

“2006 COMPLETE GUIDE TO DEPRECIATION, AMORTIZATION & TRANSFERS OF PROPERTY - ISSUES, STRATEGIES & ANSWERS”

TABLE OF CONTENTS

CHAPTER #1: DEPRECIATION OVERVIEW	1-1
A. WHAT IS DEPRECIABLE PROPERTY?	1-1
USEFUL LIFE	1-1
☛ <u>Depreciation Normally Can't Be Taken on Display Furniture</u> (FSA 199949031)	1-1
How Should Diminishing Value of Gravel Pit Be Written Off?	1-1
BASIS	1-2
Glass Manufacturer Properly Depreciated Molten Tin as Capital Asset (<i>O'Shaughnessy v. Commr.</i> , No. 02-1532 (8th Cir.))	1-2
☛ <u>Removal Costs of Old Asset Need Not Be Capitalized in Some Instances</u> (Rev. Rul. 2000-7)	1-3
☛ <u>IRS Rules Impact Fees Must Be Included in Basis of Building</u> (Rev. Rul. 2002-9)	1-3
ALLOWED OR ALLOWABLE	1-3
CATCH-UP DEPRECIATION	1-4
DEPRECIATION DEFINED	1-4
TANGIBLE AND INTANGIBLE	1-4
BASIC REQUIREMENTS	1-4
MORE THAN ONE YEAR BENEFIT	1-5
☛ <u>“Maintenance or Repair” vs. “Capital Expenditure?”</u>	1-5
☛ <u>Asbestos Removal Deductible as “Repair Expense”</u> (<i>Cinergy</i> , Ct. of Fed. Claims)	1-10
☛ <u>Cost of Repairing Roof Currently Deductible</u> (<i>Campbell v. Comm.</i> , T.C. Summary 2002-117)	1-11
☛ <u>Once Again, Tax Court Holds Cost of Removing and Replacing Entire Roof Covering Currently Deductible</u> (<i>Thomas Northen and Shirley Cox</i> , TC Summ. Op. 2003-113)	1-11
☛ <u>Although Extensive, Engine Repair Expenses Deductible</u> (<i>FedEx Corp. v. U.S.</i> , 92 AFTR 2d 2003-XXXX (D.C. W. Tenn.))	1-11
☛ <u>6th Circuit Affirms Costs Associated With Jet Engine Maintenance & Repair Currently Deductible</u> (<i>FedEx Corp. v. U.S.</i> , (CA 6 2/16/2005) 95 AFTR 2d ¶2005-577)	1-12
☛ <u>Cost of Cleaning Ship Hulls/ Exterior of Buildings Currently Deductible</u> (FSA 199949003)	1-13
☛ <u>“Repairs” Were Too Substantial and Had to Be Capitalized</u> (<i>Smith v. Comm.</i> , 90 AFTR 2D 2002-XXXX (9 th Cir.))	1-13
☛ <u>Ruling Affirms That Costs Incurred with General Renovation Program Must Be Capitalized</u> (PLR 200152016)	1-14
OWNERSHIP	1-14
LIFE TENANT	1-15
CO-OP HOUSING	1-15
LAND COSTS	1-15
☛ <u>Property Development Rights Associated With Both Land and Buildings Partially Deductible</u> (<i>Maguire/Thomas Partners Fifth Grand, Ltd., et al. v. Commr.</i> , TC Memo 2005-34)	1-16
☛ <u>Properly Handling Golf Course Land Preparation Costs</u> (Rev. Rul. 2001-60)	1-16
15-Year Write-off for More Than Just Greens	1-17
IRS Change During Audit Not Considered Change in Method of Accounting (<i>FPL Group, Inc. and Subsidiaries v. Commr.</i> , T.C. Memo. 2005-210)	1-17
Repairs Made to Restore Property to Pre-Flood Conditions Currently Deductible (CCA 19903030) ..	1-18
WHEN MUST FORM 4562 BE FILED?	1-19
SECTION 179 ELECTION	1-19
NEW DEPRECIABLE ASSETS	1-19
CARS & LISTED PROPERTY	1-19
CERTAIN AUTOS	1-19
NEW AMORTIZABLE ASSETS	1-19
C CORPORATION ASSETS	1-20
BONUS DEPRECIATION	1-20
EMPLOYEES CLAIMING DEPRECIATION	1-20
B. GLOSSARY OF TERMS ASSOCIATED WITH DEPRECIATION	1-20
ABSTRACT FEES	1-20
ACTIVE CONDUCT OF A TRADE OR BUSINESS	1-20
ADJUSTED BASIS	1-20
AMORTIZATION	1-21
AMOUNT REALIZED	1-21

BASIS	1-21
CALCULATING BASIS	1-21
