Aug. 16, 1954, see section 1(c)(1) of Pub. L. 85–866, set out as a note under section 165 of this title.

ESTABLISHMENT OF RESERVE FOR TAXABLE YEAR ENDING AFTER OCT. 21, 1965, AND BEGINNING BEFORE AUG. 2, 1966

Section 1(c) of Pub. L. 89–722, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''If the taxpayer establishes a reserve described in section 166(g)(1) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as amended by subsection (a) of this section) for a taxable year ending after October 21, 1965, and beginning before August 2, 1966, the establishment of such reserve shall not be considered as a change in method of accounting for purposes of section 446(e) of such Code.''

§ 167. Depreciation

(a) General rule

There shall be allowed as a depreciation deduction a reasonable allowance for the exhaustion, wear and tear (including a reasonable allowance for obsolescence)—

(1) of property used in the trade or business, or

(2) of property held for the production of income.

(b) Cross reference

For determination of depreciation deduction in case of property to which section 168 applies, see section 168.

(c) Basis for depreciation

(1) In general

The basis on which exhaustion, wear and tear, and obsolescence are to be allowed in respect of any property shall be the adjusted basis provided in section 1011, for the purpose of determining the gain on the sale or other disposition of such property.

(2) Special rule for property subject to lease

If any property is acquired subject to a lease—

(A) no portion of the adjusted basis shall be allocated to the leasehold interest, and

(B) the entire adjusted basis shall be taken into account in determining the depreciation deduction (if any) with respect to the property subject to the lease.

(d) Life tenants and beneficiaries of trusts and estates

In the case of property held by one person for life with remainder to another person, the deduction shall be computed as if the life tenant were the absolute owner of the property and shall be allowed to the life tenant. In the case of property held in trust, the allowable deduction shall be apportioned between the income beneficiaries and the trustee in accordance with the pertinent provisions of the instrument creating the trust, or, in the absence of such provisions, on the basis of the trust income allocable to each. In the case of an estate, the allowable deduction shall be apportioned between the estate and the heirs, legatees, and devisees on the basis of the income of the estate allocable to each.

(e) Certain term interests not depreciable

(1) In general

No depreciation deduction shall be allowed under this section (and no depreciation or amortization deduction shall be allowed under any other provision of this subtitle) to the taxpayer for any term interest in property for any period during which the remainder interest in such property is held (directly or indirectly) by a related person.

(2) Coordination with other provisions

(A) Section 273

This subsection shall not apply to any term interest to which section 273 applies.

(B) Section 305(e)

This subsection shall not apply to the holder of the dividend rights which were separated from any stripped preferred stock to which section 305(e)(1) applies.

(3) Basis adjustments

If, but for this subsection, a depreciation or amortization deduction would be allowable to the taxpayer with respect to any term interest in property—

(A) the taxpayer's basis in such property shall be reduced by any depreciation or amortization deductions disallowed under this subsection, and

(B) the basis of the remainder interest in such property shall be increased by the amount of such disallowed deductions (properly adjusted for any depreciation deductions allowable under subsection (d) to the taxpayer).

(4) Special rules

(A) Denial of increase in basis of remainderman

No increase in the basis of the remainder interest shall be made under paragraph (3)(B) for any disallowed deductions attributable to periods during which the term interest was held—

(i) by an organization exempt from tax under this subtitle, or

(ii) by a nonresident alien individual or foreign corporation but only if income from the term interest is not effectively connected with the conduct of a trade or business in the United States.

(B) Coordination with subsection (d)

If, but for this subsection, a depreciation or amortization deduction would be allowable to any person with respect to any term interest in property, the principles of subsection (d) shall apply to such person with respect to such term interest.

(5) Definitions

For purposes of this subsection—

(A) Term interest in property

The term ''term interest in property'' has the meaning given such term by section 1001(e)(2).

(B) Related person

The term ''related person'' means any person bearing a relationship to the taxpayer described in subsection (b) or (e) of section 267.

(6) Regulations

The Secretary shall prescribe such regulations as may be necessary to carry out the

purposes of this subsection, including regulations preventing avoidance of this subsection through cross-ownership arrangements or otherwise.

(f) Treatment of certain property excluded from section 197

(1) Computer software

(A) In general

If a depreciation deduction is allowable under subsection (a) with respect to any computer software, such deduction shall be computed by using the straight line method and a useful life of 36 months.

(B) Computer software

For purposes of this section, the term ''computer software'' has the meaning given to such term by section 197(e)(3)(B); except that such term shall not include any such software which is an amortizable section 197 intangible.

(C) Tax-exempt use property subject to lease

In the case of computer software which would be tax-exempt use property as defined in subsection (h) of section 168 if such section applied to computer software, the useful life under subparagraph (A) shall not be less than 125 percent of the lease term (within the meaning of section 168(i)(3)).

(2) Certain interests or rights acquired separately

If a depreciation deduction is allowable under subsection (a) with respect to any property described in subparagraph (B), (C), or (D) of section 197(e)(4), such deduction shall be computed in accordance with regulations prescribed by the Secretary. If such property would be tax-exempt use property as defined in subsection (h) of section 168 if such section applied to such property, the useful life under such regulations shall not be less than 125 percent of the lease term (within the meaning of section 168(i)(3)).

(3) Mortgage servicing rights

If a depreciation deduction is allowable under subsection (a) with respect to any right described in section 197(e)(6), such deduction shall be computed by using the straight line method and a useful life of 108 months.

