(B)(1) of this section. For purposes of this paragraph (b)(3)(iii)(B)(3), property is substantially renovated if the cost of the used parts is not more than 20 percent of the total cost of the substantially renovated property, whether acquired or self-constructed.

(C) [Reserved]

(iv) Application to partnerships.

(A) Section 704(c) remedial allocations. Remedial allocations under section 704(c) do not satisfy the requirements of paragraph (b)(3) of this section. See §1.704-3(d)(2).

(B) Basis determined under section 732. Any basis of distributed property determined under section 732 does not satisfy the requirements of paragraph (b)(3) of this section.

(C) Section 734(b) adjustments. Any increase in basis of depreciable property under section 734(b) does not satisfy the requirements of paragraph (b)(3) of this section.

(D) Section 743(b) adjustments.

(1) In general. For purposes of determining whether the transfer of a partnership interest meets the requirements of paragraph (b)(3)(iii)(A) of this section, each partner is treated as having a depreciable interest in the partner's proportionate share of partnership property. Any increase in basis of depreciable property under section 743(b) satisfies the requirements of paragraph (b)(3)(iii)(A) of this section if-

(i) At any time prior to the transfer of the partnership interest that gave rise to such basis increase, neither the transferee partner nor a predecessor of the transferee partner had any depreciable interest in the portion of the property deemed acquired to which the section 743(b) adjustment is allocated under section 755 and § 1.755-1; and

(ii) The transfer of the partnership interest that gave rise to such basis increase satisfies the requirements of paragraphs (b)(3)(iii)(A)(2) and (3) of this section.

(2) Relatedness tested at partner level. Solely for purposes of paragraph (b)(3)(iv)(D)(1)(ii) of this section, whether the parties are related or unrelated is determined by comparing the transferor and the transferee of the transferred partnership interest.

(v) [Reserved]

(vi) Syndication transaction. If new property is acquired and placed in service by a lessor, or if used property is acquired and placed in service by a lessor and the lessor or a predecessor did not previously have a depreciable interest in the used property, and the property is sold by the lessor or any subsequent purchaser within three months after the date the property was originally placed in service by the lessor (or, in the case of multiple units of property subject to the same lease, within three months after the date the final unit is placed in service, so long as the period between the time the first unit is placed in service and the time the last unit is placed in service does not exceed 12 months), and the user of the property after the last sale during the three-month period remains the same as when the property

was originally placed in service by the lessor, the purchaser of the property in the last sale during the three-month period is considered the taxpayer that acquired the property for purposes of applying paragraphs (b)(3)(ii) and (iii) of this section. The purchaser of the property in the last sale during the three-month period is treated, for purposes of applying paragraph (b)(3) of this section, as-

(A) The original user of the property in this transaction if the lessor acquired and placed in service new property; or

(B) The taxpayer having the depreciable interest in the property in this transaction if the lessor acquired and placed in service used property.

(vii) Examples. The application of this paragraph (b)(3) is illustrated by the following examples. Unless the facts specifically indicate otherwise, assume that the parties are not related within the meaning of section 179(d)(2)(A) or (B) and §1.179-4(c), no corporation is a member of a consolidated or controlled group, and the parties do not have predecessors:

(A)

Example (1).

(1) On August 1, 2018, A buys a new machine for \$35,000 from an unrelated party for use in A's trade or business. On July 1, 2020, B buys that machine from A for \$20,000 for use in B's trade or business. On October 1, 2020, B makes a \$5,000 capital expenditure to recondition the machine. B did not have any depreciable interest in the machine before B acquired it on July 1, 2020.

(2) A's purchase price of \$35,000 satisfies the original use requirement of paragraph (b)(3)(ii) of this section and, assuming all other requirements are met, qualifies for the additional first year depreciation deduction under this section.

(3) B's purchase price of \$20,000 does not satisfy the original use requirement of paragraph (b)(3)(ii) of this section, but it does satisfy the used property acquisition requirements of paragraph (b)(3)(iii) of this section. Assuming all other requirements are met, the \$20,000 purchase price qualifies for the additional first year depreciation deduction under this section. Further, B's \$5,000 expenditure satisfies the original use requirement of paragraph (b)(3)(ii) of this section and, assuming all other requirements are met, qualifies for the additional first year depreciation deduction under this section, regardless of whether the \$5,000 is added to the basis of the machine or is capitalized as a separate asset.

(B)

Example (2). C, an automobile dealer, uses some of its automobiles as demonstrators in order to show them to prospective customers. The automobiles that are used as demonstrators by C are held by C primarily for sale to customers in the ordinary course of its business. On November 1, 2017, D buys from C an automobile that was previously used as a demonstrator by C. D will use the automobile solely for business purposes. The use of the automobile by C as a demonstrator does not constitute a "use" for purposes of the original use requirement and, therefore, D will be considered the original user of the automobile for

purposes of paragraph (b)(3)(ii) of this section. Assuming all other requirements are met, D's purchase price of the automobile qualifies for the additional first year depreciation deduction for D under this section, subject to any limitation under section 280F.

(C)

Example (3). On April 1, 2015, E acquires a horse to be used in E's thoroughbred racing business. On October 1, 2018, F buys the horse from E and will use the horse in F's horse breeding business. F did not have any depreciable interest in the horse before F acquired it on October 1, 2018. The use of the horse by E in its racing business prevents F from satisfying the original use requirement of paragraph (b)(3)(ii) of this section. However, F's acquisition of the horse satisfies the used property acquisition requirements of paragraph (b)(3)(iii) of this section. Assuming all other requirements are met, F's purchase price of the horse qualifies for the additional first year depreciation deduction for F under this section.

(D)

Example (4). In the ordinary course of its business, G sells fractional interests in its aircraft to unrelated parties. G holds out for sale eight equal fractional interests in an aircraft. On October 1, 2017, G sells five of the eight fractional interests in the aircraft to H and H begins to use its proportionate share of the aircraft immediately upon purchase. On February 1, 2018, G sells to I the remaining unsold  $\frac{3}{8}$  fractional interests in the aircraft. H is considered the original user as to its  $\frac{5}{8}$  fractional interest in the aircraft and I is considered the original user as to its  $\frac{3}{8}$  fractional interest in the aircraft. Thus, assuming all other requirements are met, H's purchase price for its  $\frac{5}{8}$  fractional interest in the aircraft qualifies for the additional first year depreciation deduction under this section and I's purchase price for its  $\frac{3}{8}$  fractional interest in the aircraft qualifies for the additional first year depreciation deduction under this section.

(E)

Example (5). On September 1, 2017, J, an equipment dealer, buys new tractors that are held by J primarily for sale to customers in the ordinary course of its business. On October 15, 2017, J withdraws the tractors from inventory and begins to use the tractors primarily for producing rental income. The holding of the tractors by J as inventory does not constitute a "use" for purposes of the original use requirement and, therefore, the original use of the tractors commences with J on October 15, 2017, for purposes of paragraph (b)(3)(ii) of this section. However, the tractors are not eligible for the additional first year depreciation deduction under this section because J acquired the tractors before September 28, 2017.

(F)

Example (6). K is in the trade or business of leasing equipment to others. During 2016, K buys a new machine (Machine #1) and then leases it to L for use in L's trade or business. The lease between K and L for Machine #1 is a true lease for Federal income tax purposes. During 2018, L enters

into a written binding contract with K to buy Machine #1 at its fair market value on May 15, 2018. L did not have any depreciable interest in Machine #1 before L acquired it on May 15, 2018. As a result, L's acquisition of Machine #1 satisfies the used property acquisition requirements of paragraph (b)(3)(iii) of this section. Assuming all other requirements are met, L's purchase price of Machine #1 qualifies for the additional first year depreciation deduction for L under this section.

(G)

Example (7). The facts are the same as in Example 6 of paragraph (b)(3)(vii)(F) of this section, except that K and L are related parties within the meaning of section 179(d)(2)(A) or (B) and §1.179-4(c). As a result, L's acquisition of Machine #1 does not satisfy the used property acquisition requirements of paragraph (b)(3)(iii) of this section. Thus, Machine #1 is not eligible for the additional first year depreciation deduction for L.

(H)

Example (8). The facts are the same as in Example 6 of paragraph (b)(3)(vii)(F) of this section, except L incurred capital expenditures of \$5,000 to improve Machine #1 on September 5, 2017, and has a depreciable interest in such improvements. L's purchase price of \$5,000 for the improvements to Machine #1 satisfies the original use requirement of §1.168(k)-1(b)(3)(i) and, assuming all other requirements are met, qualifies for the 50-percent additional first year depreciation deduction. Because L had a depreciable interest only in the improvements to Machine #1, L's acquisition of Machine #1, excluding L's improvements to such machine, satisfies the used property acquisition requirements of paragraph (b)(3)(iii) of this section. Assuming all other requirements are met, L's unadjusted depreciable basis of Machine #1, excluding the amount of such unadjusted depreciable basis attributable to L's improvements to Machine #1, qualifies for the additional first year depreciation deduction for L under this section.

(I)

Example (9). During 2016, M and N purchased used equipment for use in their trades or businesses and each own a 50 percent interest in such equipment. Prior to this acquisition, M and N did not have any depreciable interest in the equipment. Assume this ownership arrangement is not a partnership. During 2018, N enters into a written binding contract with M to buy M's interest in the equipment. Pursuant to paragraph (b)(3)(iii)(B)(2) of this section, N is not treated as using M's interest in the equipment prior to N's acquisition of M's interest. As a result, N's acquisition of M's interest in the equipment satisfies the used property acquisition requirements of paragraph (b)(3)(iii) of this section. Assuming all other requirements are met, N's purchase price of M's interest in the equipment qualifies for the additional first year depreciation deduction for N under this section.

(J)

Example (10). The facts are the same as in Example 9 of paragraph (b)(3)(vii)(I) of this section, except N had a 100-percent depreciable interest in the equipment during 2011 through 2015, and M purchased from N a 50-percent interest in the equipment during 2016. Pursuant to paragraph (b)(3)(iii)(B)(1) of this section, the lookback period is 2013 through 2017 to determine if N had a depreciable interest in M's 50-percent interest in the equipment N acquired from M in 2018. Because N had a 100-percent depreciable interest in the equipment during 2013 through 2015, N had a depreciable interest in M's 50-percent interest in the equipment during the lookback period. As a result, N's acquisition of M's interest in the equipment during 2018 does not satisfy the used property acquisition requirements of paragraphs (b)(3)(iii)(A)(1) and (b)(3)(iii)(B)(1) of this section. Paragraph (b)(3)(iii)(B)(2) of this section does not apply because N initially acquired a 100-percent depreciable interest in the equipment. Accordingly, N's purchase price of M's interest in the equipment during 2018 does not qualify for the additional first year depreciation deduction for N.

(K)

Example (11). The facts are the same as in Example 9 of paragraph (b)(3)(vii)(I) of this section, except N had a 100-percent depreciable interest in the equipment only during 2011, and M purchased from N a 50-percent interest in the equipment during 2012. Pursuant to paragraph (b)(3)(iii)(B)(1) of this section, the lookback period is 2013 through 2017 to determine if N had a depreciable interest in M's 50-percent interest in the equipment N acquired from M in 2018. Because N had a depreciable interest in only its 50-percent interest in the equipment during this lookback period, N's acquisition of M's interest in the equipment during 2018 satisfies the used property acquisition requirements of paragraphs (b)(3)(iii)(A)(1) and (b)(3)(iii)(B)(1) of this section. Assuming all other requirements are met, N's purchase price of M's interest in the equipment during 2018 qualifies for the additional first year depreciation deduction for N under this section.

(L)

Example (12). The facts are the same as in Example 9 of paragraph (b)(3)(vii)(I) of this section, except during 2018, M also enters into a written binding contract with N to buy N's interest in the equipment. Pursuant to paragraph (b)(3)(iii)(B)(2) of this section, both M and N are treated as previously having a depreciable interest in a 50-percent portion of the equipment. Accordingly, the acquisition by M of N's 50-percent interest and the acquisition by N of M's 50-percent interest in the equipment during 2018 do not qualify for the additional first year depreciation deduction.

(M)

Example (13). O and P form an equal partnership, OP, in 2018. O contributes cash to OP, and P contributes equipment to OP. OP's basis in

the equipment contributed by P is determined under section 723. Because OP's basis in such equipment is determined in whole or in part by reference to P's adjusted basis in such equipment, OP's acquisition of such equipment does not satisfy section 179(d)(2)(C) and §1.179-4(c)(1)(iv) and, thus, does not satisfy the used property acquisition requirements of paragraph (b)(3)(iii) of this section. Accordingly, OP's acquisition of such equipment is not eligible for the additional first year depreciation deduction.

(N)

Example (14). Q, R, and S form an equal partnership, QRS, in 2019. Each partner contributes \$100, which QRS uses to purchase a retail motor fuels outlet for \$300. Assume this retail motor fuels outlet is QRS' only property and is qualified property under section 168(k)(2)(A)(i). QRS makes an election not to deduct the additional first year depreciation for all qualified property placed in service during 2019. QRS has a section 754 election in effect. QRS claimed depreciation of \$15 for the retail motor fuels outlet for 2019. During 2020, when the retail motor fuels outlet's fair market value is \$600, Q sells all of its partnership interest to T in a fully taxable transaction for \$200. T never previously had a depreciable interest in the retail motor fuels outlet. T takes an outside basis of \$200 in the partnership interest previously owned by Q. T's share of the partnership's previously taxed capital is \$95. Accordingly, T's section 743(b) adjustment is \$105 and is allocated entirely to the retail motor fuels outlet under section 755. Assuming all other requirements are met, T's section 743(b) adjustment qualifies for the additional first year depreciation deduction under this section.

(O)

Example (15). The facts are the same as in Example 14 of paragraph (b)(3)(vii)(N) of this section, except that Q sells his partnership interest to U, a related person within the meaning of section 179(d)(2)(A) or (B) and §1.179-4(c). U's section 743(b) adjustment does not qualify for the additional first year depreciation deduction.

(P)

Example (16). The facts are the same as in Example 14 of paragraph (b)(3)(vii)(N) of this section, except that Q dies and his partnership interest is transferred to V. V takes a basis in Q's partnership interest under section 1014. As a result, section 179(d)(2)(C)(ii) and §1.179-4(c)(1)(iv) are not satisfied, and V's section 743(b) adjustment does not qualify for the additional first year depreciation deduction.