ASSUMED DEBT	1-21
SETTLEMENT COSTS	1-21
SELF-CONSTRUCTED PROPERTY	1-21
BUSINESS/INVESTMENT USE	1-22
CAPITALIZED	1-22
CIRCUMSTANTIAL EVIDENCE	1-22
CLASS LIFE	1-22
CLEAN-FUEL VEHICLE	1-22
CLEAN-FUEL VEHICLE REFUELING PROPERTY	1-22
COMMUTING	1-22
CONVENTION	1-22
DECLINING BALANCE METHOD	1-22
DISPOSITION	1-23
DOCUMENTARY EVIDENCE	1-23
EXCHANGE	1-23
FAIR MARKET VALUE (FMV)	1-23
FIDUCIARY	1-23
FUNGIBLE COMMODITY	1-23
GOODWILL	1-23
GRANTOR	1-23
IMPROVEMENT	1-23
INTANGIBLE PROPERTY	1-23
INVENTORY	1-23
INVENTORY v. DEPRECIABLE PROPERTY	1-23
CONTAINERS	1-24
LISTED PROPERTY	1-24
NONRESIDENTIAL REAL PROPERTY	1-24
PLACED IN SERVICE	1-24
IDLE PROPERTY	1-25
☞ <u>Asset Basis & "Placed Into Service" Prerequisites for Properly Claiming Depreciation</u>	1-25
☞ <u>Loss Deduction Delayed for Closing Facility (FSA 200141026)</u>	1-25
RETIRED FROM SERVICE	1-26
PROPERTY CLASS	1-27
RECAPTURE	1-27
RECOVERY PERIOD	1-27
REMAINDER INTEREST	1-27
RESIDENTIAL RENTAL PROPERTY	1-27
MIXED USE PROPERTY	1-27
SALVAGE VALUE	1-28
SECTION 1245 PROPERTY	1-28
SECTION 1250 PROPERTY	1-28
STANDARD MILEAGE RATE	1-28
☞ <u>Service Releases 2005 Standard Mileage Rates (Rev. Proc. 2004-64)</u>	1-28
☞ <u>IRS Increases Standard Mileage Rates for 2004 (Rev. Proc. 2003-76)</u>	1-28
☞ <u>Standard Mileage Rates Decreased for 2003 (IR-2002-100; Rev. Proc. 2002-61)</u>	1-29
☞ <u>"Mileage-Based" Depreciation Method OK for Leased Vehicles (PLR 200046020)</u>	1-29
STRAIGHT LINE METHOD	1-29
STRUCTURAL COMPONENTS	1-29
TANGIBLE PROPERTY	1-30
TAX-EXEMPT	1-30
TERM INTEREST	1-30
UNADJUSTED BASIS	1-30
UNIT-OF-PRODUCTION METHOD	1-30
VIDEO & FILM INDUSTRY	1-31
USEFUL LIFE	1-31
CHAPTER #2. REV. PROC. 87-56: PROPERLY CLASSIFYING A CLIENT'S DEPRECIABLE ASSETS	2-1
A. INTRODUCTION	2-1
B. WHAT ABOUT DEPRECIABLE PROPERTY USED FOR SPECIFIC PURPOSES?	2-1
Ruling Clarifies Classification of General Business Items (Rev. Rul. 2003-81)	2-2
☞ <u>Appeals Court Confirms That Use to Which Asset Put Controls MACRS Classification (Saginaw Bay Pipeline Company v. U.S., No. 01-2599 (6th Cir.))</u>	2-3
☞ <u>Service Clarifies That Home Office Might Qualify for 27.5-year "Residential Property" Depreciation in Limited Circumstances (CCA 200526002)</u>	2-4
☞ <u>Gathering Systems Depreciated as Assets Used in Natural Gas Production (Clajon Gas Co., L.P. v. Commr., No. 03-1922 (8th Cir.))</u>	2-4

☞ <u>Property Used in Racetrack Operations</u> (PLR 200526019)	2-6
☞ <u>Proposed Regs Clarify Depreciation Rules If Taxpayer's Use of Property Changes</u> (Prop. Reg. §1.168)	2-6
Regs Issued on Accounting Method Change Adjustments (T.D. 9131)	2-7
Final Regs Clarify Depreciation of MACRS Property When Use Changes (T.D. 9132)	2-7
Conversion From Personal to Business Use	2-8
Conversion From Business or Income-Producing Purposes to Personal Use	2-8
Depreciation When Use Changes After Placed-In-Service Year	2-8
Determining a Change in Use	2-9
Change in the Use of MACRS Property Resulting in a Different Recovery Period and/or Depreciation Method	2-9
Change in the Use During the Placed-in-Service Year	2-10