(g) Depreciation under income forecast method

(1) In general

If the depreciation deduction allowable under this section to any taxpayer with respect to any property is determined under the income forecast method or any similar method—

(A) the income from the property to be taken into account in determining the depreciation deduction under such method shall be equal to the amount of income earned in connection with the property before the close of the 10th taxable year following the taxable year in which the property was placed in service,

(B) the adjusted basis of the property shall only include amounts with respect to which the requirements of section 461(h) are satisfied,

(C) the depreciation deduction under such method for the 10th taxable year beginning after the taxable year in which the property was placed in service shall be equal to the adjusted basis of such property as of the beginning of such 10th taxable year, and

(D) such taxpayer shall pay (or be entitled to receive) interest computed under the look-back method of paragraph (2) for any recomputation year.

(2) Look-back method

The interest computed under the look-back method of this paragraph for any recomputation year shall be determined by—

(A) first determining the depreciation deductions under this section with respect to such property which would have been allowable for prior taxable years if the determination of the amounts so allowable had been made on the basis of the sum of the following (instead of the estimated income from such property)—

(i) the actual income earned in connection with such property for periods before the close of the recomputation year, and

(ii) an estimate of the future income to be earned in connection with such property for periods after the recomputation year and before the close of the 10th taxable year following the taxable year in which the property was placed in service,

(B) second, determining (solely for purposes of computing such interest) the overpayment or underpayment of tax for each such prior taxable year which would result solely from the application of subparagraph (A), and

(C) then using the adjusted overpayment rate (as defined in section 460(b)(7)), compounded daily, on the overpayment or underpayment determined under subparagraph (B).

For purposes of the preceding sentence, any cost incurred after the property is placed in service (which is not treated as a separate property under paragraph (5)) shall be taken into account by discounting (using the Federal mid-term rate determined under section 1274(d) as of the time such cost is incurred) such cost to its value as of the date the property is placed in service. The taxpayer may elect with respect to any property to have the preceding sentence not apply to such property.

(3) Exception from look-back method

Paragraph (1)(D) shall not apply with respect to any property which had a cost basis of $100,000 or less.

(4) Recomputation year

For purposes of this subsection, except as provided in regulations, the term ''recomputation year'' means, with respect to any property, the 3d and the 10th taxable years beginning after the taxable year in which the property was placed in service, unless the actual income earned in connection with the property for the period before the close of such 3d or 10th taxable year is within 10 percent of the income earned in connection with the prop-

erty for such period which was taken into account under paragraph (1)(A).

(5) Special rules

(A) Certain costs treated as separate property

For purposes of this subsection, the following costs shall be treated as separate properties:

(i) Any costs incurred with respect to any property after the 10th taxable year beginning after the taxable year in which the property was placed in service.

(ii) Any costs incurred after the property is placed in service and before the close of such 10th taxable year if such costs are significant and give rise to a significant increase in the income from the property which was not included in the estimated income from the property.

(B) Syndication income from television series

In the case of property which is 1 or more episodes in a television series, income from syndicating such series shall not be required to be taken into account under this subsection before the earlier of—

(i) the 4th taxable year beginning after the date the first episode in such series is placed in service, or

(ii) the earliest taxable year in which the taxpayer has an arrangement relating to the future syndication of such series.

(C) Special rules for financial exploitation of characters, etc.

For purposes of this subsection, in the case of television and motion picture films, the income from the property shall include income from the exploitation of characters, designs, scripts, scores, and other incidental income associated with such films, but only to the extent that such income is earned in connection with the ultimate use of such items by, or the ultimate sale of merchandise to, persons who are not related persons (within the meaning of section 267(b)) to the taxpayer.

(D) Collection of interest

For purposes of subtitle F (other than sections 6654 and 6655), any interest required to be paid by the taxpayer under paragraph (1) for any recomputation year shall be treated as an increase in the tax imposed by this chapter for such year.

(E) Treatment of distribution costs

For purposes of this subsection, the income with respect to any property shall be the taxpayer's gross income from such property.

(F) Determinations

For purposes of paragraph (2), determinations of the amount of income earned in connection with any property shall be made in the same manner as for purposes of applying the income forecast method; except that any income from the disposition of such property shall be taken into account.

(G) Treatment of pass-thru entities

Rules similar to the rules of section 460(b)(4) shall apply for purposes of this subsection.

(6) Limitation on property for which income forecast method may be used

The depreciation deduction allowable under this section may be determined under the income forecast method or any similar method only with respect to—

(A) property described in paragraph (3) or (4) of section 168(f),

(B) copyrights,

(C) books,

(D) patents, and

(E) other property specified in regulations.

Such methods may not be used with respect to any amortizable section 197 intangible (as defined in section 197(c)).

(7) Treatment of participations and residuals

(A) In general

For purposes of determining the depreciation deduction allowable with respect to a property under this subsection, the taxpayer may include participations and residuals with respect to such property in the adjusted basis of such property for the taxable year in which the property is placed in service, but only to the extent that such participations and residuals relate to income estimated (for purposes of this subsection) to be earned in connection with the property before the close of the 10th taxable year referred to in paragraph (1)(A).

(B) Participations and residuals

For purposes of this paragraph, the term ''participations and residuals'' means, with respect to any property, costs the amount of which by contract varies with the amount of income earned in connection with such property.