(Q)

Example (17). The facts are the same as in Example 14 of paragraph (b)(3)(vii)(N) of this section, except that QRS purchased the retail motor fuels outlet from T prior to T purchasing Q's partnership interest in QRS. T had a depreciable interest in such retail motor fuels outlet. Because T had a depreciable interest in the retail motor fuels outlet before T acquired

its interest in QRS, T's section 743(b) adjustment does not qualify for the additional first year depreciation deduction.

(R)

Example (18).

(1) W, a freight transportation company, acquires and places in service a used aircraft during 2019 (Airplane #1). Prior to this acquisition, W never had a depreciable interest in this aircraft. During September 2020, W enters into a written binding contract with a third party to renovate Airplane #1. The third party begins to renovate Airplane #1 in October 2020 and delivers the renovated aircraft (Airplane #2) to W in February 2021. To renovate Airplane #1, the third party used mostly new parts but also used parts from Airplane #1. The cost of the used parts is not more than 20 percent of the total cost of the renovated airplane, Airplane #2. W uses Airplane #2 in its trade or business.

(2) Although Airplane #2 contains used parts, the cost of the used parts is not more than 20 percent of the total cost of Airplane #2. As a result, Airplane #2 is not treated as reconditioned or rebuilt property, and W is considered the original user of Airplane #2, pursuant to paragraph (b)(3)(ii)(A) of this section. Accordingly, assuming all other requirements are met, the amount paid or incurred by W for Airplane #2 qualifies for the additional first year depreciation deduction for W under this section.

(S)

Example (19).

(19) X, a freight transportation company, acquires and places in service a new aircraft in 2019 (Airplane #1). During 2022, X sells Airplane #1 to AB and AB uses Airplane #1 in its trade or business. Prior to this acquisition, AB never had a depreciable interest in Airplane #1. During January 2023, AB enters into a written binding contract with a third party to renovate Airplane #1. The third party begins to renovate Airplane #1 in February 2023 and delivers the renovated aircraft (Airplane #2) to AB in June 2023. To renovate Airplane #1, the third party used mostly new parts but also used parts from Airplane #1. The cost of the used parts is not more than 20 percent of the total cost of the renovated airplane, Airplane #2. AB uses Airplane #2 in its trade or business. During 2025, AB sells Airplane #2 to X and X uses Airplane #2 in its trade or business.

(2) With respect to X's purchase of Airplane #1 in 2019, X is the original user of this airplane pursuant to paragraph (b)(3)(ii)(A) of this section. Accordingly, assuming all other requirements are met, X's purchase price for Airplane #1 qualifies for the additional first year depreciation deduction for X under this section.

(3) Because AB never had a depreciable interest in Airplane #1 prior to its acquisition in 2022, the requirements of paragraphs (b)(3)(iii)(A)(1) and (b)(3)(ii)(B)(1) of this section are satisfied. Accordingly, assuming all other requirements are met, AB's purchase price for Airplane #1 qualifies for the additional first year depreciation deduction for AB under this section.

(4) Although Airplane #2 contains used parts, the cost of the used parts is not more than 20 percent of the total cost of Airplane #2. As a result, Airplane #2 is not treated as reconditioned or rebuilt property, and AB is considered the original user of Airplane #2, pursuant to paragraph (b)(3)(ii)(A) of this section. Accordingly, assuming all other requirements are met, the amount paid or incurred by AB for Airplane #2 qualifies for the additional first year depreciation deduction for AB under this section.

(5) With respect to X's purchase of Airplane #2 in 2025, Airplane #2 is substantially renovated property pursuant to paragraph (b)(3)(iii)(B)(3) of this section. Also, pursuant to paragraph (b)(3)(iii)(B)(3) of this section, X's depreciable interest in Airplane #1 is not taken into account for determining if X previously had a depreciable interest in Airplane #2 prior to its acquisition during 2025. As a result, Airplane #2 is not treated as used by X at any time before its acquisition of Airplane #2 in 2025 pursuant to paragraph (b)(3)(iii)(B)(3) of this section. Accordingly, assuming all other requirements are met, X's purchase price of Airplane #2 qualifies for the additional first year depreciation deduction for X under this section.

(T)

Example (19). In November 2017, AA Corporation purchases a used drill press costing \$10,000 and is granted a trade-in allowance of \$2,000 on its old drill press. The used drill press is qualified property under section 168(k)(2)(A)(i). The old drill press had a basis of \$1,200. Under sections 1012 and 1031(d), the basis of the used drill press is \$9,200 (\$1,200 basis of old drill press plus cash expended of \$8,000). Only \$8,000 of the basis of the used drill press satisfies the requirements of section 179(d)(3) and § 1.179-4(d) and, thus, satisfies the used property acquisition requirement of paragraph (b)(3)(iii) of this section. The remaining \$1,200 of the basis of the used drill press does not satisfy the requirements of section 179(d)(3) and § 1.179-4(d) because it is determined by reference to the old drill press. Accordingly, assuming all other requirements are met, only \$8,000 of the basis of the used drill press is eligible for the additional first year depreciation deduction under this section.

(U)

Example (21).

(1) M Corporation acquires and places in service a used airplane on March 26, 2018. Prior to this acquisition, M Corporation never had a depreciable interest in this airplane. On March 26, 2018, M Corporation also leases the used airplane to N Corporation, an airline company. On May 27, 2018, M Corporation sells to O Corporation the used airplane subject to the lease with N Corporation. M Corporation and O Corporation are related parties within the meaning of section 179(d)(2)(A) or (B) and § 1.179-4(c). As of May 27, 2018, N Corporation is still the lessee of the used airplane. Prior to this acquisition, O Corporation never had a depreciable interest in the used airplane. O Corporation is a calendar-year taxpayer.

(2) The sale transaction of May 27, 2018, satisfies the requirements of a syndication transaction described in paragraph (b)(3)(vi) of this section.

As a result, O Corporation is considered the taxpayer that acquired the used airplane for purposes of applying the used property acquisition requirements in paragraph (b)(3)(iii) of this section. In applying these rules, the fact that M Corporation and O Corporation are related parties is not taken into account because O Corporation, not M Corporation, is treated as acquiring the used airplane. Also, O Corporation, not M Corporation, is treated as having the depreciable interest in the used airplane. Further, pursuant to paragraph (b)(4)(iv) of this section, the used airplane is treated as originally placed in service by O Corporation on May 27, 2018. Because O Corporation never had a depreciable interest in the used airplane and assuming all other requirements are met, O Corporation's purchase price of the used airplane qualifies for the additional first year depreciation deduction for O Corporation under this section.

(V)

Example (22).

(1) The facts are the same as in Example 21 of paragraph (b)(3)(vii)(U)(1) of this section. Additionally, on September 5, 2018, O Corporation sells to P Corporation the used airplane subject to the lease with N Corporation. Prior to this acquisition, P Corporation never had a depreciable interest in the used airplane.

(2) Because O Corporation, a calendar-year taxpayer, placed in service and disposed of the used airplane during 2018, the used airplane is not eligible for the additional first year depreciation deduction for O Corporation pursuant to paragraph (g)(1)(i) of this section.

(3) Because P Corporation never had a depreciable interest in the used airplane and assuming all other requirements are met, P Corporation's purchase price of the used airplane qualifies for the additional first year depreciation deduction for P Corporation under this section.

(W)

Example (23).

(1) The facts are the same as in Example 21 of paragraph (b)(3)(vii)(U)(1) of this section, except M Corporation and O Corporation are not related parties within the meaning of section 179(d)(2)(A) or (B) and §1.179-4(c). Additionally, on March 26, 2020, O Corporation sells to M Corporation the used airplane subject to the lease with N Corporation.

(2) The sale transaction of May 27, 2018, satisfies the requirements of a syndication transaction described in paragraph (b)(3)(vi) of this section. As a result, O Corporation is considered the taxpayer that acquired the used airplane for purposes of applying the used property acquisition requirements in paragraph (b)(3)(iii) of this section. Also, O Corporation, not M Corporation, is treated as having the depreciable interest in the used airplane. Further, pursuant to paragraph (b)(4)(iv) of this section, the used airplane is treated as originally placed in service by O Corporation on May 27, 2018. Because O Corporation never had a depreciable interest in the used airplane before its acquisition in 2018 and assuming all other requirements are met, O Corporation's purchase price of the used airplane

qualifies for the additional first year depreciation deduction for O Corporation under this section.

(3) Prior to its acquisition of the used airplane on March 26, 2020, M Corporation never had a depreciable interest in the used airplane pursuant to paragraph (b)(3)(vi) of this section. Assuming all other requirements are met, M Corporation's purchase price of the used airplane on March 26, 2020, qualifies for the additional first year depreciation deduction for M Corporation under this section.

(X)

Example (24).

(1) J, K, and L are corporations that are unrelated parties within the meaning of section 179(d)(2)(A) or (B) and §1.179-4(c). None of J, K, or L is a member of a consolidated group. J has a depreciable interest in Equipment #5. During 2018, J sells Equipment #5 to K. During 2020, J merges into L in a transaction described in section 368(a)(1)(A). In 2021, L acquires Equipment #5 from K.

(2) Because J is the predecessor of L, and because J previously had a depreciable interest in Equipment #5, L's acquisition of Equipment #5 does not satisfy paragraphs (b)(3)(iii)(A)(1) and (b)(3)(iii)(B)(1) of this section. Thus, L's acquisition of Equipment #5 does not satisfy the used property acquisition requirements of paragraph (b)(3)(iii) of this section. Accordingly, L's acquisition of Equipment #5 is not eligible for the additional first year depreciation deduction.

(4)Placed-in-service date.

(i) In general. Depreciable property will meet the requirements of this paragraph (b)(4) if the property is placed in service by the taxpayer for use in its trade or business or for production of income after September 27, 2017; and, except as provided in paragraphs (b)(2)(i)(A) and (D) of this section, before January 1, 2027, or, in the case of property described in section 168(k)(2)(B) or (C), before January 1, 2028.

(ii) Specified plant. If the taxpayer has properly made an election to apply section 168(k)(5) for a specified plant, the requirements of this paragraph (b)(4) are satisfied only if the specified plant is planted before January 1, 2027, or is grafted before January 1, 2027, to a plant that has already been planted, by the taxpayer in the ordinary course of the taxpayer's farming business, as defined in section 263A(e)(4).

(iii) Qualified film, television, or live theatrical production-

(A) Qualified film or television production. For purposes of this paragraph (b)(4), a qualified film or television production is treated as placed in service at the time of initial release or broadcast as defined under §1.181-1(a)(7). The taxpayer that places in service a qualified film or television production must be the owner, as defined in §1.181-1(a)(2), of the qualified film or television production.

(B) Qualified live theatrical production. For purposes of this paragraph (b)(4), a qualified live theatrical production is treated as placed in service at the time of the initial live staged performance. The taxpayer that places in service a qualified live theatrical production must be the owner, as defined in paragraph (b)(2)(i)(F) of this section and in §1.181-1(a)(2), of the qualified live theatrical production.

(iv) Syndication transaction. If new property is acquired and placed in service by a lessor, or if used property is acquired and placed in service by a lessor and the lessor and any predecessor did not previously have a depreciable interest in the used property, and the property is sold by the lessor or any subsequent purchaser within three months after the date the property was originally placed in service by the lessor (or, in the case of multiple units of property subject to the same lease, within three months after the date the final unit is placed in service, so long as the period between the time the first unit is placed in service and the time the last unit is placed in service does not exceed 12 months), and the user of the property after the last sale during this three-month period remains the same as when the property was originally placed in service by the lessor, the property is treated as originally placed in service by the purchaser of the property in the last sale during the three-month period but not earlier than the date of the last sale for purposes of sections 167 and 168, and Sec. §1.46-3(d) and 1.167(a)-11(e)(1).

(v) Technical termination of a partnership. For purposes of this paragraph (b)(4), in the case of a technical termination of a partnership under section 708(b)(1)(B) occurring in a taxable year beginning before January 1, 2018, qualified property placed in service by the terminated partnership during the taxable year of termination is treated as originally placed in service by the new partnership on the date the qualified property is contributed by the terminated partnership to the new partnership.

(vi) Section 168(i)(7) transactions. For purposes of this paragraph (b)(4), if qualified property is transferred in a transaction described in section 168(i)(7) in the same taxable year that the qualified property is placed in service by the transferor, the transferred property is treated as originally placed in service on the date the transferor placed in service the qualified property. In the case of multiple transfers of qualified property in multiple transactions described in section 168(i)(7) in the same taxable year, the placed-in-service date of the transferred property is deemed to be the date on which the first transferor placed in service the qualified property.

(5) Acquisition of property.

(i) In general. This paragraph (b)(5) provides rules for the acquisition requirements in section 13201(h) of the Act. These rules apply to all property, including self-constructed property or property described in section 168(k)(2)(B) or (C).

(ii) Acquisition date.

(A) In general. Except as provided in paragraph (b)(5)(vi) of this section, depreciable property will meet the requirements of this paragraph (b)(5) if

the property is acquired by the taxpayer after September 27, 2017, or is acquired by the taxpayer pursuant to a written binding contract entered into by the taxpayer after September 27, 2017. Property that is manufactured, constructed, or produced for the taxpayer by another person under a written binding contract that is entered into prior to the manufacture, construction, or production of the property for use by the taxpayer in its trade or business or for its production of income is not acquired pursuant to a written binding contract but is considered to be self-constructed property under this paragraph (b)(5). For determination of acquisition date, see paragraph (b)(5)(ii)(B) of this section for property acquired pursuant to a written binding contract and paragraph (b)(5)(iv) of this section for self-constructed property.

(B) Determination of acquisition date for property acquired pursuant to a written binding contract. Except as provided in paragraphs (b)(5)(vi) and (vii) of this section, the acquisition date of property that the taxpayer acquired pursuant to a written binding contract is the later of-

(1) The date on which the contract was entered into;

(2) The date on which the contract is enforceable under State law;

(3) If the contract has one or more cancellation periods, the date on which all cancellation periods end. For purposes of this paragraph (b)(5)(ii)(B)(3), a cancellation period is the number of days stated in the contract for any party to cancel the contract without penalty; or

(4) If the contract has one or more contingency clauses, the date on which all conditions subject to such clauses are satisfied. For purposes of this paragraph (b)(5)(ii)(B)(4), a contingency clause is one that provides for a condition (or conditions) or action (or actions) that is within the control of any party or a predecessor.

(iii) Definition of binding contract.

