

Guidance on regulations to be issued regarding the deduction and capitalization of expenditures related to tangible property.

Notice 2012-73

PURPOSE

This notice alerts taxpayers that the Internal Revenue Service and the Treasury Department expect to issue final regulations regarding the deduction and capitalization of expenditures related to tangible property in 2013, and that the Service and the Treasury Department anticipate that the final regulations will contain changes from the temporary regulations (T.D. 9564, 76 Fed. Reg. 81060-01 [2012-14 I.R.B. 614]). The Service and the Treasury Department anticipate that the final regulations will apply to taxable years beginning on or after January 1, 2014, and will permit taxpayers to apply the final regulations to taxable years beginning on or after January 1, 2012. This Notice also advises taxpayers that shortly after publication of this Notice the Service and the Treasury Department will publish in the Federal Register a Treasury Decision amending the temporary regulations to apply to taxable years beginning on or after January 1, 2014, while permitting taxpayers to apply the temporary regulations for taxable years beginning on or after January 1, 2012, and before the applicability date of the final regulations.

BACKGROUND

On March 10, 2008, the Service and the Treasury Department issued proposed regulations regarding the deduction and capitalization of expenditures related to tangible property (2008 proposed regulations) in the **Federal Register** (REG-168745-03, 73 Fed. Reg. 12838-01 [2008-18 I.R.B. 871]). The Service and the Treasury

Department received numerous written comments on the 2008 proposed regulations and held a public hearing on June 24, 2008.

On December 27, 2011, after considering the written comments and the statements at the public hearing, the Service and the Treasury Department published temporary regulations regarding the deduction and capitalization of expenditures related to tangible property in the **Federal Register** (T.D. 9564). The Service and the Treasury Department also withdrew the 2008 proposed regulations and published proposed regulations (REG-168745-03, 76 FR 81128-01 [2012-14 I.R.B. 718]) (the 2011 proposed regulations), which cross-referenced the text of the temporary regulations. The temporary regulations generally apply to taxable years beginning on or after January 1, 2012.

The Service and the Treasury Department received numerous written comments on the 2011 proposed regulations and held a public hearing on May 9, 2012. The Service and the Treasury Department are considering the written comments received as well as the statements from the public hearing.

DISCUSSION

In 2013, the Service and the Treasury Department expect to publish final regulations on the tax treatment of amounts paid to acquire, produce, or improve tangible property under sections 162 and 263(a), and on the accounting for, and disposition of, property subject to section 168. The Service and the Treasury Department expect the final regulations to apply to taxable years beginning on or after January 1, 2014, and to permit taxpayers to apply the provisions of the final regulations

to taxable years beginning on or after January 1, 2012.

Recognizing that taxpayers are expending resources to comply with the temporary regulations, the Service and the Treasury Department are notifying taxpayers that certain sections of the temporary regulations, including the sections listed below, may be revised in a manner that might affect, and in certain cases simplify, taxpayers' implementation of the rules when the regulations are issued in final form.

- De Minimis Rule: § 1.263(a)-2T(g);
- Dispositions: §§ 1.168(i)-1T and 1.168(i)-8T; and
- Safe Harbor for Routine Maintenance: § 1.263(a)-3T(g).

The revisions being contemplated by the Service and the Treasury Department take into consideration all comments received, including comments requesting relief for small businesses.

Shortly after publication of this Notice, the Service and the Treasury Department will publish in the Federal Register a Treasury Decision amending the temporary regulations to apply to taxable years beginning on or after January 1, 2014, while permitting taxpayers to choose to apply the temporary regulations to taxable years beginning on or after January 1, 2012, and before the applicability date of the final regulations.

Taxpayers choosing to apply the provisions of the temporary regulations to taxable years beginning on or after January 1, 2012, and before the applicability date of the final regulations may continue to obtain the automatic consent of the Commissioner of Internal Revenue to change their methods of accounting under Revenue Procedures

2012-19, 2012-14 I.R.B. 689, and 2012-20, 2012-14 I.R.B. 700. For taxpayers choosing to apply the provisions of the final regulations to taxable years beginning on or after January 1, 2012, the Service and the Treasury Department expect to publish procedures for obtaining automatic consent to change a method of accounting when the final regulations are published.

CONTACT INFORMATION

For further information concerning this notice, contact Merrill D. Feldstein or Alan S. Williams, Office of Associate Chief Counsel (Income Tax & Accounting), (202) 622-4950 (not a toll-free call).