(C) Special rules relating to recomputation years

If the adjusted basis of any property is determined under this paragraph, paragraph (4) shall be applied by substituting ''for each taxable year in such period'' for ''for such period''.

(D) Other special rules

(i) Participations and residuals

Notwithstanding subparagraph (A), the taxpayer may exclude participations and residuals from the adjusted basis of such property and deduct such participations and residuals in the taxable year that such participations and residuals are paid.

(ii) Coordination with other rules

Deductions computed in accordance with this paragraph shall be allowable notwithstanding paragraph (1)(B), section 263, 263A, 404, 419, or 461(h).

(E) Authority to make adjustments

The Secretary shall prescribe appropriate adjustments to the basis of property and to the look-back method for the additional amounts allowable as a deduction solely by reason of this paragraph.

(8) Special rules for certain musical works and copyrights

(A) In general

If an election is in effect under this paragraph for any taxable year, then, notwithstanding paragraph (1), any expense which—

(i) is paid or incurred by the taxpayer in creating or acquiring any applicable musical property placed in service during the taxable year, and

(ii) is otherwise properly chargeable to capital account,

shall be amortized ratably over the 5-year period beginning with the month in which the property was placed in service. The preceding sentence shall not apply to any expense which, without regard to this paragraph, would not be allowable as a deduction.

(B) Exclusive method

Except as provided in this paragraph, no depreciation or amortization deduction shall be allowed with respect to any expense to which subparagraph (A) applies.

(C) Applicable musical property

For purposes of this paragraph—

(i) In general

The term ''applicable musical property'' means any musical composition (including any accompanying words), or any copyright with respect to a musical composition, which is property to which this subsection applies without regard to this paragraph.

(ii) Exceptions

Such term shall not include any property—

(I) with respect to which expenses are treated as qualified creative expenses to which section 263A(h) applies,

(II) to which a simplified procedure established under section 263A(i)(2) applies, or

(III) which is an amortizable section 197 intangible (as defined in section 197(c)).

(D) Election

An election under this paragraph shall be made at such time and in such form as the Secretary may prescribe and shall apply to all applicable musical property placed in service during the taxable year for which the election applies.

(E) Termination

An election may not be made under this paragraph for any taxable year beginning after December 31, 2010.

(h) Amortization of geological and geophysical expenditures

(1) In general

Any geological and geophysical expenses paid or incurred in connection with the exploration for, or development of, oil or gas within the United States (as defined in section 638) shall be allowed as a deduction ratably over the 24-month period beginning on the date that such expense was paid or incurred.

(2) Half-year convention

For purposes of paragraph (1), any payment paid or incurred during the taxable year shall be treated as paid or incurred on the mid-point of such taxable year.

(3) Exclusive method

Except as provided in this subsection, no depreciation or amortization deduction shall be allowed with respect to such payments.

(4) Treatment upon abandonment

If any property with respect to which geological and geophysical expenses are paid or incurred is retired or abandoned during the 24-month period described in paragraph (1), no deduction shall be allowed on account of such retirement or abandonment and the amortization deduction under this subsection shall continue with respect to such payment.

(5) Special rule for major integrated oil companies

(A) In general

In the case of a major integrated oil company, paragraphs (1) and (4) shall be applied by substituting ''7-year'' for ''24 month''.

(B) Major integrated oil company

For purposes of this paragraph, the term ''major integrated oil company'' means, with respect to any taxable year, a producer of crude oil—

(i) which has an average daily worldwide production of crude oil of at least 500,000 barrels for the taxable year,

(ii) which had gross receipts in excess of $1,000,000,000 for its last taxable year ending during calendar year 2005, and

(iii) to which subsection (c) of section 613A does not apply by reason of paragraph (4) of section 613A(d), determined—

(I) by substituting ''15 percent'' for ''5 percent'' each place it occurs in paragraph (3) of section 613A(d), and

(II) without regard to whether subsection (c) of section 613A does not apply by reason of paragraph (2) of section 613A(d).

For purposes of clauses (i) and (ii), all persons treated as a single employer under subsections (a) and (b) of section 52 shall be treated as 1 person and, in case of a short taxable year, the rule under section 448(c)(3)(B) shall apply.

(i) Cross references

(1) For additional rule applicable to depreciation of improvements in the case of mines, oil and gas wells, other natural deposits, and timber, see section 611.

(2) For amortization of goodwill and certain other intangibles, see section 197.

(Aug. 16, 1954, ch. 736, 68A Stat. 51; Pub. L. 85–866, title I, § 89(b), Sept. 2, 1958, 72 Stat. 1665; Pub. L. 87–834, § 13(b), (c)(1), Oct. 16, 1962, 76 Stat. 1034; Pub. L. 89–800, § 2, Nov. 8, 1966, 80 Stat. 1513; Pub. L. 90–26, §§ 1, 2(b), June 13, 1967, 81 Stat. 57, 58; Pub. L. 91–172, title IV, § 441(a), title V, § 521(a),