(A) In general. A contract is binding only if it is enforceable under State law against the taxpayer or a predecessor, and does not limit damages to a specified amount (for example, by use of a liquidated damages provision). For this purpose, any contractual provision that limits damages to an amount equal to at least 5 percent of the total contract price will not be treated as limiting damages to a specified amount. If a contract has multiple provisions that limit damages, only the provision with the highest damages is taken into account in determining whether the contract limits damages. Also, in determining whether a contract limits damages, the fact that there may be little or no damages because the contract price does not significantly differ from fair market value will not be taken into account. For example, if a taxpayer entered into an irrevocable written contract to purchase an asset for \$100 and the contract did not contain a provision for liquidated damages, the contract is considered binding notwithstanding the fact that the asset had a fair market value of \$99 and under local law the

seller would only recover the difference in the event the purchaser failed to perform. If the contract provided for a full refund of the purchase price in lieu of any damages allowable by law in the event of breach or cancellation, the contract is not considered binding.

(B) Conditions. A contract is binding even if subject to a condition, as long as the condition is not within the control of either party or a predecessor. A contract will continue to be binding if the parties make insubstantial changes in its terms and conditions or if any term is to be determined by a standard beyond the control of either party. A contract that imposes significant obligations on the taxpayer or a predecessor will be treated as binding notwithstanding the fact that certain terms remain to be negotiated by the parties to the contract.

(C) Options. An option to either acquire or sell property is not a binding contract.

(D) Letter of intent. A letter of intent for an acquisition is not a binding contract.

(E) Supply agreements. A binding contract does not include a supply or similar agreement if the amount and design specifications of the property to be purchased have not been specified. The contract will not be a binding contract for the property to be purchased until both the amount and the design specifications are specified. For example, if the provisions of a supply or similar agreement state the design specifications of the property to be purchased, a purchase order under the agreement for a specific number of assets is treated as a binding contract.

(F) Components. A binding contract to acquire one or more components of a larger property will not be treated as a binding contract to acquire the larger property. If a binding contract to acquire the component does not satisfy the requirements of this paragraph (b)(5), the component does not qualify for the additional first year depreciation deduction under this section.

(G) [Reserved]

(iv) Self-constructed property.

(A) In general. If a taxpayer manufactures, constructs, or produces property for use by the taxpayer in its trade or business or for its production of income, the acquisition rules in paragraph (b)(5)(ii) of this section are treated as met for the property if the taxpayer begins manufacturing, constructing, or producing the property after September 27, 2017. Property that is manufactured, constructed, or produced for the taxpayer by another person under a written binding contract, as defined in paragraph (b)(5)(iii) of this section, that is entered into prior to the manufacture, construction, or production of the property for use by the taxpayer in its trade or business or for its production of income is

considered to be manufactured, constructed, or produced by the taxpayer. If a taxpayer enters into a written binding contract, as defined in paragraph (b)(5)(iii) of this section, before September 28, 2017, with another person to manufacture, construct, or produce property and the manufacture, construction, or production of this property begins after September 27, 2017, the acquisition rules in paragraph (b)(5)(ii) of this section are met.

(B) When does manufacture, construction, or production begin.

(1) In general. For purposes of paragraph (b)(5)(iv)(A) of this section, manufacture, construction, or production of property begins when physical work of a significant nature begins. Physical work does not include preliminary activities such as planning or designing, securing financing, exploring, or researching. The determination of when physical work of a significant nature begins depends on the facts and circumstances. For example, if a retail motor fuels outlet is to be constructed on-site, construction begins when physical work of a significant nature commences at the site; that is, when work begins on the excavation for footings, pouring the pads for the outlet, or the driving of foundation pilings into the ground. Preliminary work, such as clearing a site, test drilling to determine soil condition, or excavation to change the contour of the land (as distinguished from excavation for footings) does not constitute the beginning of construction. However, if a retail motor fuels outlet is to be assembled on-site from modular units manufactured off-site and delivered to the site where the outlet will be used, manufacturing begins when physical work of a significant nature commences at the off-site location.

(2) Safe harbor. For purposes of paragraph (b)(5)(iv)(B)(1) of this section, a taxpayer may choose to determine when physical work of a significant nature begins in accordance with this paragraph (b)(5)(iv)(B)(2). Physical work of a significant nature will be considered to begin at the time the taxpayer incurs (in the case of an accrual basis taxpayer) or pays (in the case of a cash basis taxpayer) more than 10 percent of the total cost of the property, excluding the cost of any land and preliminary activities such as planning or designing, securing financing, exploring, or researching. When property is manufactured, constructed, or produced for the taxpayer by another person, this safe harbor test must be satisfied by the taxpayer. For example, if a retail motor fuels outlet or other facility is to be constructed for an accrual basis taxpayer by another person for the total cost of \$200,000, excluding the cost of any land and preliminary activities such as planning or designing, securing financing, exploring, or researching, construction is deemed to begin for purposes of this paragraph (b)(5)(iv)(B)(2) when the taxpayer has incurred more than 10 percent (more than \$20,000) of the total cost of the property. A taxpayer chooses to apply this paragraph (b)(5)(iv)(B)(2) by filing a Federal income tax return for the

placed-in-service year of the property that determines when physical work of a significant nature begins consistent with this paragraph (b)(5)(iv)(B)(2).

(C) Components of self-constructed property.

(1) Acquired components. If a binding contract, as defined in paragraph (b)(5)(iii) of this section, to acquire a component does not satisfy the requirements of paragraph (b)(5)(ii) of this section, the component does not qualify for the additional first year depreciation deduction under this section. A binding contract described in the preceding sentence to acquire one or more components of a larger self-constructed property will not preclude the larger self-constructed property from satisfying the acquisition rules in paragraph (b)(5)(iv)(A) of this section. Accordingly, the unadjusted depreciable basis of the larger self-constructed property that is eligible for the additional first year depreciation deduction under this section, assuming all other requirements are met, must not include the unadjusted depreciable basis of any component that does not satisfy the requirements of paragraph (b)(5)(ii) of this section. If the manufacture, construction, or production of the larger self-constructed property begins before September 28, 2017, the larger self-constructed property and any acquired components related to the larger self-constructed property do not qualify for the additional first year depreciation deduction under this section. If a binding contract to acquire the component is entered into after September 27, 2017, but the manufacture, construction, or production of the larger self-constructed property does not begin before January 1, 2027, the component qualifies for the additional first year depreciation deduction under this section, assuming all other requirements are met, but the larger self-constructed property does not.

(2) Self-constructed components. If the manufacture, construction, or production of a component does not satisfy the requirements of this paragraph (b)(5)(iv), the component does not qualify for the additional first year depreciation deduction under this section. However, if the manufacture, construction, or production of a component does not satisfy the requirements of this paragraph (b)(5)(iv), but the manufacture, construction, or production of the larger self-constructed property satisfies the requirements of this paragraph (b)(5)(iv), the larger self-constructed property qualifies for the additional first year depreciation deduction under this section, assuming all other requirements are met, even though the component does not qualify for the additional first year depreciation deduction under this section. Accordingly, the unadjusted depreciable basis of the larger self-constructed property that is eligible for the additional first year depreciation deduction under this section, assuming all other requirements are met, must not include the unadjusted depreciable basis of any component that

does not qualify for the additional first year depreciation deduction under this section. If the manufacture, construction, or production of the larger self-constructed property began before September 28, 2017, the larger self-constructed property and any self-constructed components related to the larger self-constructed property do not qualify for the additional first year depreciation deduction under this section. If the manufacture, construction, or production of a component begins after September 27, 2017, but the manufacture, construction, or production of the larger self-constructed property does not begin before January 1, 2027, the component qualifies for the additional first year depreciation deduction under this section, assuming all other requirements are met, but the larger self-constructed property does not.

(v) [Reserved]

(vi) Qualified film, television, or live theatrical production.

(A) Qualified film or television production. For purposes of section 13201(h)(1)(A) of the Act, a qualified film or television production is treated as acquired on the date principal photography commences.

(B) Qualified live theatrical production. For purposes of section 13201(h)(1)(A) of the Act, a qualified live theatrical production is treated as acquired on the date when of the necessary elements for producing the live theatrical production are secured. These elements may include a script, financing, actors, set, scenic and costume designs, advertising agents, music, and lighting.

(vii) Specified plant. If the taxpayer has properly made an election to apply section 168(k)(5) for a specified plant, the requirements of this paragraph (b)(5) are satisfied if the specified plant is planted after September 27, 2017, or is grafted after September 27, 2017, to a plant that has already been planted, by the taxpayer in the ordinary course of the taxpayer's farming business, as defined in section 263A(e)(4).

(viii) Examples. The application of this paragraph (b)(5) is illustrated by the following examples. Unless the facts specifically indicate otherwise, assume that the parties are not related within the meaning of section 179(d)(2)(A) or (B) and §1.179-4(c), and the parties do not have predecessors:

(A)

Example (1). On September 1, 2017, BB, a corporation, entered into a written agreement with CC, a manufacturer, to purchase 20 new lamps for \$100 each within the next two years. Although the agreement specifies the number of lamps to be purchased, the agreement does not specify the design of the lamps to be purchased. Accordingly, the agreement is not a binding contract pursuant to paragraph (b)(5)(iii)(E) of this section.

(B)

Example (3). The facts are the same as in Example 1 of paragraph (b)(5)(viii)(A) of this section. On December 1, 2017, BB placed a purchase order with CC to purchase 20 new model XPC5 lamps for \$100 each for a total amount of \$2,000. Because the agreement specifies the number of lamps to be purchased and the purchase order specifies the design of the lamps to be purchased, the purchase order placed by BB with CC on December 1, 2017, is a binding contract pursuant to paragraph (b)(5)(iii)(E) of this section. Accordingly, assuming all other requirements are met, the cost of the 20 lamps qualifies for the 100-percent additional first year depreciation deduction.

(C)

Example (3). The facts are the same as in Example 1 of paragraph (b)(5)(viii)(A) of this section, except that the written agreement between BB and CC is to purchase 100 model XPC5 lamps for \$100 each within the next two years. Because this agreement specifies the amount and design of the lamps to be purchased, the agreement is a binding contract pursuant to paragraph (b)(5)(iii)(E) of this section. However, because the agreement was entered into before September 28, 2017, no lamp acquired by BB under this contract qualifies for the 100-percent additional first year depreciation deduction.

(D)

Example (4). On September 1, 2017, DD began constructing a retail motor fuels outlet for its own use. On November 1, 2018, DD ceases construction of the retail motor fuels outlet prior to its completion. Between September 1, 2017, and November 1, 2018, DD incurred \$3,000,000 of expenditures for the construction of the retail motor fuels outlet. On May 1, 2019, DD resumed construction of the retail motor fuels outlet and completed its construction on August 31, 2019. Between May 1, 2019, and August 31, 2019, DD incurred another \$1,600,000 of expenditures to complete the construction of the retail motor fuels outlet and, on September 1, 2019, DD placed the retail motor fuels outlet in service. None of DD's total expenditures of \$4,600,000 qualify for the 100-percent additional first year depreciation deduction because, pursuant to paragraph (b)(5)(iv)(A) of this section, DD began constructing the retail motor fuels outlet before September 28, 2017.

(E)

Example (5). The facts are the same as in Example 4 of paragraph (b)(5)(viii)(D) of this section except that DD began constructing the retail motor fuels outlet for its own use on October 1, 2017, and DD incurred the \$3,000,000 between October 1, 2017, and November 1, 2018. DD's total expenditures of \$4,600,000 qualify for the 100-percent additional first year depreciation deduction because, pursuant to paragraph (b)(5)(iv)(A) of this section, DD began constructing the retail motor fuels outlet after September 27, 2017, and DD placed the retail motor fuels outlet in service on September 1, 2019. Accordingly, assuming all other requirements are met, the additional first year depreciation deduction for the retail motor

fuels outlet will be \$4,600,000, computed as \$4,600,000 multiplied by 100 percent.

(F)

Example (6). On August 15, 2017, EE, an accrual basis taxpayer, entered into a written binding contract with FF to manufacture an aircraft described in section 168(k)(2)(C) for use in EE's trade or business. FF begins to manufacture the aircraft on October 1, 2017. The completed aircraft is delivered to EE on February 15, 2018, at which time EE incurred the total cost of the aircraft. EE places the aircraft in service on March 1, 2018. Pursuant to paragraphs (b)(5)(ii)(A) and (b)(5)(iv)(A) of this section, the aircraft is considered to be manufactured by EE. Because EE began manufacturing the aircraft after September 27, 2017, the aircraft qualifies for the 100-percent additional first year depreciation deduction, assuming all other requirements are met.

(G)

Example (7). On June 1, 2017, HH entered into a written binding contract with GG to acquire a new component part of property that is being constructed by HH for its own use in its trade or business. HH commenced construction of the property in November 2017, and placed the property in service in November 2018. Because HH entered into a written binding contract to acquire a component part prior to September 28, 2017, pursuant to paragraphs (b)(5)(ii) and (b)(5)(iv)(C)(1) of this section, the component part does not qualify for the 100-percent additional first year depreciation deduction. However, pursuant to paragraphs (b)(5)(iv)(A) and (b)(5)(iv)(C)(1) of this section, the property constructed by HH will qualify for the 100-percent additional first year depreciation deduction, because construction of the property began after September 27, 2017, assuming all other requirements are met. Accordingly, the unadjusted depreciable basis of the property that is eligible for the 100-percent additional first year depreciation deduction must not include the unadjusted depreciable basis of the component part.

(H)

Example (8). The facts are the same as in Example 7 of paragraph (b)(5)(viii)(G) of this section except that HH entered into the written binding contract with GG to acquire the new component part on September 30, 2017, and HH commenced construction of the property on August 1, 2017. Pursuant to paragraphs (b)(5)(iv)(A) and (C) of this section, neither the property constructed by HH nor the component part will qualify for the 100-percent additional first year depreciation deduction, because HH began construction of the property prior to September 28, 2017.

(I)

Example (9). On September 1, 2017, II acquired and placed in service equipment. On January 15, 2018, II sells the equipment to JJ and leases the property back from JJ in a sale-leaseback transaction. Pursuant to

paragraph (b)(5)(ii) of this section, II's cost of the equipment does not qualify for the 100-percent additional first year depreciation deduction because II acquired the equipment prior to September 28, 2017. However, JJ acquired used equipment from an unrelated party after September 27, 2017, and, assuming all other requirements are met, JJ's cost of the used equipment qualifies for the 100-percent additional first year depreciation deduction for JJ.

(J)

Example (10). On July 1, 2017, KK began constructing property for its own use in its trade or business. KK placed this property in service on September 15, 2017. On January 15, 2018, KK sells the property to LL and leases the property back from LL in a sale-leaseback transaction. Pursuant to paragraph (b)(5)(iv) of this section, KK's cost of the property does not qualify for the 100-percent additional first year depreciation deduction because KK began construction of the property prior to September 28, 2017. However, LL acquired used property from an unrelated party after September 27, 2017, and, assuming all other requirements are met, LL's cost of the used property qualifies for the 100-percent additional first year depreciation deduction for LL.