C. RECENT TAX COURT DECISION SHEDS LIGHT ON DEPRECIABLE ASSET CLASSIFICATION	2-11
D. EXCERPTS & EXAMPLES OF ADR ASSET CLASSIFICATIONS FROM REV. PROC. 87-56	2-12
SECTION 1: PURPOSE	2-12
SECTION 4: PRESCRIPTION AND MODIFICATION OF CLASS LIVES	2-12
SECTION 5: TABLES OF CLASS LIVES AND RECOVERY PERIODS	2-12
QUALIFIED TECHNOLOGICAL EQUIPMENT	2-13
RESEARCH & DEVELOPMENT	2-13
LAND IMPROVEMENTS	2-13
E. HOW TO FIGURE THE DEDUCTION USING PERCENTAGE TABLES	2-13
USING THE MACRS PERCENTAGE TABLES	2-13
RULES COVERING THE USE OF THE TABLES	2-13
☞ <u>How To Figure the Deduction Using Percentage Tables</u> (IRS Publication #225)	2-14
ALPHABETICAL LISTING OF PROPERTY RECOVERY PERIODS	2-14
F. SOME SPECIFIC ASSETS AND THEIR MACRS CLASSIFICATION	2-17
ANTIQUES	2-17
HOME OFFICE COMPUTERS	2-18
USED FOR INVESTMENT OR INCOME-PRODUCING PURPOSES	2-19
WRITING OFF SOFTWARE	2-19
LUXURY CARS & SPORTS UTILITY VEHICLES	2-20
☞ <u>IRS Issues 2005 Depreciation Dollar Limits for Business Autos, Light Trucks and Vans</u> (Rev. Proc. 2005-13)	2-20
☞ <u>Service Announces Luxury Car Caps for 2004</u> (Rev. Proc. 2004-20)	2-22
☞ <u>Light Trucks, Mini-vans & SUVs to Get Increased Depreciation Write-offs</u> (T.D. 9069)	2-23
Final Regs Clarify Rules for "Nonpersonal Use Vehicles;" Amended Returns Might Be in Order (T.D. 9133)	2-24
☞ <u>How Should the "Company Car" Be Handled to Maximize Tax Benefits?</u>	2-27
GAS STATION/FAST FOOD - CONVENIENCE STORES	2-29
☞ <u>IRS Concedes Gas Station Canopies Qualify as 5-Year Property</u> (Rev. Rul. 2003-54)	2-29
☞ <u>Truckstop Must Apply Gross Receipts Test on Building-by-Building Basis When Qualifying as "Retail Motor Fuels Outlet"</u> (<i>IA 80 Group, Inc. v. U.S.</i> , No. 02-3012 (8th Cir.))	2-30
QUALIFIED RENT-TO-OWN PROPERTY	2-31
DEFINITION	2-31
RENT-TO-OWN DEALER	2-32
RENT-TO-OWN CONTRACT	2-32
MOTORSPORTS RACETRACK COMPLEXES	2-32
BACKGROUND	2-32
2004 TAX ACT CHANGES	2-33
CHAPTER #3. REV. PROC. 87-57: "DEPRECIATION PERCENTAGES FOR REGULAR TAX & AMT"	3-1
A. GDS V. ADS - WHICH TO USE?	3-1
BASED ON DEPRECIATION METHOD & RECOVERY PERIOD	3-1
REQUIRED USE OF ADS	3-1
ELECTING ADS	3-1
B. MACRS DEPRECIATION "CHOICES" FOR REGULAR TAX & AMT PURPOSES	3-1
TANGIBLE PERSONAL PROPERTY	3-2
ACCELERATED METHODS	3-2
STRAIGHT-LINE METHOD	3-2
AMT CONFORMITY METHOD	3-2
REAL PROPERTY (Assets Placed in Service Before 1999)	3-3
ACRS REALTY	3-4
EXCEPTIONS TO ACRS ANTI-CHURNING RULES	3-4
CORPORATE OR PARTNERSHIP PROPERTY ACQUIRED IN A NONTAXABLE TRANSFER	3-4
NONTAXABLE TRANSFER SUBJECT TO RULE	3-4
ELECTION TO BE EXCLUDED FROM MACRS	3-5
STANDARD MILEAGE RATE	3-5
MACRS CONVENTIONS	3-5
MID-MONTH CONVENTION	3-5

MID-QUARTER CONVENTION	3-5
☞ <u>Relief From Mid-Quarter Convention for Year-end Purchases Being Broadened</u> (Notice 2001-74)	3-6
HALF-YEAR CONVENTION	3-6
FARMING BUSINESSES	3-6
DEFINITION	3-7
PROCESSING ACTIVITIES	3-7
FRUIT OR NUT TREES AND VINES	3-7
ADS REQUIRED FOR SOME FARMERS	3-7
C. 30% or 50% BONUS DEPRECIATION FOR CERTAIN ASSETS	3-7
INTRODUCTION	3-7
REQUIRED TIME FRAME	3-7
EXCEPTION FOR TRANSPORTATION, 15- & 20-YEAR PROPERTY	3-7
9/11/01 & 5/6/03 TRANSITIONAL RULES	3-8