(d), Dec. 30, 1969, 83 Stat. 625, 649, 653; Pub. L. 92–178, title I, §109(a), Dec. 10, 1971, 85 Stat. 508; Pub. L. 93–625, §3(c), Jan. 3, 1975, 88 Stat. 2109; Pub. L. 94–455, title II, §§202(c)(3), 203(a), title XIX, §§1901(a)(27), 1906(b)(13)(A), title XXI, §2124(c)(1), (d)(1), Oct. 4, 1976, 90 Stat. 1530, 1768, 1834, 1918; Pub. L. 95–171, §4(a), Nov. 12, 1977, 91 Stat. 1355; Pub. L. 95–600, title III, §§312(c)(4), 367, title VII, §701(f)(4), (6), Nov. 6, 1978, 92 Stat. 2826, 2857, 2901, 2902; Pub. L. 95–615, §7(a), Nov. 8, 1978, 92 Stat. 3098; Pub. L. 95–618, title III, §301(d)(3), (e)(1), Nov. 9, 1978, 92 Stat. 3200, 3201; Pub. L. 96–541, §§2(c), (d), 3, Dec. 17, 1980, 94 Stat. 3204, 3205; Pub. L. 96–613, §2(a), Dec. 28, 1980, 94 Stat. 3579; Pub. L. 97–34, title II, §§203(a)–(c)(1), (d), 209(d)(3), 212(d)(1), 264(a), Aug. 13, 1981, 95 Stat. 221, 222, 227, 239, 264; Pub. L. 97–424, title V, §541(a)(2), Jan. 6, 1983, 96 Stat. 2192; Pub. L. 98–369, div. A, title X, §1064, July 18, 1984, 98 Stat. 1047; Pub. L. 99–514, title II, §201(d)(1), title XV, §1511(c)(4), title XVIII, §1809(d)(1), Oct. 22, 1986, 100 Stat. 2139, 2745, 2821; Pub. L. 100–647, title I, §1002(a)(22), (24), (31), (i)(1), Nov. 10, 1988, 102 Stat. 3356, 3357, 3370; Pub. L. 101–239, title VII, §§7622(b)(1) [(d)(1)], 7645(a), Dec. 19, 1989, 103 Stat. 2378, 2381; Pub. L. 101–508, title XI, §11812(a), (b)(1), Nov. 5, 1990, 104 Stat. 1388–534; Pub. L. 103–66, title XIII, §§13206(c)(2), 13261(b), (f)(1), Aug. 10, 1993, 107 Stat. 466, 538, 539; Pub. L. 104–188, title I, §1604(a), Aug. 20, 1996, 110 Stat. 1836; Pub. L. 105–34, title X, §1086(a), Aug. 5, 1997, 111 Stat. 957; Pub. L. 108–357, title II, §242(a), (b), title VIII, §847(b)(1), (2), Oct. 22, 2004, 118 Stat. 1438, 1439, 1601; Pub. L. 109–58, title XIII, §1329(a), Aug. 8, 2005, 119 Stat. 1020; Pub. L. 109–135, title IV, §412(r), Dec. 21, 2005, 119 Stat. 2638; Pub. L. 109–222, title II, §207(a), title V, §503(a), May 17, 2006, 120 Stat. 350, 354; Pub. L. 110–140, title XV, §1502(a), Dec. 19, 2007, 121 Stat. 1800; Pub. L. 110–172, §11(a)(13), Dec. 29, 2007, 121 Stat. 2485.)

AMENDMENTS

2007—Subsec. (g)(8)(C)(ii)(II). Pub. L. 110–172 substituted ''section 263A(i)(2)'' for ''section 263A(j)(2)''.

Subsec. (h)(5)(A). Pub. L. 110–140 substituted ''7-year'' for ''5-year''.

2006—Subsec. (g)(8). Pub. L. 109–222, §207(a), added par. (8).

Subsec. (h)(5). Pub. L. 109–222, §503(a), added par. (5).

2005—Subsec. (f)(3). Pub. L. 109–135 substituted ''section 197(e)(6)'' for ''section 197(e)(7)''.

Subsecs. (h), (i). Pub. L. 109–58 added subsec. (h) and redesignated former subsec. (h) as (i).

2004—Subsec. (f)(1)(C). Pub. L. 108–357, §847(b)(1), added subpar. (C).

Subsec. (f)(2). Pub. L. 108–357, §847(b)(2), inserted at end ''If such property would be tax-exempt use property as defined in subsection (h) of section 168 if such section applied to such property, the useful life under such regulations shall not be less than 125 percent of the lease term (within the meaning of section 168(i)(3)).''

Subsec. (g)(5)(E) to (G). Pub. L. 108–357, §242(b), added subpar. (E) and redesignated former subpars. (E) and (F) as (F) and (G), respectively.

Subsec. (g)(7). Pub. L. 108–357, §242(a), added par. (7).

1997—Subsec. (g)(6). Pub. L. 105–34 added par. (6).

1996—Subsecs. (g), (h). Pub. L. 104–188 added subsec. (g) and redesignated former subsec. (g) as (h).

1993—Subsec. (c). Pub. L. 103–66, §13261(b)(2), amended heading and text of subsec. (c) generally. Prior to amendment, text read as follows: ''The basis on which exhaustion, wear and tear, and obsolescence are to be allowed in respect of any property shall be the adjusted basis provided in section 1011 for the purpose of determining the gain on the sale or other disposition of such property.''

Subsec. (e)(2). Pub. L. 103–66, §13206(c)(2), amended heading and text of par. (2) generally. Prior to amendment, text read as follows: ''This subsection shall not apply to any term interest to which section 273 applies.''