(K)

Example (11). MM, a calendar year taxpayer, is engaged in a trade or business described in section 163(j)(7)(A)(iv). In December 2018, MM began constructing a new electric generation power plant for its own use. MM placed in service this new power plant, including all component parts, in 2020. Even though MM began constructing the power plant after September 27, 2017, none of MM's total expenditures of the power plant qualify for the additional first year depreciation deduction under this section because, pursuant to paragraph (b)(2)(ii)(F) of this section, the power plant is property that is primarily used in a trade or business described in section 163(j)(7)(A)(iv) and the power plant was placed in service in MM's taxable year beginning after 2017.

(c)[Reserved]

(d)Property described in section 168(k)(2)(B) or (C).

(1)In general. Property described in section 168(k)(2)(B) or (C) will meet the acquisition requirements of section 168(k)(2)(B)(i)(III) or (k)(2)(C)(i) if the property is acquired by the taxpayer before January 1, 2027, or acquired by the taxpayer pursuant to a written binding contract that is entered into before January 1, 2027. Property described in section 168(k)(2)(B) or (C), including its components, also must meet the acquisition requirement in section 13201(h)(1)(A) of the Act (for further guidance, see paragraph (b)(5) of this section).

(2)Definition of binding contract. For purposes of this paragraph (d), the rules in paragraph (b)(5)(iii) of this section for a binding contract apply.

(3)Self-constructed property.

(i) In general. If a taxpayer manufactures, constructs, or produces property for use by the taxpayer in its trade or business or for its production of income, the acquisition rules in paragraph (d)(1) of this section are treated as met for the property if the taxpayer begins manufacturing, constructing, or producing the property before January 1, 2027. Property that is manufactured, constructed, or produced for the taxpayer by another person under a written binding contract, as defined in paragraph (b)(5)(iii) of this section, that is entered into prior to the manufacture, construction, or production of the property for use by the taxpayer in its trade or business or for its production of income is considered to be manufactured, constructed, or produced by the taxpayer. If a taxpayer enters into a written binding contract, as defined in paragraph (b)(5)(iii) of this section, before January 1, 2027, with another person to manufacture, construct, or produce property described in section 168(k)(2)(B) or (C) and the manufacture, construction, or production of this property begins after December 31, 2026, the acquisition rule in paragraph (d)(1) of this section is met.

(ii) When does manufacture, construction, or production begin-

(A) In general. For purposes of this paragraph (d)(3), manufacture, construction, or production of property begins when physical work of a significant nature begins. Physical work does not include preliminary activities such as planning or designing, securing financing, exploring, or researching. The determination of when physical work of a significant nature begins depends on the facts and circumstances. For example, if a retail motor fuels outlet is to be constructed on-site, construction begins when physical work of a significant nature commences at the site; that is, when work begins on the excavation for footings, pouring the pads for the outlet, or the driving of foundation pilings into the ground. Preliminary work, such as clearing a site, test drilling to determine soil condition, or excavation to change the contour of the land (as distinguished from excavation for footings) does not constitute the beginning of construction. However, if a retail motor fuels outlet is to be assembled on-site from modular units manufactured off-site and delivered to the site where the outlet will be used, manufacturing begins when physical work of a significant nature commences at the off-site location.

(B) Safe harbor. For purposes of paragraph (d)(3)(ii)(A) of this section, a taxpayer may choose to determine when physical work of a significant nature begins in accordance with this paragraph (d)(3)(ii)(B). Physical work of a significant nature will be considered to begin at the time the taxpayer incurs (in the case of an accrual basis taxpayer) or pays (in the case of a cash basis taxpayer) more than 10 percent of the total cost of the property, excluding the cost of any land and preliminary activities such as planning or designing, securing financing, exploring, or researching. When property is manufactured, constructed, or produced for the taxpayer by another person, this safe harbor test must be satisfied by the taxpayer. For example, if a retail motor fuels outlet is to be constructed for an accrual basis taxpayer by another person for the total cost of \$200,000, excluding the cost of any land and preliminary activities such as planning or designing, securing financing, exploring, or researching, construction is

deemed to begin for purposes of this paragraph (d)(3)(ii)(B) when the taxpayer has incurred more than 10 percent (more than \$20,000) of the total cost of the property. A taxpayer chooses to apply this paragraph (d)(3)(ii)(B) by filing a Federal income tax return for the placed-in-service year of the property that determines when physical work of a significant nature begins consistent with this paragraph (d)(3)(ii)(B).

(iii) Components of self-constructed property-

(A) Acquired components. If a binding contract, as defined in paragraph (b)(5)(iii) of this section, to acquire a component does not satisfy the requirements of paragraph (d)(1) of this section, the component does not qualify for the additional first year depreciation deduction under this section. A binding contract described in the preceding sentence to acquire one or more components of a larger self-constructed property will not preclude the larger self-constructed property from satisfying the acquisition rules in paragraph (d)(3)(i) of this section. Accordingly, the unadjusted depreciable basis of the larger self-constructed property that is eligible for the additional first year depreciation deduction under this section, assuming all other requirements are met, must not include the unadjusted depreciable basis of any component that does not satisfy the requirements of paragraph (d)(1) of this section. If a binding contract to acquire the component is entered into before January 1, 2027, but the manufacture, construction, or production of the larger self-constructed property does not begin before January 1, 2027, the component qualifies for the additional first year depreciation deduction under this section, assuming all other requirements are met, but the larger self-constructed property does not.

(B) Self-constructed components. If the manufacture, construction, or production of a component by the taxpayer does not satisfy the requirements of paragraph (d)(3)(i) of this section, the component does not qualify for the additional first year depreciation deduction under this section. However, if the manufacture, construction, or production of a component does not satisfy the requirements of paragraph (d)(3)(i) of this section, but the manufacture, construction, or production of the larger self-constructed property satisfies the requirements of paragraph (d)(3)(i) of this section, the larger self-constructed property qualifies for the additional first year depreciation deduction under this section, assuming all other requirements are met, even though the component does not qualify for the additional first year depreciation deduction under this section. Accordingly, the unadjusted depreciable basis of the larger self-constructed property that is eligible for the additional first year depreciation deduction under this section, assuming all other requirements are met, must not include the unadjusted depreciable basis of any component that does not qualify for the additional first year depreciation deduction under this section. If the manufacture, construction, or production of a component begins before January 1, 2027, but the manufacture, construction, or production of the larger self-constructed property does not begin before January 1, 2027, the component qualifies

for the additional first year depreciation deduction under this section, assuming all other requirements are met, but the larger self-constructed property does not.

(iv) Examples. The application of this paragraph (d) is illustrated by the following examples:

(A)

Example (1).

(1) On June 1, 2016, NN decided to construct property described in section 168(k)(2)(B) for its own use. However, one of the component parts of the property had to be manufactured by another person for NN. On August 15, 2016, NN entered into a written binding contract with OO to acquire this component part of the property for \$100,000. OO began manufacturing the component part on November 1, 2016, and delivered the completed component part to NN on September 1, 2017, at which time NN incurred \$100,000 for the cost of the component. The cost of this component part is 9 percent of the total cost of the property to be constructed by NN. NN did not incur any other cost of the property to be constructed before NN began construction. NN began constructing the property described in section 168(k)(2)(B) on October 15, 2017, and placed in service this property, including all component parts, on November 1, 2020. NN uses the safe harbor test in paragraph (d)(3)(ii)(B) of this section to determine when physical work of a significant nature begins for the property described in section 168(k)(2)(B).

(2) Because the component part of \$100,000 that was manufactured by OO for NN is not more than 10 percent of the total cost of the property described in section 168(k)(2)(B), physical work of a significant nature for the property described in section 168(k)(2)(B) did not begin before September 28, 2017.

(3) Pursuant to paragraphs (b)(5)(iv)(C)(2) and (d)(1) of this section, the self-constructed component part of \$100,000 manufactured by OO for NN is not eligible for the 100-percent additional first year depreciation deduction because the manufacturing of such component part began before September 28, 2017. However, pursuant to paragraph (d)(3)(i) of this section, the cost of the property described in section 168(k)(2)(B), excluding the cost of the component part of \$100,000 manufactured by OO for NN, is eligible for the 100-percent additional first year depreciation deduction, assuming all other requirements are met, because construction of the property began after September 27, 2017, and before January 1, 2027, and the property described in section 168(k)(2)(B) was placed in service by NN during 2020.

(B)

Example (2).

(2) On June 1, 2026, PP decided to construct property described in section 168(k)(2)(B) for its own use. However, one of the

component parts of the property had to be manufactured by another person for PP. On August 15, 2026, PP entered into a written binding contract with XP to acquire this component part of the property for \$100,000. XP began manufacturing the component part on September 1, 2026, and delivered the completed component part to PP on February 1, 2027, at which time PP incurred \$100,000 for the cost of the component. The cost of this component part is 9 percent of the total cost of the property to be constructed by PP. PP did not incur any other cost of the property to be constructed before PP began construction. PP began constructing the property described in section 168(k)(2)(B) on January 15, 2027, and placed this property, including all component parts, in service on November 1, 2027.

(2) Pursuant to paragraph (d)(3)(iii)(B) of this section, the self-constructed component part of \$100,000 manufactured by XP for PP is eligible for the additional first year depreciation deduction under this section, assuming all other requirements are met, because the manufacturing of the component part began before January 1, 2027, and the property described in section 168(k)(2)(B), the larger self-constructed property, was placed in service by PP before January 1, 2028. However, pursuant to paragraph (d)(3)(i) of this section, the cost of the property described in section 168(k)(2)(B), excluding the cost of the self-constructed component part of \$100,000 manufactured by XP for PP, is not eligible for the additional first year depreciation deduction under this section because construction of the property began after December 31, 2026.

(C)

Example (3).

(3) On December 1, 2026, QQ entered into a written binding contract, as defined in paragraph (b)(5)(iii) of this section, with RR to manufacture an aircraft described in section 168(k)(2)(C) for use in QQ's trade or business. RR begins to manufacture the aircraft on February 1, 2027. QQ places the aircraft in service on August 1, 2027. Pursuant to paragraph (d)(3)(i) of this section, the aircraft meets the requirements of paragraph (d)(1) of this section because the aircraft was acquired by QQ pursuant to a written binding contract entered into before January 1, 2027. Further, the aircraft was placed in service by QQ before January 1, 2028. Thus, assuming all other requirements are met, QQ's cost of the aircraft is eligible for the additional first year depreciation deduction under this section.

(e) Computation of depreciation deduction for qualified property.

(1) Additional first year depreciation deduction.

(i) Allowable taxable year. The additional first year depreciation deduction is allowable-

(A) Except as provided in paragraph (e)(1)(i)(B) or (g) of this section, in the taxable year in which the qualified property is placed in service by the taxpayer for use in its trade or business or for the production of income; or

(B) In the taxable year in which the specified plant is planted, or grafted to a plant that has already been planted, by the taxpayer in the ordinary course of the taxpayer's farming business, as defined in section 263A(e)(4), if the taxpayer properly made the election to apply section 168(k)(5) (for further guidance, see paragraph (f) of this section).

(ii) Computation. Except as provided in paragraph (g)(5) of this section, the allowable additional first year depreciation deduction for qualified property is determined by multiplying the unadjusted depreciable basis, as defined in §1.168(b)-1(a)(3), of the qualified property by the applicable percentage. Except as provided in paragraph (g)(1) of this section, the additional first year depreciation deduction is not affected by a taxable year of less than 12 months. See paragraph (g)(1) of this section for qualified property placed in service or planted or grafted, as applicable, and disposed of during the same taxable year. See paragraph (g)(5) of this section for qualified property acquired in a like-kind exchange or as a result of an involuntary conversion.

(iii) Property described in section 168(k)(2)(B). For purposes of paragraph (e)(1)(ii) of this section, the unadjusted depreciable basis, as defined in §1.168(b)-1(a)(3), of qualified property described in section 168(k)(2)(B) is limited to the property's unadjusted depreciable basis attributable to the property's manufacture, construction, or production before January 1, 2027.

(iv) Alternative minimum tax-

(A) In general. The additional first year depreciation deduction is allowable for alternative minimum tax purposes-

(1) Except as provided in paragraph (e)(1)(iv)(A)(2) of this section, in the taxable year in which the qualified property is placed in service by the taxpayer; or

(2) In the taxable year in which a specified plant is planted by the taxpayer, or grafted by the taxpayer to a plant that was previously planted, if the taxpayer properly made the election to apply section 168(k)(5) (for further guidance, see paragraph (f) of this section).

(B) Special rules. In general, the additional first year depreciation deduction for alternative minimum tax purposes is based on the unadjusted depreciable basis of the property for alternative minimum tax purposes. However, see paragraph (g)(5)(iii)(E) of this section for qualified property acquired in a like-kind exchange or as a result of an involuntary conversion.

(2) Otherwise allowable depreciation deduction.

(i) In general. Before determining the amount otherwise allowable as a depreciation deduction for the qualified property for the placed-in-service year and any subsequent taxable year, the taxpayer must determine the remaining

adjusted depreciable basis of the qualified property. This remaining adjusted depreciable basis is equal to the unadjusted depreciable basis, as defined in §1.168(b)-1(a)(3), of the qualified property reduced by the amount of the additional first year depreciation allowed or allowable, whichever is greater. The remaining adjusted depreciable basis of the qualified property is then depreciated using the applicable depreciation provisions under the Internal Revenue Code for the qualified property. The remaining adjusted depreciable basis of the qualified property that is MACRS property is also the basis to which the annual depreciation rates in the optional depreciation tables apply (for further guidance, see section 8 of Rev. Proc. 87-57 (1987-2 C.B. 687) and §601.601(d)(2)(ii)(b) of this chapter). The depreciation deduction allowable for the remaining adjusted depreciable basis of the qualified property is affected by a taxable year of less than 12 months.

(ii) Alternative minimum tax. For alternative minimum tax purposes, the depreciation deduction allowable for the remaining adjusted depreciable basis of the qualified property is based on the remaining adjusted depreciable basis for alternative minimum tax purposes. The remaining adjusted depreciable basis of the qualified property for alternative minimum tax purposes is depreciated using the same depreciation method, recovery period (or useful life in the case of computer software), and convention that apply to the qualified property for regular tax purposes.