ORIGINAL USE (i.e., MUST BE FOR "NEW" PROPERTY)	3-9
☞ <u>Asset Qualified for Bonus Depreciation Despite Prior Incomplete Sale and Manufacturer's Limited Use</u> (PLR 200502004)	3-11
ALLOWED FOR BOTH REGULAR & AMT TAX PURPOSES	3-12
PROPERTY QUALIFYING FOR BONUS DEPRECIATION	3-12
QUALIFIED LEASEHOLD IMPROVEMENTS	3-13
FIXTURES ONLY?	3-13
QUALIFIED LEASES	3-14
EFFECT ON LUXURY CARS	3-14
ADJUSTMENT TO BASIS	3-14
NO OVERALL CAP ON BONUS DEPRECIATION	3-15
BONUS RULES AUTOMATICALLY APPLY UNLESS AFFIRMATIVE "ELECTION OUT" MADE	3-15
☞ <u>New Regs Offer Clarification of Bonus Depreciation Rules</u> (T.D. 9091)	3-16
☞ <u>Taxpayers Allowed to Amend Returns to Claim Missed Bonus Depreciation or Sec. 179 Immediate</u> <u>Expensing</u> (Rev. Proc. 2003-50)	3-20
D. UNDERSTANDING DEPRECIATION ON REAL PROPERTY ASSETS	3-20
SEGREGATION OF PROJECT COSTS	3-20
LAND COSTS V. IMPROVEMENTS	3-21
OTHER "LAND IMPROVEMENTS:"	3-21
NONSTRUCTURAL COMPONENTS	3-21
Raised Floor Is Structural Component of Building, Not Personal Property (FSA 200033002)	3-22
NON-CLASSIFIED ASSETS	3-22
E. AMT RECOVERY PERIODS CONFORM TO REGULAR TAX STARTING IN 1999	3-22
AMT ADJUSTMENT	3-22
POST-'97 AMT CONFORMITY FOR PERIODS	3-23
POST-'98 AMT CONFORMITY FOR METHODS	3-23
☞ <u>Avoiding AMT Depreciation Adjustments</u>	3-23
AMT AVOIDED BY IMMEDIATE EXPENSING	3-23
AMT AVOIDED BY BONUS DEPRECIATION	3-24
F. SMALL CORPORATIONS <u>NOT</u> SUBJECT TO ALTERNATIVE MINIMUM TAX	3-24
AMT RULES	3-24
AMT CREDIT	3-24
CONGRESS' INTENT	3-24
SMALL BUSINESS CORPORATIONS	3-24
INITIAL TAX YEARS	3-24
LIMIT ON AMT CREDIT CARRYFORWARD	3-24
EFFECTIVE DATE	3-24
G. GENERAL ASSET ACCOUNTS	3-25
AN EASIER OPTION?	3-25
PROPERTY YOU CANNOT INCLUDE	3-25
GROUPING PROPERTY	3-25
ADDITIONAL RULES	3-25
NO ASSET CLASS	3-25
MID-QUARTER CONVENTION	3-26
MID-MONTH CONVENTION	3-26
PASSENGER AUTOMOBILES	3-26
FIGURING GAA DEPRECIATION	3-26
PASSENGER AUTOMOBILES	3-26
DISPOSING OF GAA PROPERTY	3-26
DISPOSITION DEFINED	3-26
TREATMENT OF AMOUNT REALIZED	3-26
CHAPTER #4. PROPERLY CLAIMING CODE §179 IMMEDIATE EXPENSING ELECTION	4-1
A. CODE §179 EXPENSING ALLOWANCE INCREASED	4-1
ANNUAL LIMITS	4-1

\$420,000 PHASE-OUT	4-1
ENTERPRISE ZONE BUSINESSES	4-2
ADDITIONAL LIMIT FOR AUTOS	4-2
"HEAVY" CARS & TRUCKS	4-2
☞ <u>Service Reminds Taxpayers to Keep Business Use of "Heavy Vehicles" at More Than 50% for at Least 5 Years to Avoid Sec. 179 Recapture Rules on Immediate Expensing (INFO 2004-0193)</u>	4-2
B. ELECTION MUST BE PROPERLY CLAIMED ON FORM 4562	4-3
☞ <u>Affirmative Action Needed to Secure §179 Election (Fors, TC Memo. 1998-158)</u>	4-3
C. TIMELY ELECTION MUST BE MADE	4-3
☞ <u>Final Regs Reflect Two-year Extension of Enhanced Code §179 Deduction & Other Clarifications (T.D. 9209)</u>	4-4
☞ <u>No Abuse of Discretion Found in Denial of Expensing Election (Sam H. Patton v. Commr., 116 T.C. No. 17)</u>	4-5
D. REVOCATION OF ELECTION	4-5
IRS PERMISSION NEEDED	4-5
Regs Issued on Making/Revoking Sec. 179 Immediate Expensing Election (T.D. 9146)	4-6
E. ACCURATE RECORDS	4-6
SPECIFIC DETAILS	4-6
RECORDS	4-6
ELEMENTS OF EXPENDITURE OR USE	4-6