Subsec. (f). Pub. L. 103–66, §13261(b)(1), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 103–66, §13261(b)(1), (f)(1), redesignated subsec. (f) as (g) and amended heading and text generally, designating existing provisions of text as par. (1) and adding par. (2).

1990—Subsec. (b). Pub. L. 101–508, §11812(a), added subsec. (b) and struck out former subsec. (b) ''Use of certain methods and rates'' which read as follows: ''For taxable years ending after December 31, 1953, the term 'reasonable allowance' as used in subsection (a) shall include (but shall not be limited to) an allowance computed in accordance with regulations prescribed by the Secretary, under any of the following methods:

''(1) the straight line method,

''(2) the declining balance method, using a rate not exceeding twice the rate which would have been used had the annual allowance been computed under the method described in paragraph (1),

''(3) the sum of the years-digits method, and

''(4) any other consistent method productive of an annual allowance which, when added to all allowances for the period commencing with the taxpayer's use of the property and including the taxable year, does not, during the first two-thirds of the useful life of the property, exceed the total of such allowances which would have been used had such allowances been computed under the method described in paragraph (2).

Nothing in this subsection shall be construed to limit or reduce an allowance otherwise allowable under subsection (a).''

Subsec. (c). Pub. L. 101–508, §11812(a)(1), redesignated subsec. (g) as (c) and struck out former subsec. (c) ''Limitations on use of certain methods and rates'' which read as follows: ''Paragraphs (2), (3), and (4) of subsection (b) shall apply only in the case of property (other than intangible property) described in subsection (a) with a useful life of 3 years or more—

''(1) the construction, reconstruction, or erection of which is completed after December 31, 1953, and then only to that portion of the basis which is properly attributable to such construction, reconstruction, or erection after December 31, 1953, or

''(2) acquired after December 31, 1953, if the original use of such property commences with the taxpayer and commences after such date.

Paragraphs (2), (3), and (4) of subsection (b) shall not apply to any motion picture film, video tape, or sound recording.''

Subsec. (d). Pub. L. 101–508, §11812(a)(1), redesignated subsec. (h) as (d) and struck out former subsec. (d) ''Agreement as to useful life on which depreciation rate is based'' which read as follows: ''Where, under regulations prescribed by the Secretary, the taxpayer and the Secretary have, after August 16, 1954, entered into an agreement in writing specifically dealing with the useful life and rate of depreciation of any property, the rate so agreed upon shall be binding on both the taxpayer and the Secretary in the absence of facts or circumstances not taken into consideration in the adoption of such agreement. The responsibility of establishing the existence of such facts and circumstances shall rest with the party initiating the modification. Any change in the agreed rate and useful life specified in the agreement shall not be effective for taxable years before the taxable year in which notice in writing by certified mail or registered mail is served by the party to the agreement initiating such change. This subsection shall not apply with respect to property to which section 168 applies.''

Subsec. (e). Pub. L. 101–508, §11812(a)(1), redesignated subsec. (r) as (e) and struck out former subsec. (e) which related to changes in method of depreciation from declining balance method and changes with respect to sections 1245 and 1250 property.

Subsec. (e)(3)(B). Pub. L. 101–508, § 11812(b)(1) substituted ''(d)'' for ''(h)''.

Subsec. (e)(4)(B). Pub. L. 101–508, § 11812(b)(1), substituted ''(d)'' for ''(h)'' in heading and text.

Subsec. (f). Pub. L. 101–508, § 11812(a)(1), redesignated subsec. (s) as (f) and struck out former subsec. (f) ''Salvage value'' which read as follows:

''(1) GENERAL RULE.—Under regulations prescribed by the Secretary, a taxpayer may, for purposes of computing the allowance under subsection (a) with respect to personal property, reduce the amount taken into account as salvage value by an amount which does not exceed 10 percent of the basis of such property (as determined under subsection (g) as of the time as of which such salvage value is required to be determined).

''(2) PERSONAL PROPERTY DEFINED.—For purposes of this subsection, the term 'personal property' means depreciable personal property (other than livestock) with a useful life of 3 years or more acquired after October 16, 1962.''

Subsecs. (g), (h). Pub. L. 101–508, § 11812(a)(1), redesignated subsecs. (g) and (h) as (c) and (d), respectively.

Subsec. (j). Pub. L. 101–508, § 11812(a)(1), struck out subsec. (j) which related to special rules for section 1250 property including residential rental property and change in method of depreciation.

Subsec. (k). Pub. L. 101–508, § 11812(a)(1), struck out subsec. (k) which related to depreciation of expenditures to rehabilitate low-income rental housing.

Subsec. (*l*). Pub. L. 101–508, § 11812(a)(1), struck out subsec. (*l*) which related to reasonable allowance in case of property of certain utilities, pre-1970 public utility property and post-1969 public utility property.

Subsec. (m). Pub. L. 101–508, § 11812(a)(1), struck out subsec. (m) which related to class lives.

Subsec. (p). Pub. L. 101–508, § 11812(a)(1), struck out subsec. (p) which related to straight line method for boilers fueled by oil or gas.

Subsec. (q). Pub. L. 101–508, § 11812(a)(1), struck out subsec. (q) which related to retirement or replacement of certain boilers, etc., fueled by oil or gas.

Subsecs. (r), (s). Pub. L. 101–508, § 11812(a)(1), redesignated subsecs. (r) and (s) as (e) and (f), respectively.

1989—Subsec. (r). Pub. L. 101–239, § 7645(a), added subsec. (r).