(3)Examples. This paragraph (e) is illustrated by the following examples:

(i)

Example (1). On March 1, 2023, SS, a calendar-year taxpayer, purchased and placed in service qualified property that costs \$1 million and is 5-year property under section 168(e). SS depreciates its 5-year property placed in service in 2023 using the optional depreciation table that corresponds with the general depreciation system, the 200-percent declining balance method, a 5-year recovery period, and the half-year convention. For 2023, SS is allowed an 80-percent additional first year depreciation deduction of \$800,000 (the unadjusted depreciable basis of \$1 million multiplied by 0.80). Next, SS must reduce the unadjusted depreciable basis of \$1 million by the additional first year depreciation deduction of \$800,000 to determine the remaining adjusted depreciable basis of \$200,000. Then, SS' depreciation deduction allowable in 2023 for the remaining adjusted depreciable basis of \$200,000 is \$40,000 (the remaining adjusted depreciable basis of \$200,000 multiplied by the annual depreciation rate of 0.20 for recovery year 1).

(ii)

Example (2). On June 1, 2023, TT, a calendar-year taxpayer, purchased and placed in service qualified property that costs \$1,500,000. The property qualifies for the expensing election under section 179 and is 5-year property under section 168(e). TT did not purchase any other section 179 property in 2023. TT makes the election under section 179 for the property and depreciates its 5-year property placed in service in 2023 using the optional depreciation table that corresponds with the general depreciation system, the 200-percent declining balance method, a 5-year recovery period, and the half-year convention. Assume the maximum

section 179 deduction for 2023 is \$1,000,000. For 2023, TT is first allowed a \$1,000,000 deduction under section 179. Next, TT must reduce the cost of \$1,500,000 by the section 179 deduction of \$1,000,000 to determine the unadjusted depreciable basis of \$500,000. Then, for 2023, TT is allowed an 80-percent additional first year depreciation deduction of \$400,000 (the unadjusted depreciable basis of \$500,000 multiplied by 0.80). Next, TT must reduce the unadjusted depreciable basis of \$500,000 by the additional first year depreciation deduction of \$400,000 to determine the remaining adjusted depreciable basis of \$100,000. Then, TT's depreciation deduction allowable in 2023 for the remaining adjusted depreciable basis of \$100,000 is \$20,000 (the remaining adjusted depreciable basis of \$100,000 multiplied by the annual depreciation rate of 0.20 for recovery year 1).

(f) Elections under section 168(k).

(1) Election not to deduct additional first year depreciation.

(i) In general. A taxpayer may make an election not to deduct the additional first year depreciation for any class of property that is qualified property placed in service during the taxable year. If this election is made, the election applies to all qualified property that is in the same class of property and placed in service in the same taxable year, and no additional first year depreciation deduction is allowable for the property placed in service during the taxable year in the class of property, except as provided in §1.743-1(j)(4)(i)(B)(1).

(ii) Definition of class of property. For purposes of this paragraph (f)(1), the term class of property means:

(A) Except for the property described in paragraphs (f)(1)(ii)(B) and (D), and (f)(2) of this section, each class of property described in section 168(e) (for example, 5-year property);

(B) Water utility property as defined in section 168(e)(5) and depreciated under section 168;

(C) Computer software as defined in, and depreciated under, section 167(f)(1) and §1.167(a)-14(b);

(D) Qualified improvement property as defined in §1.168(b)-1(a)(5)(i)(C) and (a)(5)(ii), and depreciated under section 168;

(E) Each separate production, as defined in §1.181-3(b), of a qualified film or television production;

(F) Each separate production, as defined in section 181(e)(2), of a qualified live theatrical production; or

(G) A partner's basis adjustment in partnership assets under section 743(b) for each class of property described in paragraphs (f)(1)(ii)(A) through (F), and (f)(2) of this section (for further guidance, see §1.743-1(j)(4)(i)(B)(1)).

(iii) Time and manner for making election-

(A) Time for making election. Except as provided in paragraph (f)(6) of this section, any election specified in paragraph (f)(1)(i) of this section must be made by the due date, including extensions, of the Federal tax return for the taxable year in which the qualified property is placed in service by the taxpayer.

(B) Manner of making election. Except as provided in paragraph (f)(6) of this section, any election specified in paragraph (f)(1)(i) of this section must be made in the manner prescribed on Form 4562, "Depreciation and Amortization," and its instructions. The election is made separately by each person owning qualified property (for example, for each member of a consolidated group by the common parent of the group, by the partnership (including a lower-tier partnership; also including basis adjustments in the partnership assets under section 743(b)), or by the S corporation). If Form 4562 is revised or renumbered, any reference in this section to that form shall be treated as a reference to the revised or renumbered form.

(iv) Failure to make election. If a taxpayer does not make the election specified in paragraph (f)(1)(i) of this section within the time and in the manner prescribed in paragraph (f)(1)(iii) of this section, the amount of depreciation allowable for that property under section 167 or 168, as applicable, must be determined for the placed-in-service year and for all subsequent taxable years by taking into account the additional first year depreciation deduction. Thus, any election specified in paragraph (f)(1)(i) of this section shall not be made by the taxpayer in any other manner (for example, the election cannot be made through a request under section 446(e) to change the taxpayer's method of accounting).

(2) Election to apply section 168(k)(5) for specified plants.

(i) In general. A taxpayer may make an election to apply section 168(k)(5) to one or more specified plants that are planted, or grafted to a plant that has already been planted, by the taxpayer in the ordinary course of the taxpayer's farming business, as defined in section 263A(e)(4). If this election is made for a specified plant, such plant is not treated as qualified property under section 168(k) and this section in its placed-in-service year.

(ii) Time and manner for making election-

(A) Time for making election. Except as provided in paragraph (f)(6) of this section, any election specified in paragraph (f)(2)(i) of this section must be made by the due date, including extensions, of the Federal tax return for the taxable year in which the taxpayer planted or grafted the specified plant to which the election applies.

(B) Manner of making election. Except as provided in paragraph (f)(6) of this section, any election specified in paragraph (f)(2)(i) of this section must be made in the manner prescribed on Form 4562, "Depreciation and Amortization," and its instructions. The election is made separately by each person owning specified plants (for example, for each member of a consolidated group by the common parent of the group, by the partnership

(including a lower-tier partnership), or by the S corporation). If Form 4562 is revised or renumbered, any reference in this section to that form shall be treated as a reference to the revised or renumbered form.

(iii) Failure to make election. If a taxpayer does not make the election specified in paragraph (f)(2)(i) of this section for a specified plant within the time and in the manner prescribed in paragraph (f)(2)(ii) of this section, the specified plant is treated as qualified property under section 168(k), assuming all requirements are met, in the taxable year in which such plant is placed in service by the taxpayer. Thus, any election specified in paragraph (f)(2)(i) of this section shall not be made by the taxpayer in any other manner (for example, the election cannot be made through a request under section 446(e) to change the taxpayer's method of accounting).

(3) Election for qualified property placed in service during the 2017 taxable year.

(i) In general. A taxpayer may make an election to deduct 50 percent, instead of 100 percent, additional first year depreciation for all qualified property acquired after September 27, 2017, by the taxpayer and placed in service by the taxpayer during its taxable year that includes September 28, 2017. If a taxpayer makes an election to apply section 168(k)(5) for its taxable year that includes September 28, 2017, the taxpayer also may make an election to deduct 50 percent, instead of 100 percent, additional first year depreciation for all specified plants that are planted, or grafted to a plant that has already been planted, after September 27, 2017, by the taxpayer in the ordinary course of the taxpayer's farming business during such taxable year.

(ii) Time and manner for making election-

(A) Time for making election. Except as provided in paragraph (f)(6) of this section, any election specified in paragraph (f)(3)(i) of this section must be made by the due date, including extensions, of the Federal tax return for the taxpayer's taxable year that includes September 28, 2017.

(B) Manner of making election. Except as provided in paragraph (f)(6) of this section, any election specified in paragraph (f)(3)(i) of this section must be made in the manner prescribed on the 2017 Form 4562, "Depreciation and Amortization," and its instructions. The election is made separately by each person owning qualified property (for example, for each member of a consolidated group by the common parent of the group, by the partnership (including a lower-tier partnership), or by the S corporation).

(iii) Failure to make election. If a taxpayer does not make the election specified in paragraph (f)(3)(i) of this section within the time and in the manner prescribed in paragraph (f)(3)(ii) of this section, the amount of depreciation allowable for qualified property under section 167 or 168, as applicable, acquired and placed in service, or planted or grafted, as applicable, by the taxpayer after September 27, 2017, must be determined for the taxable year that includes September 28, 2017, and for all subsequent taxable years by taking into account the 100-percent additional first year depreciation deduction, unless the taxpayer makes the

election specified in paragraph (f)(1)(i) of this section within the time and in the manner prescribed in paragraph (f)(1)(iii) of this section for the class of property in which the qualified property is included. Thus, any election specified in paragraph (f)(3)(i) of this section shall not be made by the taxpayer in any other manner (for example, the election cannot be made through a request under section 446(e) to change the taxpayer's method of accounting).

(4)Alternative minimum tax. If a taxpayer makes an election specified in paragraph (f)(1) of this section for a class of property or in paragraph (f)(2) of this section for a specified plant, the depreciation adjustments under section 56 and the regulations in this part under section 56 do not apply to the property or specified plant, as applicable, to which that election applies for purposes of computing the taxpayer's alternative minimum taxable income. If a taxpayer makes an election specified in paragraph (f)(3) of this section for all qualified property, see paragraphs (e)(1)(iv) and (e)(2)(ii) of this section.

(5)Revocation of election.

(i) In general. Except as provided in paragraphs (f)(5)(ii) and (f)(6) of this section, an election specified in this paragraph (f), once made, may be revoked only by filing a request for a private letter ruling and obtaining the Commissioner of Internal Revenue's written consent to revoke the election. The Commissioner may grant a request to revoke the election if the taxpayer acted reasonably and in good faith, and the revocation will not prejudice the interests of the Government. See generally § 301.9100-3 of this chapter. An election specified in this paragraph (f) may not be revoked through a request under section 446(e) to change the taxpayer's method of accounting.

(ii) Automatic 6-month extension. If a taxpayer made an election specified in this paragraph (f), an automatic extension of 6 months from the due date of the taxpayer's Federal tax return, excluding extensions, for the placed-in-service year or the taxable year in which the specified plant is planted or grafted, as applicable, is granted to revoke that election, provided the taxpayer timely filed the taxpayer's Federal tax return for the placed-in-service year or the taxable year in which the specified plant is planted or grafted, as applicable, and, within this 6-month extension period, the taxpayer, and all taxpayers whose tax liability would be affected by the election, file an amended Federal tax return for the placed-in-service year or the taxable year in which the specified plant is planted or grafted, as applicable, in a manner that is consistent with the revocation of the election.

(6)Special rules for 2016 and 2017 returns. For an election specified in this paragraph (f) for qualified property placed in service, or for a specified plant that is planted, or grafted to a plant that has already been planted, by the taxpayer during its taxable year that included September 28, 2017, the taxpayer should refer to Rev. Proc. 2019-33 (2019-34 I.R.B. 662) (see §601.601(d)(2)(ii)(b) of this chapter) for the time and manner of making the election on the 2016 or 2017 Federal tax return.

(g)Special rules.

(1)Property placed in service and disposed of in the same taxable year.

(i) In general. Except as provided in paragraphs (g)(1)(ii) and (iii) of this section, the additional first year depreciation deduction is not allowed for qualified

property placed in service or planted or grafted, as applicable, and disposed of during the same taxable year. If a partnership interest is acquired and disposed of during the same taxable year, the additional first year depreciation deduction is not allowed for any section 743(b) adjustment arising from the initial acquisition. Also, if qualified property is placed in service and disposed of during the same taxable year and then reacquired and again placed in service in a subsequent taxable year, the additional first year depreciation deduction is not allowable for the property in the subsequent taxable year.

(ii) Technical termination of a partnership. In the case of a technical termination of a partnership under section 708(b)(1)(B) in a taxable year beginning before January 1, 2018, the additional first year depreciation deduction is allowable for any qualified property placed in service or planted or grafted, as applicable, by the terminated partnership during the taxable year of termination and contributed by the terminated partnership to the new partnership. The allowable additional first year depreciation deduction for the qualified property shall not be claimed by the terminated partnership but instead shall be claimed by the new partnership for the new partnership's taxable year in which the qualified property was contributed by the terminated partnership to the new partnership. However, if qualified property is both placed in service or planted or grafted, as applicable, and contributed to a new partnership in a transaction described in section 708(b)(1)(B) by the terminated partnership during the taxable year of termination, and if such property is disposed of by the new partnership in the same taxable year the new partnership received such property from the terminated partnership, then no additional first year depreciation deduction is allowable to either partnership.

(iii) Section 168(i)(7) transactions. If any qualified property is transferred in a transaction described in section 168(i)(7) in the same taxable year that the qualified property is placed in service or planted or grafted, as applicable, by the transferor, the additional first year depreciation deduction is allowable for the qualified property. If a partnership interest is purchased and transferred in a transaction described in section 168(i)(7) in the same taxable year, the additional first year depreciation deduction is allowable for any section 743(b) adjustment that arises from the initial acquisition with respect to qualified property held by the partnership, provided the requirements of paragraph (b)(3)(iv)(D) of this section and all other requirements of section 168(k) and this section are satisfied. The allowable additional first year depreciation deduction for the qualified property for the transferor's taxable year in which the property is placed in service or planted or grafted, as applicable, is allocated between the transferor and the transferee on a monthly basis. The allowable additional first year depreciation deduction for a section 743(b) adjustment with respect to qualified property held by the partnership is allocated between the transferor and the transferee on a monthly basis notwithstanding that under §1.743-1(f) a transferee's section 743(b) adjustment is determined without regard to a transferor's section 743(b) adjustment. These allocations shall be made in accordance with the rules in §1.168(d)-1(b)(7)(ii) for allocating the depreciation deduction between the transferor and the transferee. However, solely for purposes of this section, if the qualified property is transferred in a section 721(a) transaction to a partnership that has as a partner a person, other than the transferor, who previously had a

depreciable interest in the qualified property, in the same taxable year that the qualified property is acquired or planted or grafted, as applicable, by the transferor, the qualified property is deemed to be placed in service or planted or grafted, as applicable, by the transferor during that taxable year, and the allowable additional first year depreciation deduction is allocated entirely to the transferor and not to the partnership. Additionally, if qualified property is both placed in service or planted or grafted, as applicable, and transferred in a transaction described in section 168(i)(7) by the transferor during the same taxable year, and if such property is disposed of by the transferee, other than by a transaction described in section 168(i)(7), during the same taxable year the transferee received such property from the transferor, then no additional first year depreciation deduction is allowable to either party.