F. TAXABLE INCOME LIMITS APPLY AT BOTH THE ENTITY AND INDIVIDUAL OWNER LEVELS	4-7
DEFINITION	4-7
"FROM ANY TRADE OR BUSINESS:"	4-7
FORM 1040 ADJUSTMENTS	4-7
FORM 1065 ADJUSTMENTS	4-7
FORM 1120S ADJUSTMENTS	4-7
TAXABLE INCOME REQUIREMENT APPLIES AT <u>BOTH</u> ENTITY & OWNER LEVEL	4-8
REG. §1.179-2(c)(2)	4-8
☞ <u>Sec. 179 & "Active Trade or Business Income" Requirement for Flowthrough Entity Owners</u>	4-8
CARRYOVER ALLOWED	4-9
SECTION 179 CALCULATION	4-10
DEPRECIATION ALLOWED FOR COSTS OVER ANNUAL LIMIT	4-11
ASSET BASIS AT ENTITY LEVEL FULLY REDUCED	4-11
G. TAXABLE INCOME OF PARTNERSHIP OR S CORPORATION	4-11
ADJUSTMENTS	4-12
K-1s FROM MULTIPLES ENTITIES	4-12
H. LOST CODE §179 DEDUCTIONS FROM FLOW-THROUGH ENTITIES	4-13
ANNUAL LIMIT	4-13
FORM 1040 LIMIT	4-13
I. PROPERTY MUST BE ACQUIRED BY "PURCHASE"	4-13
GIFT OR INHERITANCE N/A	4-13
"PURCHASE" DEFINED:	4-14
EXCEPTED PROPERTY	4-14
LEASED PROPERTY	4-14
PROPERTY USED FOR LODGING	4-15
J. EXACTLY WHAT PROPERTY QUALIFIES FOR IMMEDIATE EXPENSING?	4-16
INTRODUCTION:	4-16
ONLY "§1245(a)(3) PROPERTY" QUALIFIES FOR IMMEDIATE EXPENSING:	4-16
TANGIBLE PERSONAL PROPERTY	4-16
OTHER TANGIBLE PROPERTY	4-17
RESEARCH FACILITY	4-17
CERTAIN OTHER REALTY	4-17
CERTAIN SINGLE PURPOSE STRUCTURES	4-17
STORAGE FACILITIES	4-18
RAILROAD GRADING OR TUNNEL BORES	4-18
APPLYING IT TO OUR CLIENT SITUATIONS	4-18
OTHER REAL PROPERTY	4-18
LAND IMPROVEMENTS	4-18
EXAMPLES	4-18
CONCLUSION:	4-20
ALL REALTY NOT CREATED EQUAL	4-20
K. CHART OF COMMON TYPES OF PROPERTY & ELIGIBILITY FOR IMMEDIATE EXPENSING	4-21
L. ADDITIONAL CASES & RULINGS ON SEC. 179	4-26
Taxpayer's Motor Home Qualified as Section 179 Property (<i>Robert D. Shirley, et ux. v. Commr.</i> , TC Memo 2004-188)	4-26
CHAPTER #5. ASSETS PLACED INTO SERVICE IN A SHORT TAX YEAR	5-1
A. INTRODUCTION	5-1
MACRS TABLES MODIFIED FOR SHORT TAX YEARS	5-1

OVERLY DEPENDENT ON TAX SOFTWARE?	5-1
BUILT-IN ASSUMPTION FOR MACRS TABLES	5-1
B. WHEN SHORT-YEAR DEPRECIATION RULES DO NOT APPLY	5-1
INDIVIDUALS	5-1
SECTION 179 IMMEDIATE EXPENSING ELECTION	5-2
MID-MONTH CONVENTION PROPERTY	5-3
ATTRIBUTION FROM A GENERAL PARTNERSHIP INTEREST	5-3
C. CALCULATING THE INITIAL SHORT-YEAR DEPRECIATION AMOUNTS	5-3
TAX YEAR = 3 MONTHS OR LESS	5-3
MID-QUARTER CONVENTION	5-3
HALF-YEAR CONVENTION	5-4
TAX YEAR BEGINS ON OTHER THAN FIRST DAY OF MONTH	5-4
ACTUAL FIRST YEAR DEPRECIATION CALCULATION	5-4
D. CALCULATING SUBSEQUENT YEARS' DEPRECIATION AMOUNTS	5-4
E. CONCLUSION	5-5
 CHAPTER #6. 15-YEAR AMORTIZATION WRITE-OFF FOR ACQUIRED INTANGIBLE ASSETS	6-1
A. INTRODUCTION	6-1
15 YEAR LIFE FOR QUALIFYING INTANGIBLES	6-1
§197 INTANGIBLES DEFINED	6-1
WEBSITES	6-1
☞ <u>Properly Handling Website Development Costs</u>	6-2
☞ <u>IRS Issues Guidelines on Accounting for Software Costs (Rev. Proc. 2000-50)</u>	6-2
☞ <u>Properly Handling Website Development Costs After Rev. Proc. 2000-50</u>	6-2
B. INCOME FORECAST METHOD FOR CERTAIN INTANGIBLES	6-3
EXAMPLES	6-3
CALCULATION	6-3
FILMS, VIDEO TAPES, AND RECORDINGS	6-3
VIDEOCASSETTES	6-4
C. LATEST CASES & RULINGS ON CODE §197 AMORTIZATION ISSUES	6-4
☞ <u>IRS Issues Regs on Amortization of Intangibles (T.D. 8865)</u>	6-4