Pub. L. 101–239, § 7622(b)(1) [(d)(1)], repealed subsec. (r) which provided that trademark or trade name expenditures were not depreciable.

1988—Subsec. (a). Pub. L. 100–647, § 1002(a)(24), struck out at end ''In the case of recovery property (within the meaning of section 168), the deduction allowable under section 168 shall be deemed to constitute the reasonable allowance provided by this section, except with respect to that portion of the basis of such property to which subsection (k) applies.''

Subsec. (d). Pub. L. 100–647, § 1002(a)(31), substituted ''property to which section 168 applies'' for ''recovery property defined in section 168''.

Subsec. (*l*)(3)(G). Pub. L. 100–647, § 1002(a)(22), substituted ''section 168(i)(9)(B)'' for ''section 168(e)(3)(C)'' in last sentence.

Subsecs. (r), (s). Pub. L. 100–647, § 1002(i)(1), added subsec. (r) and redesignated former subsec. (r) as (s).

1986—Subsec. (c). Pub. L. 99–514, § 1809(d)(1), inserted ''Paragraphs (2), (3), and (4) of subsection (b) shall not apply to any motion picture film, video tape, or sound recording.''

Subsec. (m)(4). Pub. L. 99–514, § 201(d)(1), amended par. (4) generally. Prior to amendment, par. (4) read as follows: ''This subsection shall not apply with respect to recovery property (within the meaning of section 168) placed in service after December 31, 1980.''

Subsec. (q)(2)(B). Pub. L. 99–514, § 1511(c)(4), substituted ''at the underpayment rate established under section 6621'' for ''at the rate determined under section 6621''.

1984—Subsec. (k)(1), (3)(D). Pub. L. 98–369 substituted ''January 1, 1987'' for ''January 1, 1984'' wherever appearing.

1983—Subsec. (*l*)(3)(G). Pub. L. 97–424 inserted provision that, for the purposes of this paragraph, rules similar to the rules of section 168(e)(3)(C) of this title shall apply.

1981—Subsec. (a). Pub. L. 97–34, § 203(a), inserted provision that, in the case of recovery property (within the meaning of section 168), the deduction allowable under section 168 shall be deemed to constitute the reasonable allowance provided by this section, except with respect to that portion of the basis of such property to which subsection (k) applies.

Subsec. (d). Pub. L. 97–34, § 203(d), provided that subsec. (d) did not apply with respect to recovery property defined in section 168.

Subsec. (k)(2). Pub. L. 97–34, § 264(a), substituted ''Except as provided in subparagraph (B), the aggregate amount'' for ''The aggregate amount'' in subpar. (A), added subpar. (B), and redesignated former subpar. (B) as (C).

Subsec. (*l*)(3)(C). Pub. L. 97–34, § 209(d)(3), inserted ''and which is placed in service before January 1, 1981'' after ''pre-1970 public utility property''.

Subsec. (m)(4). Pub. L. 97–34, § 203(b), added par. (4).

Subsecs. (n), (*o*). Pub. L. 97–34, § 212(d)(1), struck out subsec. (n) which dealt with the use of the straight line method of depreciation in certain cases, and subsec. (*o*) which dealt with the method of depreciation to be used in the case of substantially rehabilitated historic property.

Subsec. (r). Pub. L. 97–34, § 203(c)(1), redesignated subsec. (s) as (r). Former subsec. (r), relating to the retirement-replacement-betterment method of calculating depreciation, was struck out.

Subsec. (s). Pub. L. 97–34, § 203(c)(1), redesignated subsec. (s) as (r).

1980—Subsec. (k). Pub. L. 96–541, § 3, substituted in pars. (1) and (3)(D) ''January 1, 1984'' for ''January 1, 1982'' wherever appearing.

Subsec. (n)(4). Pub. L. 96–541, § 2(c), added par. (4).

Subsec. (*o*)(3). Pub. L. 96–541, § 2(d), added par. (3).

Subsecs. (r), (s). Pub. L. 96–613 added subsec. (r) and redesignated former subsec. (r) as (s).

1978—Subsec. (i). Pub. L. 95–600, § 312(c)(4), struck out subsec. (i) which related to a limitation in the case of property constructed or acquired during the suspension period.

Subsec. (k)(1), (3)(D). Pub. L. 95–615 substituted ''January 1, 1979'' for ''January 1, 1978'' wherever appearing.

Pub. L. 95–600, § 367, substituted ''January 1, 1982'' for ''January 1, 1979'' wherever appearing.

Subsec. (n). Pub. L. 95–600, § 701(f)(4), in par. (1), substituted ''occupied by a certified historic structure (or by any structure in a registered historic district) which is demolished or substantially altered after such date'' for ''occupied by a certified historic structure (as defined in section 191(d)(1)) which is demolished or substantially altered (other than by virtue of a certified rehabilitation as defined in section 191(d)(3) after such date'', inserted ''and'' preceding subpar. (B), substituted ''means'' for ''shall mean'' in subpar. (B), and inserted provision that ''The preceding sentence shall not apply if the last substantial alteration of the structure is a certified rehabilitation.''; in par. (2), substituted heading ''Exceptions'' for ''Exception'', designated existing text as subpar. (A), and added subpar. (B); and added par. (3).