(iv) Examples. The application of this paragraph (g)(1) is illustrated by the following examples:

(A)

Example (1). UU and VV are equal partners in Partnership JL, a general partnership. Partnership JL is a calendar-year taxpayer. On October 1, 2017, Partnership JL purchased and placed in service qualified property at a cost of \$30,000. On November 1, 2017, UU sells its entire 50 percent interest to WW in a transfer that terminates the partnership under section 708(b)(1)(B). As a result, terminated Partnership JL is deemed to have contributed the qualified property to new Partnership JL. Pursuant to paragraph (g)(1)(ii) of this section, new Partnership JL, not terminated Partnership JL, is eligible to claim the 100-percent additional first year depreciation deduction allowable for the qualified property for the taxable year 2017, assuming all other requirements are met.

(B)

Example (2). On January 5, 2018, XX purchased and placed in service qualified property for a total amount of \$9,000. On August 20, 2018, XX transferred this qualified property to Partnership BC in a transaction described in section 721(a). No other partner of Partnership BC has ever had a depreciable interest in the qualified property. XX and Partnership BC are calendar-year taxpayers. Because the transaction between XX and Partnership BC is a transaction described in section 168(i)(7), pursuant to paragraph (g)(1)(iii) of this section, the 100-percent additional first year depreciation deduction allowable for the qualified property is allocated between XX and Partnership BC in accordance with the rules in § 1.168(d)-1(b)(7)(ii) for allocating the depreciation deduction between the transferor and the transferee. Accordingly, the 100-percent additional first year depreciation deduction allowable of \$9,000 for the qualified property for 2018 is allocated between XX and Partnership BC based on the number of months that XX and Partnership BC held the qualified property in service during 2018. Thus, because the qualified property was held in service by XX for 7 of 12 months, which includes the month in which XX placed the qualified property in service but does not include the month in which the qualified property was transferred, XX is allocated \$5,250 ( $\frac{7}{12} \times \$9,000$  additional first year depreciation deduction). Partnership BC is allocated \$3,750, the remaining  $\frac{5}{12}$  of the \$9,000 additional first year depreciation deduction allowable for the qualified property.

(2)Redetermination of basis. If the unadjusted depreciable basis, as defined in §1.168(b)-1(a)(3), of qualified property is redetermined (for example, due to contingent purchase price or discharge of indebtedness) before January 1, 2027, or in the case of property described in section 168(k)(2)(B) or (C), is redetermined before January 1, 2028, the additional first year depreciation deduction allowable for the qualified property is redetermined as follows:

(i) Increase in basis. For the taxable year in which an increase in basis of qualified property occurs, the taxpayer shall claim an additional first year depreciation deduction for qualified property by multiplying the amount of the increase in basis for this property by the applicable percentage for the taxable year in which the underlying property was placed in service by the taxpayer. For purposes of this paragraph (g)(2)(i), the additional first year depreciation deduction applies to the increase in basis only if the underlying property is qualified property. To determine the amount otherwise allowable as a depreciation deduction for the increase in basis of qualified property, the amount of the increase in basis of the qualified property must be reduced by the additional first year depreciation deduction allowed or allowable, whichever is greater, for the increase in basis and the remaining increase in basis of-

(A) Qualified property, except for computer software described in paragraph (b)(2)(i)(B) of this section, a qualified film or television production described in paragraph (b)(2)(i)(E) of this section, or a qualified live theatrical production described in paragraph (b)(2)(i)(F) of this section, is depreciated over the recovery period of the qualified property remaining as of the beginning of the taxable year in which the increase in basis occurs, and using the same depreciation method and convention applicable to the qualified property that applies for the taxable year in which the increase in basis occurs; and

(B) Computer software, as defined in paragraph (b)(2)(i)(B) of this section, that is qualified property is depreciated ratably over the remainder of the 36-month period, the useful life under section 167(f)(1), as of the beginning of the first day of the month in which the increase in basis occurs.

(ii) Decrease in basis. For the taxable year in which a decrease in basis of qualified property occurs, the taxpayer shall reduce the total amount otherwise allowable as a depreciation deduction for all of the taxpayer's depreciable property by the excess additional first year depreciation deduction previously claimed for the qualified property. If, for such taxable year, the excess additional first year depreciation deduction exceeds the total amount otherwise allowable as a depreciation deduction for all of the taxpayer's depreciable property, the taxpayer shall take into account a negative depreciation deduction in computing taxable income. The excess additional first year depreciation deduction for qualified property is determined by multiplying the amount of the decrease in basis for this property by the applicable percentage for the taxable year in which the underlying property was placed in service by the taxpayer. For purposes of this paragraph (g)(2)(ii), the additional first year depreciation deduction applies to the decrease in basis only if the underlying property is qualified property. Also, if the taxpayer establishes by adequate records or other sufficient evidence that the

taxpayer claimed less than the additional first year depreciation deduction allowable for the qualified property before the decrease in basis, or if the taxpayer claimed more than the additional first year depreciation deduction allowable for the qualified property before the decrease in basis, the excess additional first year depreciation deduction is determined by multiplying the amount of the decrease in basis by the additional first year depreciation deduction percentage actually claimed by the taxpayer for the qualified property before the decrease in basis. To determine the amount to reduce the total amount otherwise allowable as a depreciation deduction for all of the taxpayer's depreciable property for the excess depreciation previously claimed, other than the additional first year depreciation deduction, resulting from the decrease in basis of the qualified property, the amount of the decrease in basis of the qualified property must be adjusted by the excess additional first year depreciation deduction that reduced the total amount otherwise allowable as a depreciation deduction, as determined under this paragraph (g)(2)(ii), and the remaining decrease in basis of-

(A) Qualified property, except for computer software described in paragraph (b)(2)(i)(B) of this section, a qualified film or television production described in paragraph (b)(2)(i)(E) of this section, or a qualified live theatrical production described in paragraph (b)(2)(i)(F) of this section, reduces the amount otherwise allowable as a depreciation deduction over the recovery period of the qualified property remaining as of the beginning of the taxable year in which the decrease in basis occurs, and using the same depreciation method and convention of the qualified property that applies in the taxable year in which the decrease in basis occurs. If, for any taxable year, the reduction to the amount otherwise allowable as a depreciation deduction, as determined under this paragraph (g)(2)(ii)(A), exceeds the total amount otherwise allowable as a depreciation deduction for all of the taxpayer's depreciable property, the taxpayer shall take into account a negative depreciation deduction in computing taxable income; and

(B) Computer software, as defined in paragraph (b)(2)(i)(B) of this section, that is qualified property reduces the amount otherwise allowable as a depreciation deduction over the remainder of the 36-month period, the useful life under section 167(f)(1), as of the beginning of the first day of the month in which the decrease in basis occurs. If, for any taxable year, the reduction to the amount otherwise allowable as a depreciation deduction, as determined under this paragraph (g)(2)(ii)(B), exceeds the total amount otherwise allowable as a depreciation deduction for all of the taxpayer's depreciable property, the taxpayer shall take into account a negative depreciation deduction in computing taxable income.

(iii) Definitions. Except as otherwise expressly provided by the Internal Revenue Code (for example, section 1017(a)), the regulations under the Internal Revenue Code, or other guidance published in the Internal Revenue Bulletin for purposes of this paragraph (g)(2)-

(A) An increase in basis occurs in the taxable year an amount is taken into account under section 461; and

(B) A decrease in basis occurs in the taxable year an amount would be taken into account under section 451.

(iv) Examples. The application of this paragraph (g)(2) is illustrated by the following examples:

(A)

Example (1).

(1) On May 15, 2023, YY, a cash-basis taxpayer, purchased and placed in service qualified property that is 5-year property at a cost of \$200,000. In addition to the \$200,000, YY agrees to pay the seller 25 percent of the gross profits from the operation of the property in 2023. On May 15, 2024, YY paid to the seller an additional \$10,000. YY depreciates the 5-year property placed in service in 2023 using the optional depreciation table that corresponds with the general depreciation system, the 200-percent declining balance method, a 5-year recovery period, and the half-year convention.

(2) For 2023, YY is allowed an 80-percent additional first year depreciation deduction of \$160,000 (the unadjusted depreciable basis of \$200,000 multiplied by 0.80). In addition, YY's depreciation deduction for 2023 for the remaining adjusted depreciable basis of \$40,000 (the unadjusted depreciable basis of \$200,000 reduced by the additional first year depreciation deduction of \$160,000) is \$8,000 (the remaining adjusted depreciable basis of \$40,000 multiplied by the annual depreciation rate of 0.20 for recovery year 1).

(3) For 2024, YY's depreciation deduction for the remaining adjusted depreciable basis of \$40,000 is \$12,800 (the remaining adjusted depreciable basis of \$40,000 multiplied by the annual depreciation rate of 0.32 for recovery year 2). In addition, pursuant to paragraph (g)(2)(i) of this section, YY is allowed an additional first year depreciation deduction for 2024 for the \$10,000 increase in basis of the qualified property. Consequently, YY is allowed an additional first year depreciation deduction of \$8,000 (the increase in basis of \$10,000 multiplied by 0.80, the applicable percentage for 2023). Also, YY is allowed a depreciation deduction for 2024 attributable to the remaining increase in basis of \$2,000 (the increase in basis of \$10,000 reduced by the additional first year depreciation deduction of \$8,000). The depreciation deduction allowable for 2024 attributable to the remaining increase in basis of \$2,000 is \$889 (the remaining increase in basis of \$2,000 multiplied by 0.4444, which is equal to  $1/\text{remaining recovery period of 4.5 years at January 1, 2024, multiplied by 2}$ ). Accordingly, for 2024, YY's total depreciation deduction allowable for the qualified property is \$21,689 (\$12,800 plus \$8,000 plus \$889).

(B)

Example (2).

(1) On May 15, 2023, ZZ, a calendar-year taxpayer, purchased and placed in service qualified property that is 5-year property at a cost of \$400,000. To purchase the property, ZZ borrowed \$250,000 from Bank1. On May 15, 2024, Bank1 forgives \$50,000 of the indebtedness. ZZ makes the

election provided in section 108(b)(5) to apply any portion of the reduction under section 1017 to the basis of the depreciable property of the taxpayer. ZZ depreciates the 5-year property placed in service in 2023 using the optional depreciation table that corresponds with the general depreciation system, the 200-percent declining balance method, a 5-year recovery period, and the half-year convention.

(2) For 2023, ZZ is allowed an 80-percent additional first year depreciation deduction of \$320,000 (the unadjusted depreciable basis of \$400,000 multiplied by 0.80). In addition, ZZ's depreciation deduction allowable for 2023 for the remaining adjusted depreciable basis of \$80,000 (the unadjusted depreciable basis of \$400,000 reduced by the additional first year depreciation deduction of \$320,000) is \$16,000 (the remaining adjusted depreciable basis of \$80,000 multiplied by the annual depreciation rate of 0.20 for recovery year 1).

(3) For 2024, ZZ's deduction for the remaining adjusted depreciable basis of \$80,000 is \$25,600 (the remaining adjusted depreciable basis of \$80,000 multiplied by the annual depreciation rate 0.32 for recovery year 2). Although Bank1 forgave the indebtedness in 2024, the basis of the property is reduced on January 1, 2025, pursuant to sections 108(b)(5) and 1017(a) under which basis is reduced at the beginning of the taxable year following the taxable year in which the discharge of indebtedness occurs.

(4) For 2025, ZZ's deduction for the remaining adjusted depreciable basis of \$80,000 is \$15,360 (the remaining adjusted depreciable basis of \$80,000 multiplied by the annual depreciation rate 0.192 for recovery year 3). However, pursuant to paragraph (g)(2)(ii) of this section, ZZ must reduce the amount otherwise allowable as a depreciation deduction for 2025 by the excess depreciation previously claimed for the \$50,000 decrease in basis of the qualified property. Consequently, ZZ must reduce the amount of depreciation otherwise allowable for 2025 by the excess additional first year depreciation of \$40,000 (the decrease in basis of \$50,000 multiplied by 0.80, the applicable percentage for 2023). Also, ZZ must reduce the amount of depreciation otherwise allowable for 2025 by the excess depreciation attributable to the remaining decrease in basis of \$10,000 (the decrease in basis of \$50,000 reduced by the excess additional first year depreciation of \$40,000). The reduction in the amount of depreciation otherwise allowable for 2025 for the remaining decrease in basis of \$10,000 is \$5,714 (the remaining decrease in basis of \$10,000 multiplied by 0.5714, which is equal to  $(1/\text{remaining recovery period of 3.5 years at January 1, 2025, multiplied by 2})$ ). Accordingly, assuming the qualified property is the only depreciable property owned by ZZ, for 2025, ZZ has a negative depreciation deduction for the qualified property of \$30,354 (\$15,360 minus \$40,000 minus \$5,714).

(3) Sections 1245 and 1250 depreciation recapture. For purposes of section 1245 and §§1.1245-1 through -6, the additional first year depreciation deduction is an amount allowed or allowable for depreciation. Further, for purposes of section 1250(b) and § 1.1250-2, the additional first year depreciation deduction is not a straight line method.

(4) Coordination with section 169. The additional first year depreciation deduction is allowable in the placed-in-service year of a certified pollution control facility, as defined in §1.169-2(a), that is qualified property even if the taxpayer makes the election to amortize the certified pollution control facility under section 169 and §§1.169-1 through -4 in the certified pollution control facility's placed-in-service year.

(5) Like-kind exchanges and involuntary conversions.

(i) Scope. The rules of this paragraph (g)(5) apply to replacement MACRS property or replacement computer software that is qualified property at the time of replacement provided the time of replacement is after September 27, 2017, and before January 1, 2027; or, in the case of replacement MACRS property or replacement computer software that is qualified property described in section 168(k)(2)(B) or (C), the time of replacement is after September 27, 2017, and before January 1, 2028.

(ii) Definitions. For purposes of this paragraph (g)(5), the following definitions apply:

(A) Replacement MACRS property has the same meaning as that term is defined in §1.168(i)-6(b)(1).

(B) Relinquished MACRS property has the same meaning as that term is defined in §1.168(i)-6(b)(2).

(C) Replacement computer software is computer software, as defined in paragraph (b)(2)(i)(B) of this section, in the hands of the acquiring taxpayer that is acquired for other computer software in a like-kind exchange or in an involuntary conversion.

(D) Relinquished computer software is computer software that is transferred by the taxpayer in a like-kind exchange or in an involuntary conversion.