☞ <u>Code Sec. 197 Amortization Treatment Available for Inherited Intangible Assets (PLR 199949037)</u>	6-5
☞ <u>Covenant-Not-to-Compete Must Be Amortized Over 15 years (Frontier Chevrolet Co. v. Comm., 116 T.C. No. 23)</u>	6-5
 CHAPTER #7: SERVICE CONCEDES FASTER WRITE-OFFS ALLOWED FOR SOME DEPRECIABLE REALTY	7-1
☞ <u>Recent Treasury Report Confirms Depreciation System Is Outdated</u>	7-1
A. INTRODUCTION	7-1
SAVINGS TO CLIENTS	7-1
TIMING V. PERMANENT DIFFERENCES	7-1
COMMERCIAL REALTY V. FIXTURES	7-1
COST SEGREGATION STUDIES	7-1
IMMEDIATE EXPENSING	7-1
B. <i>HOSPITAL CORPORATION OF AMERICA</i> DECISION OPENS THE DOOR	7-2
APPLYING "OLD" ITC RULES	7-2
HCA FACTS	7-3
SERVICE CAPITULATES	7-3
C. SERVICE'S RESPONSE TO <i>HOSPITAL CORPORATION OF AMERICA</i> DECISION	7-3
CCM 199921045	7-3
REG. §1.48-1(c)	7-3
INHERENTLY PERMANENT	7-3
<i>WHITECO INDUSTRIES</i>	7-4
STRUCTURAL COMPONENTS	7-5
OVERALL MAINTENANCE OF BUILDING	7-5
WIRING	7-5
D. IMPORTANCE OF COST SEGREGATION STUDIES	7-6
CONTEMPORANEOUS	7-6
USE PROFESSIONALS	7-7
IRS COST SEGREGATION TECHNIQUES GUIDE	7-7
☞ <u>Service Issues Cost Segregation Audit Techniques Guide</u>	7-7
Cost Segregation Studies	7-8
Common Cost Segregation Methodologies	7-8
Detailed Engineering Approach From Actual Records	7-8
Detailed Engineering Cost Estimate Approach	7-8
Survey or Letter Approach	7-8
Residual Estimation Method	7-8
Sampling or Modeling Approach	7-8
Rule-of-Thumb Approach	7-8

What a Good Cost Segregation Study Includes	7-9
Assigning Property Costs Under Cost Segregation Studies	7-9
☞ Possible Penalties for Unscrupulous Appraisers (CCM 200512016)	7-10
E. CORRECTING PAST MISCLASSIFICATIONS - "CATCH-UP DEPRECIATION"	7-10
NEW CLIENTS	7-10
AUTOMATIC CONSENT	7-10
☞ New Version of Form 3115 Request for Accounting Method Change Issued by IRS	7-11
☞ Procedure for Automatic Changes in Accounting Method Updated Again (Rev. Proc. 2002-9)	7-12
☞ IRS Modifies Procedures for Change of Accounting Method (Rev. Proc. 2002-19)	7-12
☞ Properly Claiming Catch-Up Depreciation - Filing Form 3115 or Amended Return?	7-13
AUTOMATIC CONSENT NOT PERMITTED	7-13
FORM 3115	7-14
F. THE TAX COURT'S HOLDING IN <i>BOOKSHIRE</i>	7-14
IRS APPROVAL NEEDED?	7-14
CODE §446	7-15
MATERIAL ITEM	7-15
MATH OR CLERICAL ERRORS	7-15
PROPER TIMING	7-16
USEFUL LIFE	7-16
TAXPAYER WINS	7-16
REV. PROC. 97-10 OVERLOOKED	7-16
☞ Mere Change in Useful Life Not Considered Change in Method of Accounting (<i>Brookshire Brothers Holding, Inc. v. Commr.</i> , No. 01-60978 (5 th Cir.))	7-17
☞ Equipment Reclassification Not "Accounting Method Change" (<i>Green Forest Manufacturing Inc. v. Commr.</i> , T.C. Memo. 2003-75)	7-18
G. DISTRICT COURT'S HOLDING IN <i>H.E. BUTT GROCERY CO.</i>	7-19
MISCLASSIFICATION OF ASSETS	7-19
MERE DATA ERRORS	7-19
ACCOUNTING METHOD CHANGE	7-19
MATERIAL ITEM	7-19
USEFUL LIFE EXCEPTION OVERTURNED	7-20
AMENDED RETURNS	7-20
H. IRS MOST RECENT STANCE ON COST SEGREGATION (CCA 200203009)	7-20
K. SUMMARY	7-33
RECLASSIFICATIONS of DEPRECIABLE ASSETS DOES NOT EQUAL= ACCOUNTING METHOD CHANGE	7-33
PRACTICE DEVELOPMENT	7-33