Subsec. (*o*). Pub. L. 95–600, § 701(f)(6), inserted in par. (1) ''(other than property with respect to which an amortization deduction has been allowed to the taxpayer under section 191)'' after ''substantially rehabilitated historic property'' and substituted in par. (2) ''section 191(d)(4)'' for ''section 191(d)(3)''.

Subsec. (p). Pub. L. 95–618, § 301(d)(3), added subsec. (p). Former subsec. (p) redesignated (r).

Subsec. (q). Pub. L. 95–618, § 301(e)(1), added subsec. (q).

Subsec. (r). Pub. L. 95–618, § 301(d)(3), redesignated former subsec. (p) as (r).

1977—Subsec. (k). Pub. L. 95–171 substituted ''January 1, 1979'' for ''January 1, 1978'' wherever appearing in pars. (1) and (3)(D).

1976—Subsec. (b). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (d). Pub. L. 94–455, §§1901(a)(27)(A), 1906(b)(13)(A), substituted ''after August 16, 1954'' for ''after the date of enactment of this title'' and struck out ''or his delegate'' after ''Secretary'' in first sentence before ''shall be binding''.

Subsec. (e). Pub. L. 94–455, §§202(c)(3), 1906(b)(13)(A), substituted in par. (3) ''beginning after December 31, 1975'' for ''beginning after July 24, 1969'' and in pars. (1) to (3) struck out ''or his delegate'' after ''Secretary''.

Subsec. (f)(1). Pub. L. 94–455, §1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (f)(2). Pub. L. 94–455, §1901(a)(27)(B), substituted ''October 16, 1962'' for ''the date of enactment of the Revenue Act of 1962''.

Subsec. (i). Pub. L. 94–455, §1906(b)(13)(A), struck out in pars. (1) and (2) ''or his delegate'' after ''Secretary''.

Subsec. (j). Pub. L. 94–455, §1906(b)(13)(A), struck out in pars. (1), (4)(B), (5)(C), and (6)(A) ''or his delegate'' after ''Secretary''.

Subsec. (k)(1). Pub. L. 94–455, §§203(a)(1), 1906(b)(13)(A), substituted reference to January 1, 1978 for reference to January 1, 1976 and struck out ''or his delegate'' after ''Secretary''.

Subsec. (k)(2)(A). Pub. L. 94–455, §203(a)(2), substituted ''$20,000'' for ''$15,000''.

Subsec. (k)(3)(B). Pub. L. 94–455, §§203(a)(3), 1906(b)(13)(A), substituted ''the Leased Housing Program under section 8 of the United States Housing Act of 1937'' for ''the policies of the Housing and Urban Development Act of 1968'' and struck out ''or his delegate'' after ''Secretary''.

Subsec. (k)(3)(D). Pub. L. 94–455, §203(a)(4), added subpar. (D).

Subsec. (*l*)(3)(F). Pub. L. 94–455, §1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (*l*)(4)(A). Pub. L. 94–455, §§1901(a)(27)(C), 1906(b)(13)(A), substituted ''before June 29, 1970,'' for ''within 180 days after the date of the enactment of this subparagraph'' and struck out ''or his delegate'' after ''Secretary''.

Subsec. (*l*)(5). Pub. L. 94–455, §1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (m). Pub. L. 94–455, §1906(b)(13)(A), struck out in pars. (1) and (3) ''or his delegate'' after ''Secretary''.

Subsec. (n). Pub. L. 94–455, §2124(c)(1), added subsec. (n). Former subsec. (n) redesignated (p).

Subsec. (*o*). Pub. L. 94–455, §2124(d)(1), added subsec. (*o*).

Subsec. (p). Pub. L. 94–455, §2124(c)(1), redesignated former subsec. (n) as (p).

1975—Subsec. (k)(1). Pub. L. 93–625 substituted ''January 1, 1976'' for ''January 1, 1975''.

1971—Subsecs. (m), (n). Pub. L. 92–178 added subsec. (m) and redesignated former subsec. (m) as (n).

1969—Subsec. (e)(3). Pub. L. 91–172, §521(d), added par. (3).

Subsecs. (j), (k). Pub. L. 91–172, §521(a), added subsecs. (j) and (k). Former subsec. (j) redesignated (m).

Subsec. (*l*). Pub. L. 91–172, §441(a), added subsec. (*l*).

Subsec. (m). Pub. L. 91–172, §521(a), redesignated former subsec. (j) as (m).

1967—Subsec. (i)(1). Pub. L. 90–26, §2(b), provided that accelerated depreciation was not to apply if the physical construction, reconstruction or erection by any person was begun during the suspension period or begun, pursuant to an order placed during such period, before May 24, 1967, subject to the proviso that only that portion of the basis which was properly attributable to construction, reconstruction or erection before May 24, 1967, shall be affected by the applicability of the suspension period.

Subsec. (i)(3). Pub. L. 90–26, §1, substituted ''March 9, 1967'' for ''December 31, 1967''.

1966—Subsecs. (i), (j). Pub. L. 89–800 added subsec. (i) and redesignated former subsec. (i) as (j).

1962—Subsec. (e). Pub. L. 87–834, §13(b), designated existing provisions as par. (1) and added par. (2).

Subsecs. (f) to (i). Pub. L. 87–834, §13(c)(1), added subsec. (f) and redesignated former subsecs. (f), (g), and (h) as (g), (h), and (i), respectively.

1958—Subsec. (d). Pub. L. 85–866 inserted ''certified mail or'' before ''registered mail''.