(E) Time of disposition has the same meaning as that term is defined in §1.168(i)-6(b)(3) for relinquished MACRS property. For relinquished computer software, time of disposition is when the disposition of the relinquished computer software takes place under the convention determined under §1.167(a)-14(b).

(F) Except as provided in paragraph (g)(5)(iv) of this section, the time of replacement has the same meaning as that term is defined in §1.168(i)-6(b)(4) for replacement MACRS property. For replacement computer software, the time of replacement is, except as provided in paragraph (g)(5)(iv) of this section, the later of-

(1) When the replacement computer software is placed in service under the convention determined under §1.167(a)-14(b); or

(2) The time of disposition of the relinquished property.

(G) Exchanged basis has the same meaning as that term is defined in §1.168(i)-6(b)(7) for MACRS property, as defined in § 1.168(b)-1(a)(2). For computer software, the exchanged basis is determined after the amortization deductions for the year of disposition are determined under §1.167(a)-14(b) and is the lesser of-

(1) The basis in the replacement computer software, as determined under section 1031(d) and §1.1031(d)-1, 1.1031(d)-2, 1.1031(j)-1, or 1.1031(k)-1; or section 1033(b) and §1.1033(b)-1; or

(2) The adjusted depreciable basis of the relinquished computer software.

(H) Excess basis has the same meaning as that term is defined in §1.168(i)-6(b)(8) for replacement MACRS property. For replacement computer software, the excess basis is any excess of the basis in the replacement computer software, as determined under section 1031(d) and §1.1031(d)-1, 1.1031(d)-2, 1.1031(j)-1, or 1.1031(k)-1; or section 1033(b) and §1.1033(b)-1, over the exchanged basis as determined under paragraph (g)(5)(ii)(G) of this section.

(I) Remaining exchanged basis is the exchanged basis as determined under paragraph (g)(5)(ii)(G) of this section reduced by-

(1) The percentage of such basis attributable to the taxpayer's use of property for the taxable year other than in the taxpayer's trade or business or for the production of income; and

(2) Any adjustments to basis provided by other provisions of the Code and the regulations under the Code (including section 1016(a)(2) and (3)) for periods prior to the disposition of the relinquished property.

(J) Remaining excess basis is the excess basis as determined under paragraph (g)(5)(ii)(H) of this section reduced by-

(1) The percentage of such basis attributable to the taxpayer's use of property for the taxable year other than in the taxpayer's trade or business or for the production of income;

(2) Any portion of the basis the taxpayer properly elects to treat as an expense under section 179 or 179C; and

(3) Any adjustments to basis provided by other provisions of the Code and the regulations under the Code.

(K) Year of disposition has the same meaning as that term is defined in §1.168(i)-6(b)(5).

(L) Year of replacement has the same meaning as that term is defined in §1.168(i)-6(b)(6).

(M) Like-kind exchange has the same meaning as that term is defined in §1.168(i)-6(b)(11).

(N) Involuntary conversion has the same meaning as that term is defined in §1.168(i)-6(b)(12).

(iii) Computation-

(A) In general. If the replacement MACRS property or the replacement computer software, as applicable, meets the original use requirement in paragraph (b)(3)(ii) of this section and all other requirements of section 168(k) and this section, the remaining exchanged basis for the year of replacement and the remaining excess basis, if any, for the year of replacement for the replacement MACRS property or the replacement computer software, as applicable, are eligible for the additional first year depreciation deduction under this section. If the replacement MACRS property or the replacement computer software, as applicable, meets the used property acquisition requirements in paragraph (b)(3)(iii) of this section and all other requirements of section 168(k) and this section, only the remaining excess basis for the year of replacement for the replacement MACRS property or the replacement computer software, as applicable, is eligible for the additional first year depreciation deduction under this section. See paragraph (b)(3)(iii)(A)(3) of this section. The additional first year depreciation deduction applies to the remaining exchanged basis and any remaining excess basis, as applicable, of the replacement MACRS property or the replacement computer software, as applicable, if the time of replacement is after

September 27, 2017, and before January 1, 2027; or, in the case of replacement MACRS property or replacement computer software, as applicable, described in section 168(k)(2)(B) or (C), the time of replacement is after September 27, 2017, and before January 1, 2028. The additional first year depreciation deduction is computed separately for the remaining exchanged basis and any remaining excess basis, as applicable.

(B) Year of disposition and year of replacement. The additional first year depreciation deduction is allowable for the replacement MACRS property or replacement computer software in the year of replacement. However, the additional first year depreciation deduction is not allowable for the relinquished MACRS property or the relinquished computer software, as applicable, if the relinquished MACRS property or the relinquished computer software, as applicable, is placed in service and disposed of in a like-kind exchange or in an involuntary conversion in the same taxable year.

(C) Property described in section 168(k)(2)(B). For purposes of paragraph (g)(5)(iii)(A) of this section, the total of the remaining exchanged basis and the remaining excess basis, if any, of the replacement MACRS property that is qualified property described in section 168(k)(2)(B) and meets the original use requirement in paragraph (b)(3)(ii) of this section is limited to the total of the property's remaining exchanged basis and remaining excess basis, if any, attributable to the property's manufacture, construction, or production after September 27, 2017, and before January 1, 2027. For purposes of paragraph (g)(5)(iii)(A) of this section, the remaining excess basis, if any, of the replacement MACRS property that is qualified property described in section 168(k)(2)(B) and meets the used property acquisition requirements in paragraph (b)(3)(iii) of this section is limited to the property's remaining excess basis, if any, attributable to the property's manufacture, construction, or production after September 27, 2017, and before January 1, 2027.

(D) Effect of §1.168(i)-6(i)(1) election. If a taxpayer properly makes the election under §1.168(i)-6(i)(1) not to apply §1.168(i)-6 for any MACRS property, as defined in §1.168(b)-1(a)(2), involved in a like-kind exchange or involuntary conversion, then:

(1) If the replacement MACRS property meets the original use requirement in paragraph (b)(3)(ii) of

this section and all other requirements of section 168(k) and this section, the total of the exchanged basis, as defined in §1.168(i)-6(b)(7), and the excess basis, as defined in §1.168(i)-6(b)(8), if any, in the replacement MACRS property is eligible for the additional first year depreciation deduction under this section; or

(2) If the replacement MACRS property meets the used property acquisition requirements in paragraph (b)(3)(iii) of this section and all other requirements of section 168(k) and this section, only the excess basis, as defined in §1.168(i)-6(b)(8), if any, in the replacement MACRS property is eligible for the additional first year depreciation deduction under this section.

(E) Alternative minimum tax. The additional first year depreciation deduction is allowed for alternative minimum tax purposes for the year of replacement of replacement MACRS property or replacement computer software, as applicable, that is qualified property. If the replacement MACRS property or the replacement computer software, as applicable, meets the original use requirement in paragraph (b)(3)(ii) of this section and all other requirements of section 168(k) and this section, the additional first year depreciation deduction for alternative minimum tax purposes is based on the remaining exchanged basis and the remaining excess basis, if any, of the replacement MACRS property or the replacement computer software, as applicable, for alternative minimum tax purposes. If the replacement MACRS property or the replacement computer software, as applicable, meets the used property acquisition requirements in paragraph (b)(3)(iii) of this section and all other requirements of section 168(k) and this section, the additional first year depreciation deduction for alternative minimum tax purposes is based on the remaining excess basis, if any, of the replacement MACRS property or the replacement computer software, as applicable, for alternative minimum tax purposes.

(iv) Replacement MACRS property or replacement computer software that is acquired and placed in service before disposition of relinquished MACRS property or relinquished computer software. If, in an involuntary conversion, a taxpayer acquires and places in service the replacement MACRS property or the replacement computer software, as applicable, before the time of disposition of the involuntarily converted MACRS property or the involuntarily converted computer software, as applicable; and the time of

disposition of the involuntarily converted MACRS property or the involuntarily converted computer software, as applicable, is after December 31, 2026, or, in the case of property described in service 168(k)(2)(B) or (C), after December 31, 2027, then-

(A) The time of replacement for purposes of this paragraph (g)(5) is when the replacement MACRS property or replacement computer software, as applicable, is placed in service by the taxpayer, provided the threat or imminence of requisition or condemnation of the involuntarily converted MACRS property or involuntarily converted computer software, as applicable, existed before January 1, 2027, or, in the case of property described in section 168(k)(2)(B) or (C), existed before January 1, 2028; and

(B) The taxpayer depreciates the replacement MACRS property or replacement computer software, as applicable, in accordance with paragraph (e) of this section. However, at the time of disposition of the involuntarily converted MACRS property, the taxpayer determines the exchanged basis, as defined in §1.168(i)-6(b)(7), and the excess basis, as defined in §1.168(i)-6(b)(8), of the replacement MACRS property and begins to depreciate the depreciable exchanged basis, as defined in §1.168(i)-6(b)(9), of the replacement MACRS property in accordance with §1.168(i)-6(c). The depreciable excess basis, as defined in §1.168(i)-6(b)(10), of the replacement MACRS property continues to be depreciated by the taxpayer in accordance with the first sentence of this paragraph (g)(5)(iv)(B). Further, in the year of disposition of the involuntarily converted MACRS property, the taxpayer must include in taxable income the excess of the depreciation deductions allowable, including the additional first year depreciation deduction allowable, on the unadjusted depreciable basis of the replacement MACRS property over the additional first year depreciation deduction that would have been allowable to the taxpayer on the remaining exchanged basis of the replacement MACRS property at the time of replacement, as defined in paragraph (g)(5)(iv)(A) of this section, plus the depreciation deductions that would have been allowable, including the additional first year depreciation deduction allowable, to the taxpayer on the depreciable excess basis of the replacement MACRS property from the date the replacement MACRS property was placed in service by the taxpayer, taking into account the applicable convention, to the time of disposition of the involuntarily converted MACRS property. Similar rules apply to replacement computer software.

(v) Examples. The application of this paragraph (g)(5) is illustrated by the following examples:

(A)

Example (1).

(1) In April 2016, CSK, a calendar-year corporation, acquired for \$200,000 and placed in service Canopy V1, a gas station canopy. Canopy V1 is qualified property under section 168(k)(2), as in effect on the day before amendment by the Act, and is 5-year property under section 168(e). CSK depreciated Canopy V1 under the general depreciation system of section 168(a) by using the 200-percent declining balance method of depreciation, a 5-year recovery period, and the half-year convention. CSK elected to use the optional depreciation tables to compute the depreciation allowance for Canopy V1. In November 2017, Canopy V1 was destroyed in a fire and was no longer usable in CSK's business. In December 2017, in an involuntary conversion, CSK acquired and placed in service Canopy W1 with all of the \$160,000 of insurance proceeds CSK received due to the loss of Canopy V1. Canopy W1 is qualified property under section 168(k)(2) and this section, and is 5-year property under section 168(e). Canopy W1 also meets the original use requirement in paragraph (b)(3)(ii) of this section. CSK did not make the election under §1.168(i)-6(i)(1).

(2) For 2016, CSK is allowed a 50-percent additional first year depreciation deduction of \$100,000 for Canopy V1 (the unadjusted depreciable basis of \$200,000 multiplied by 0.50), and a regular MACRS depreciation deduction of \$20,000 for Canopy V1 (the remaining adjusted depreciable basis of \$100,000 multiplied by the annual depreciation rate of 0.20 for recovery year 1).

(3) For 2017, CSK is allowed a regular MACRS depreciation deduction of \$16,000 for Canopy V1 (the remaining adjusted depreciable basis of \$100,000 multiplied by the annual depreciation rate of 0.32 for recovery year 2 x ½ year).

(4) Pursuant to paragraph (g)(5)(iii)(A) of this section, the additional first year depreciation deduction allowable for Canopy W1 for 2017 equals \$64,000 (100 percent of Canopy W1's remaining exchanged basis at the time of replacement of \$64,000 (Canopy V1's remaining adjusted depreciable basis of \$100,000 minus 2016 regular MACRS depreciation deduction of \$20,000 minus 2017 regular MACRS depreciation deduction of \$16,000)).

(B)

Example (2).

(1) The facts are the same as in Example 1 of paragraph (g)(5)(v)(A)(1) of this section, except CSK elected not to deduct the additional first year depreciation for 5-year property placed in service in 2016. CSK deducted the additional first year depreciation for 5-year property placed in service in 2017.

(2) For 2016, CSK is allowed a regular MACRS depreciation deduction of \$40,000 for Canopy V1 (the unadjusted depreciable basis of \$200,000 multiplied by the annual depreciation rate of 0.20 for recovery year 1).

(3) For 2017, CSK is allowed a regular MACRS depreciation deduction of \$32,000 for Canopy V1 (the unadjusted depreciable basis of \$200,000 multiplied by the annual depreciation rate of 0.32 for recovery year 2 x ½ year).

(4) Pursuant to paragraph (g)(5)(iii)(A) of this section, the additional first year depreciation deduction allowable for Canopy W1 for 2017 equals \$128,000 (100 percent of Canopy W1's remaining exchanged basis at the time of replacement of \$128,000 (Canopy V1's unadjusted depreciable basis of \$200,000 minus 2016 regular MACRS depreciation deduction of \$40,000 minus 2017 regular MACRS depreciation deduction of \$32,000)).

(C)

Example (3).

(1) The facts are the same as in Example 1 of paragraph (g)(5)(v)(A)(1) of this section, except Canopy W1 meets the used property acquisition requirements in paragraph (b)(3)(iii) of this section. Because the remaining excess basis of Canopy W1 is zero, CSK is not allowed any additional first year depreciation for Canopy W1 pursuant to paragraph (g)(5)(iii)(A) of this section.

(D)

Example (4).

(1) In December 2016, AB, a calendar-year corporation, acquired for \$10,000 and placed in service Computer X2. Computer X2 is qualified property under section 168(k)(2), as in effect on the day before amendment by the Act, and is 5-year property under section 168(e). AB depreciated Computer X2 under the general depreciation system of section 168(a) by using the 200-percent declining balance method of depreciation, a 5-year recovery period, and the half-year convention. AB elected to use the optional depreciation tables to compute the depreciation allowance for Computer X2. In November 2017, AB acquired Computer Y2 by exchanging Computer X2 and \$1,000 cash in a like-kind exchange. Computer Y2 is qualified

property under section 168(k)(2) and this section, and is 5-year property under section 168(e). Computer Y2 also meets the original use requirement in paragraph (b)(3)(ii) of this section. AB did not make the election under §1.168(i)-6(i)(1).