POSSIBLE ASSET RECLASSIFICATIONS	7-34
J. SAMPLE BUILDING COMPONENT ITEMIZATION LIST	7-35

CHAPTER #8. DEPRECIATION RULES FOR PROPERTY ACQUIRED OTHER THAN BY PURCHASE

.	8-1
A. INTRODUCTION	8-1
PURCHASED ASSETS	8-1
DEFERRED TAX TRANSACTIONS	8-1
TERM INTERESTS	8-1
OVERVIEW OF RULES	8-1
B. INHERITED PROPERTY	8-1
FMV AS OF DATE OF DEATH	8-1
SPECIAL USE VALUATION	8-1
MACRS RULES NORMALLY APPLY	8-1
BASIS OF SPECIAL USE PROPERTY	8-2
BASIS OF PROPERTY RECEIVED BY DECEDENT WITHIN ONE YEAR OF DEATH	8-2
BASIS HELD BY SURVIVING JOINT TENANT	8-3
QUALIFIED JOINT INTEREST	8-3
☞ IRS Conceding on Issue of Joint Tenancies Set Up Before '77 (<i>Hahn v. Comm.</i> , 110 T.C. 140 (1998); AOD CC-2001-06)	8-4
LIFE TENANTS AND REMAINDERMEN	8-4
C. PERSONAL PROPERTY CONVERTED TO BUSINESS OR INVESTMENT USE	8-5
BASIS CALCULATION	8-5
ANTI-CHURNING RULES	8-6
D. PROPERTY ACQUIRED BY GIFT	8-7
DONEE'S BASIS	8-7
GIFT TAXES	8-7
BASIS INCREASE	8-7
GIFT TAX ALLOCATION	8-7
ANTI-CHURNING RULES	8-8
DONEE DEPRECIATION	8-8

E. TRANSFERS TO/FROM TRUSTS	8-8
BASIS TO TRUST	8-9
BENEFICIARY BASIS	8-9
TRUST DISTRIBUTION	8-9
F. CERTAIN TAX-DEFERRED TRANSFERS	8-9
TAX-FREE REORGANIZATIONS AND LIQUIDATION OF SUBSIDIARIES	8-9
TRANSFERS TO CONTROLLED CORPORATION OR PARTNERSHIP/LLC OR DISTRIBUTIONS FROM PARTNERSHIP/LLC	8-9
☞ <u>Impact of Partnership Termination on Depreciation Issues</u>	8-10
G. CORPORATE LIQUIDATIONS	8-11
SHAREHOLDER BASIS	8-11
H. DEPRECIATING PROPERTY WHERE CODE §754 BASIS ADJUSTMENT HAS BEEN MADE	8-11
INTRODUCTION	8-11
POSITIVE ADJUSTMENTS	8-12
STEP-UP TO PRE-ACRS PROPERTY	8-12
STEP-UP TO ACRS PROPERTY	8-12
STEP-UP TO MACRS PROPERTY	8-13
CAUTIONARY NOTE	8-13
 CHAPTER #9. PRACTITIONERS OVERLOOK ADVANTAGES OF ADR GUIDELINE CLASS 57.0 “DISTRIBUTIVE TRADES AND SERVICES”	9-1
A. INTRODUCTION	9-1
ADR GUIDELINE CLASS 57.0 “DISTRIBUTIVE TRADES AND SERVICES”	9-1
B. ADR 57.0 “DISTRIBUTIVE TRADES OR SERVICES”	9-1
PROFESSIONAL OFFICES	9-1
RESTAURANTS	9-1
RENT-TO-OWN ASSETS	9-1
C. PLANNING FOR CLIENTS	9-2
RECLASSIFICATIONS	9-2
☞ <u>Service Rules "Signs" to Be 15-year "Land Improvements" (CCA 200203009)</u>	9-2
Safe Harbor Write-off Provision Could Be Used for “Smallwares” (PLR 200351009)	9-2
D. IRS ADMITS MISTAKE REGARDING RENTAL PROPERTY FURNITURE & FIXTURES	9-3
ANN. 99-82	9-3
RESIDENTIAL RENTALS	9-3
FIXING MISTAKES	9-3
E. REMEDIAL ACTION FOR OUR CLIENTS	9-3
CATCH-UP DEPRECIATION	9-3
ALLOWED OR ALLOWABLE?	9-3
 CHAPTER #10. REGS ON DEPRECIATING PROPERTY RECEIVED IN LIKE-KIND EXCHANGES OR UPON INVOLUNTARY CONVERSIONS MIGHT MEAN “CATCH-UP” DEPRECIATION DEDUCTIONS FOR MANY CLIENTS (IRS NOTICE 2000-4)	10-1
A. INTRODUCTION	10-1
EXCHANGES MORE COMMON	10-1
BASIC EXCHANGE RULES	10-1
INVOLUNTARY CONVERSIONS	10-1
B. ISSUES WITH DEPRECIATION & CARRYOVER BASIS	10-1
ACRS RULES	10-1
PROP. REG. §1.168-5	10-1
C. NOTICE 2000-4	10-1
TRANSFERS PRIOR TO 1/3/00	10-2
CODE §168(l)(7)	10-2
TRANSFERS AFTER 1/2/00	10-2
PRE-1/3/00 CHOICES	10-2
D. COMMENTARY	10-3
IRS WITH LEGISLATIVE POWERS?	10-3
ACRS REALTY	10-3
LAW OVERRULED?	10-3
REMEDIAL ACTION FOR CLIENTS	10-3
NO ACTION NEEDED?	10-3