(2) For 2016, AB is allowed a 50-percent additional first year depreciation deduction of \$5,000 for Computer X2 (unadjusted basis of \$10,000 multiplied by 0.50), and a regular MACRS depreciation deduction of \$1,000 for Computer X2 (the remaining adjusted depreciable basis of \$5,000 multiplied by the annual depreciation rate of 0.20 for recovery year 1).

(3) For 2017, AB is allowed a regular MACRS depreciation deduction of \$800 for Computer X2 (the remaining adjusted depreciable basis of \$5,000 multiplied by the annual depreciation rate of 0.32 for recovery year 2 x ½ year).

(4) Pursuant to paragraph (g)(5)(iii)(A) of this section, the 100-percent additional first year depreciation deduction for Computer Y2 for 2017 is allowable for the remaining exchanged basis at the time of replacement of \$3,200 (Computer X2's unadjusted depreciable basis of \$10,000 minus additional first year depreciation deduction allowable of \$5,000 minus the 2016 regular MACRS depreciation deduction of \$1,000 minus the 2017 regular MACRS depreciation deduction of \$800) and for the remaining excess basis at the time of replacement of \$1,000 (cash paid for Computer Y2). Thus, the 100-percent additional first year depreciation deduction allowable for Computer Y2 totals \$4,200 for 2017.

(E)

Example (5).

(1) In July 2017, BC, a calendar-year corporation, acquired for \$20,000 and placed in service Equipment X3. Equipment X3 is qualified property under section 168(k)(2), as in effect on the day before amendment by the Act, and is 5-year property under section 168(e). BC depreciated Equipment X3 under the general depreciation system of section 168(a) by using the 200-percent declining balance method of depreciation, a 5-year recovery period, and the half-year convention. BC elected to use the optional depreciation tables to compute the depreciation allowance for Equipment X3. In December 2017, BC acquired Equipment Y3 by exchanging Equipment X3 and \$5,000 cash in a like-kind exchange. Equipment Y3 is qualified property under section 168(k)(2) and this section, and is 5-year property under section 168(e). Equipment Y3 also meets the used property acquisition requirements in

paragraph (b)(3)(iii) of this section. BC did not make the election under §1.168(i)-6(i)(1).

(2) Pursuant to §1.168(k)-1(f)(5)(iii)(B), no additional first year depreciation deduction is allowable for Equipment X3 and, pursuant to §1.168(d)-1(b)(3)(ii), no regular depreciation deduction is allowable for Equipment X3, for 2017.

(3) Pursuant to paragraph (g)(5)(iii)(A) of this section, no additional first year depreciation deduction is allowable for Equipment Y3's remaining exchanged basis at the time of replacement of \$20,000 (Equipment X3's unadjusted depreciable basis of \$20,000). However, pursuant to paragraph (g)(5)(iii)(A) of this section, the 100-percent additional first year depreciation deduction is allowable for Equipment Y3's remaining excess basis at the time of replacement of \$5,000 (cash paid for Equipment Y3). Thus, the 100-percent additional first year depreciation deduction allowable for Equipment Y3 is \$5,000 for 2017.

(F)

Example (6).

(1) The facts are the same as in Example 5 of paragraph (g)(5)(v)(E)(1) of this section, except BC properly makes the election under §1.168(i)-6(i)(1) not to apply § 1.168(i)-6 to Equipment X3 and Equipment Y3.

(2) Pursuant to §1.168(k)-1(f)(5)(iii)(B), no additional first year depreciation deduction is allowable for Equipment X3 and, pursuant to §1.168(d)-1(b)(3)(ii), no regular depreciation deduction is allowable for Equipment X3, for 2017.

(3) Pursuant to §1.168(i)-6(i)(1), BC is treated as placing Equipment Y3 in service in December 2017 with a basis of \$25,000 (the total of the exchanged basis of \$20,000 and the excess basis of \$5,000). However, pursuant to paragraph (g)(5)(iii)(D)(2) of this section, the 100-percent additional first year depreciation deduction is allowable only for Equipment Y3's excess basis at the time of replacement of \$5,000 (cash paid for Equipment Y3). Thus, the 100-percent additional first year depreciation deduction allowable for Equipment Y3 is \$5,000 for 2017.

(6)Change in use.

(i) Change in use of MACRS property. The determination of whether the use of MACRS property, as defined in § 1.168(b)-1(a)(2), changes is made in accordance with section 168(i)(5) and §1.168(i)-4.

(ii) Conversion to personal use. If qualified property is converted from business or income-producing use to

personal use in the same taxable year in which the property is placed in service by a taxpayer, the additional first year depreciation deduction is not allowable for the property.

(iii) Conversion to business or income-producing use.

(A) During the same taxable year. If, during the same taxable year, property is acquired by a taxpayer for personal use and is converted by the taxpayer from personal use to business or income-producing use, the additional first year depreciation deduction is allowable for the property in the taxable year the property is converted to business or income-producing use, assuming all of the requirements in paragraph (b) of this section are met. See paragraph (b)(3)(ii) of this section relating to the original use rules for a conversion of property to business or income-producing use. See §1.168(i)-4(b)(1) for determining the depreciable basis of the property at the time of conversion to business or income-producing use.

(B) Subsequent to the acquisition year. If property is acquired by a taxpayer for personal use and, during a subsequent taxable year, is converted by the taxpayer from personal use to business or income-producing use, the additional first year depreciation deduction is allowable for the property in the taxable year the property is converted to business or income-producing use, assuming all of the requirements in paragraph (b) of this section are met. For purposes of paragraphs (b)(4) and (5) of this section, the property must be acquired by the taxpayer for personal use after September 27, 2017, and converted by the taxpayer from personal use to business or income-producing use by January 1, 2027. See paragraph (b)(3)(ii) of this section relating to the original use rules for a conversion of property to business or income-producing use. See §1.168(i)-4(b)(1) for determining the depreciable basis of the property at the time of conversion to business or income-producing use.

(iv) Depreciable property changes use subsequent to the placed-in-service year.

(A) If the use of qualified property changes in the hands of the same taxpayer subsequent to the taxable year the qualified property is placed in service and, as a result of the change in use, the property is no longer qualified property, the additional first year depreciation deduction allowable for the qualified property is not redetermined.

(B) If depreciable property is not qualified property in the taxable year the property is placed in service by the

taxpayer, the additional first year depreciation deduction is not allowable for the property even if a change in the use of the property subsequent to the taxable year the property is placed in service results in the property being qualified property in the taxable year of the change in use.

(v) Examples. The application of this paragraph (g)(6) is illustrated by the following examples:

(A)

Example (1).

(1) On January 1, 2019, FFF, a calendar year corporation, purchased and placed in service several new computers at a total cost of \$100,000. FFF used these computers within the United States for 3 months in 2019 and then moved and used the computers outside the United States for the remainder of 2019. On January 1, 2020, FFF permanently returns the computers to the United States for use in its business.

(2) For 2019, the computers are considered as used predominantly outside the United States in 2019 pursuant to §1.48-1(g)(1)(i). As a result, the computers are required to be depreciated under the alternative depreciation system of section 168(g). Pursuant to paragraph (b)(2)(ii)(B) of this section, the computers are not qualified property in 2019, the placed-in-service year. Thus, pursuant to paragraph (g)(6)(iv)(B) of this section, no additional first year depreciation deduction is allowed for these computers, regardless of the fact that the computers are permanently returned to the United States in 2020.

(B)

Example (2).

(1) On February 8, 2023, GGG, a calendar year corporation, purchased and placed in service new equipment at a cost of \$1,000,000 for use in its California plant. The equipment is 5-year property under section 168(e) and is qualified property under section 168(k). GGG depreciates its 5-year property placed in service in 2023 using the optional depreciation table that corresponds with the general depreciation system, the 200-percent declining balance method, a 5-year recovery period, and the half-year convention. On June 4, 2024, due to changes in GGG's business circumstances, GGG permanently moves the equipment to its plant in Mexico.

(2) For 2023, GGG is allowed an 80-percent additional first year depreciation deduction of \$800,000 (the adjusted depreciable basis of \$1,000,000 multiplied by 0.80). In addition, GGG's depreciation deduction allowable in 2023 for the remaining adjusted depreciable basis of \$200,000

(the unadjusted depreciable basis of \$1,000,000 reduced by the additional first year depreciation deduction of \$800,000) is \$40,000 (the remaining adjusted depreciable basis of \$200,000 multiplied by the annual depreciation rate of 0.20 for recovery year 1).

(3) For 2024, the equipment is considered as used predominantly outside the United States pursuant to §1.48-1(g)(1)(i). As a result of this change in use, the adjusted depreciable basis of \$160,000 for the equipment is required to be depreciated under the alternative depreciation system of section 168(g) beginning in 2024. However, the additional first year depreciation deduction of \$800,000 allowed for the equipment in 2023 is not redetermined.

(7) Earnings and profits. The additional first year depreciation deduction is not allowable for purposes of computing earnings and profits.

(8) Limitation of amount of depreciation for certain passenger automobiles. For a passenger automobile as defined in section 280F(d)(5), the limitation under section 280F(a)(1)(A)(i) is increased by \$8,000 for qualified property acquired and placed in service by a taxpayer after September 27, 2017.

(9) Coordination with section 47.

(i) In general. If qualified rehabilitation expenditures, as defined in section 47(c)(2) and § 1.48-12(c), incurred by a taxpayer with respect to a qualified rehabilitated building, as defined in section 47(c)(1) and § 1.48-12(b), are qualified property, the taxpayer may claim the rehabilitation credit provided by section 47(a), provided the requirements of section 47 are met-

(A) With respect to the portion of the basis of the qualified rehabilitated building that is attributable to the qualified rehabilitation expenditures if the taxpayer makes the applicable election under paragraph (f)(1)(i) of this section not to deduct any additional first year depreciation for the class of property that includes the qualified rehabilitation expenditures; or

(B) With respect to the portion of the remaining rehabilitated basis of the qualified rehabilitated building that is attributable to the qualified rehabilitation expenditures if the taxpayer claims the additional first year depreciation deduction on the unadjusted depreciable basis, as defined in § 1.168(b)-1(a)(3) but before the reduction in basis for the amount of the rehabilitation credit, of the qualified rehabilitation expenditures; and the taxpayer depreciates the remaining adjusted depreciable basis, as defined in paragraph (e)(2)(i) of this section, of such expenditures using straight line cost recovery in accordance with section 47(c)(2)(B)(i) and § 1.48-12(c)(7)(i). For purposes of this paragraph (g)(9)(i)(B), the remaining rehabilitated basis is equal to the unadjusted depreciable basis, as defined in § 1.168(b)-1(a)(3) but before the reduction in basis for the amount of the rehabilitation credit, of the qualified rehabilitation expenditures that are qualified property reduced by the additional first year depreciation allowed or allowable, whichever is greater.

(ii) Example. The application of this paragraph (g)(9) is illustrated by the following example:

Example.

(A) Between February 8, 2023, and June 4, 2023, JM, a calendar-year taxpayer, incurred qualified rehabilitation expenditures of \$200,000 with respect to a qualified rehabilitated building that is nonresidential real property under section 168(e). These qualified rehabilitation expenditures are qualified property and qualify for the 20-percent rehabilitation credit under section 47(a)(1). JM's basis in the qualified rehabilitated building is zero before incurring the qualified rehabilitation expenditures and JM placed the qualified rehabilitated building in service in July 2023. JM depreciates its nonresidential real property placed in service in 2023 under the general depreciation system of section 168(a) by using the straight line method of depreciation, a 39-year recovery period, and the mid-month convention. JM elected to use the optional depreciation tables to compute the depreciation allowance for its depreciable property placed in service in 2023. Further, for 2023, JM did not make any election under paragraph (f) of this section.

(B) Because JM did not make any election under paragraph (f) of this section, JM is allowed an 80-percent additional first year depreciation deduction of \$160,000 for the qualified rehabilitation expenditures for 2023 (the unadjusted depreciable basis of \$200,000 (before reduction in basis for the rehabilitation credit) multiplied by 0.80). JM also is allowed to claim a rehabilitation credit of \$8,000 for the remaining rehabilitated basis of \$40,000 (the unadjusted depreciable basis (before reduction in basis for the rehabilitation credit) of \$200,000 less the additional first year depreciation deduction of \$160,000, multiplied by 0.20 to calculate the rehabilitation credit). For 2023, the ratable share of the rehabilitation credit of \$8,000 is \$1,600. Further, JM's depreciation deduction for 2023 for the remaining adjusted depreciable basis of \$32,000 (the unadjusted depreciable basis (before reduction in basis for the rehabilitation credit) of \$200,000 less the additional first year depreciation deduction of \$160,000 less the rehabilitation credit of \$8,000) is \$376.64 (the remaining adjusted depreciable basis of \$32,000 multiplied by the depreciation rate of 0.01177 for recovery year 1, placed in service in month 7).

(10) Coordination with section 514(a)(3). The additional first year depreciation deduction is not allowable for purposes of section 514(a)(3).

(11) [Reserved]

(h) Applicability dates.

(1) In general. Except as provided in paragraphs (h)(2) and (3) of this section, the rules of this section apply to-

(i) Qualified property under section 168(k)(2) that is placed in service by the taxpayer during or after the taxpayer's taxable year that includes September 24, 2019; and

(ii) A specified plant for which the taxpayer properly made an election to apply section 168(k)(5) and that is planted, or grafted to a plant that was previously

planted, by the taxpayer during or after the taxpayer's taxable year that includes September 24, 2019.

(2) Early application of this section. A taxpayer may choose to apply this section, in its entirety, to-

(i) Qualified property under section 168(k)(2) acquired and placed in service after September 27, 2017, by the taxpayer during the taxpayer's taxable year ending on or after September 28, 2017; and

(ii) A specified plant for which the taxpayer properly made an election to apply section 168(k)(5) and that is planted, or grafted to a plant that was previously planted, after September 27, 2017, by the taxpayer during the taxpayer's taxable year ending on or after September 28, 2017.

(3) Early application of regulation project REG-104397-18. A taxpayer may rely on the provisions of this section in regulation project REG-104397-18 (2018-41 I.R.B. 558) (see § 601.601(d)(2)(ii)(b) of this chapter) for-

(i) Qualified property under section 168(k)(2) acquired and placed in service after September 27, 2017, by the taxpayer during the taxpayer's taxable year ending on or after September 28, 2017, and ending before the taxpayer's taxable year that includes September 24, 2019; and

(ii) A specified plant for which the taxpayer properly made an election to apply section 168(k)(5) and that is planted, or grafted to a plant that was previously planted, after September 27, 2017, by the taxpayer during the taxpayer's taxable year ending on or after September 28, 2017, and ending before the taxpayer's taxable year that includes September 24, 2019.