E. EXAMPLE: LIKE-KIND EXCHANGE OF MACRS PROPERTY	10-3
APPLYING THE RULES	10-4
PRE-1/3/00 TRANSFERS	10-4
BIFURCATED BASIS	10-4
TAX SAVINGS	10-5
☞ <u>Temporary Regs Clarify Depreciation Issues With LKEs and Involuntary Conversions (T.D. 9115)</u>	10-5
Background:	10-5
Key Terms Used in the Regs	10-6

Overview of Temporary Regs:	10-6
Depreciating Excess (i.e., Boot Paid) Basis:	10-9
LKEs of Vehicles:	10-9
When Temp Regs Will Not Apply:	10-9
Effective Date:	10-9
F. APPLYING THE RULES TO THE TRADE-IN OF A BUSINESS VEHICLE	10-9
BASIS OF NEW CAR	10-10
PARTIAL USE FOR BUSINESS	10-11
☞ <u>How to Write Off an Auto Acquired in an LKE</u>	10-11
G. POSSIBLE PLANNING TIP	10-15
REALTY EXCHANGES (LKE for SHORTER LIFE ASSET)	10-15
H. MACRS PROPERTY EXCHANGED BEFORE 1/3/00	10-16
MACRS EXCHANGES	10-16
WHICH WAY TO GO?	10-16
I. ACRS PROPERTY EXCHANGED BEFORE 1/3/00	10-16
ACRS EXCHANGES	10-16
PRE-ERTA EXCHANGES	10-17
FRESH START APPROACH	10-17
J. CONCLUSION	10-17
CATCH-UP DEPRECIATION	10-17
CLIENT REVIEWS	10-17
K. CASES & RULINGS ON LIKE-KIND EXCHANGES	10-17
☞ <u>"Build-to-Suit LKEs" Get Favorable Ruling From IRS (PLR 200329021)</u>	10-17
CHAPTER #11. WRITING OFF LEASEHOLD IMPROVEMENTS	11-1
A. INTRODUCTION	11-1
RELATIONSHIP TO REALTY	11-1
LESSEE ABANDONMENT	11-1
B. LEASE ACQUISITION COSTS	11-1
BASED ON REMAINING LEASE TERM	11-1
C. CLASSIFYING LEASEHOLD IMPROVEMENTS	11-1
COST SEGREGATION STUDIES	11-1
CHANGES MADE BY 2004 AMERICAN JOBS CREATION ACT	11-1
Leasehold Improvements	11-1
Restaurant Building Improvements	11-2
☞ <u>Treatment of Leasehold Improvements</u>	11-2
☞ <u>Leasehold Improvements Made by Bakery Had to Be Capitalized (McGrath v. Commr., No. 03-60273 (5th Cir.))</u>	11-3
CHAPTER #12. APPLYING THE RECAPTURE RULES WITH DISPOSITIONS OF DEPRECIABLE PROPERTY	12-1
A. INTRODUCTION	12-1
TANGIBLE PERSONAL PROPERTY	12-1
ACRS - REAL PROPERTY	12-1
MACRS - REAL PROPERTY	12-1
B. SUMMARY	12-2
DEPRECIATION RECAPTURE FOR "BUILDINGS" V. OTHER REAL PROPERTY:	12-2
☞ <u>Unrecaptured Sec. 1250 Gain Taxed at 25% (Skalka, TC Summ. Op. 2003-107)</u>	12-3
CHAPTER #13. HANDLING DEFERRED GAINS FROM INSTALLMENT SALES OF DEPRECIABLE REAL ESTATE	13-1
A. INTRODUCTION	13-1
UNRECAPTURED SEC. 1250 GAIN	13-1
25% RATE	13-1
RATE DIFFERENTIAL	13-1
INSTALLMENT SALES	13-1
FINAL REGS	13-1
B. FINAL REGS ADOPT UNFAVORABLE "FRONT-LOADED" METHOD	13-1
25% GAIN FIRST	13-1
SALES BEFORE 5/7/97	13-2
SAME RULES	13-2
☞ <u>Additional Notes on Reporting "Unrecaptured Sec. 1250 25% Gain" in Installment Sales</u>	13-3
C. CONCLUSION	13-4
GOVERNMENT WINS AGAIN	13-4
D. RECENT CASES AND RULINGS ON THE INSTALLMENT METHOD	13-4
☞ <u>Clinton Signs Installment Method Accounting Change Into Law</u>	13-4
☞ <u>IRS Issues Guidance on Retention of Installment Method by Accrual Basis Taxpayers (Notice 2001-22)</u>	13-4
APPENDIX	A-1
A. TABLE OF CLASS LIVES AND RECOVERY PERIODS FROM REVENUE PROCEDURE 87-56	A-1

TABLE B-1. TABLE OF CLASS LIVES AND RECOVERY PERIODS (GENERIC)	A-1
TABLE B-2. TABLE OF CLASS LIVES AND RECOVERY PERIODS (SPECIFIC)	A-5
B. FORM 4562 & INSTRUCTIONS	B-1
C. CITATION INDEX	C-1
D. KEY WORD INDEX	D-5