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110–140, title XV, §1502(b), Dec. 19, 2007, 121 Stat. 1800, provided that: ''The amendment made by this section [amending this section] shall apply to amounts paid or incurred after the date of the enactment of this Act [Dec. 19, 2007].''

Amendment by Pub. L. 110–140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–222, title II, §207(b), May 17, 2006, 120 Stat. 351, provided that: ''The amendments made by this section [amending this section] shall apply to expenses paid or incurred with respect to property placed in service in taxable years beginning after December 31, 2005.''

Pub. L. 109–222, title V, §503(b), May 17, 2006, 120 Stat. 355, provided that: ''The amendment made by this section [amending this section] shall apply to amounts paid or incurred after the date of the enactment of this Act [May 17, 2006].''

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109–58, title XIII, §1329(c), Aug. 8, 2005, 119 Stat. 1020, provided that: ''The amendments made by this section [amending this section and section 263A of this title] shall apply to amounts paid or incurred in taxable years beginning after the date of the enactment of this Act [Aug. 8, 2005].''

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–357, title II, §242(c), Oct. 22, 2004, 118 Stat. 1439, provided that: ''The amendments made by this section [amending this section] shall apply to property placed in service after the date of the enactment of this Act [Oct. 22, 2004].''

Amendment by section 847(b)(1) of Pub. L. 108–357 applicable to leases entered into after Mar. 12, 2004, and amendment by section 847(b)(2) of Pub. L. 108–357 applicable to leases entered into after Oct. 3, 2004, except that such amendments inapplicable to qualified transportation property, see section 849 of Pub. L. 108–357, set out as an Effective Date note under section 470 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1086(c) of Pub. L. 105–34 provided that: ''The amendment made by this section [amending this section and section 168 of this title] shall apply to property placed in service after the date of the enactment of this Act [Aug. 5, 1997].''

EFFECTIVE DATE OF 1996 AMENDMENT

Section 1604(b) of Pub. L. 104–188, as amended by Pub. L. 105–206, title VI, §6018(d), July 22, 1998, 112 Stat. 823, provided that:

''(1) IN GENERAL.—The amendment made by subsection (a) [amending this section] shall apply to property placed in service after September 13, 1995.

''(2) BINDING CONTRACTS.—The amendment made by subsection (a) shall not apply to any property produced or acquired by the taxpayer pursuant to a written contract which was binding on September 13, 1995, and at all times thereafter before such production or acquisition.

''(3) UNDERPAYMENTS OF INCOME TAX.—No addition to tax shall be made under section 6662 of the Internal Revenue Code of 1986 as a result of the application of subsection (d) of that section (relating to substantial understatements of income tax) with respect to any underpayment of income tax for any taxable year ending before the date of the enactment of this Act [Aug. 20, 1996], to the extent such underpayment was created

or increased by the amendments made by subsection (a).''

EFFECTIVE DATE OF 1993 AMENDMENT

Section 13206(c)(3) of Pub. L. 103–66 provided that: ''The amendments made by this subsection [amending this section and section 305 of this title] shall take effect on April 30, 1993.''

Amendment by section 13261(b) and (f)(1) of Pub. L. 103–66 applicable, except as otherwise provided, with respect to property acquired after Aug. 10, 1993, see section 13261(g) of Pub. L. 103–66, set out as an Effective Date note under section 197 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–508 applicable to property placed in service after Nov. 5, 1990, but not applicable to any property to which section 168 of this title does not apply by reason of subsec. (f)(5) of section 168, and not applicable to rehabilitation expenditures described in section 252(f)(5) of Pub. L. 99–514, see section 11812(c) of Pub. L. 101–508, set out as a note under section 42 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 7622(c)[(e)] of Pub. L. 101–239 provided that:

''(1) IN GENERAL.—The amendments made by this section [amending this section and sections 1245 and 1253 of this title] shall apply to transfers after October 2, 1989.

''(2) BINDING CONTRACT.—The amendments made by this section shall not apply to any transfer pursuant to a written binding contract in effect on October 2, 1989, and at all times thereafter before the transfer.''

Section 7645(b) of Pub. L. 101–239 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to interests created or acquired after July 27, 1989, in taxable years ending after such date.''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99–514, to which such amendment relates, see section 1019(a) of Pub. L. 100–647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 201(d)(1) of Pub. L. 99–514 applicable to property placed in service after Dec. 31, 1986, in taxable years ending after such date, with exceptions, see sections 203 and 204 of Pub. L. 99–514, set out as a note under section 168 of this title.

Amendment by section 201(d)(1) of Pub. L. 99–514 not applicable to any property placed in service before Jan. 1, 1994, if such property placed in service as part of specified rehabilitations, and not applicable to certain additional rehabilitations, see section 251(d)(2), (3) of Pub. L. 99–514, set out as a note under section 46 of this title.

Amendment by section 1511(c)(4) of Pub. L. 99–514 applicable for purposes of determining interest for periods after Dec. 31, 1986, see section 1511(d) of Pub. L. 99–514, set out as a note under section 47 of this title.

Section 1809(d)(1) of Pub. L. 99–514 provided that subsec. (c) is amended except with respect to property placed in service by the taxpayer on or before Mar. 28, 1985.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–424 applicable to taxable years beginning after Dec. 31, 1979, with a special rule for periods beginning before Mar. 1, 1980, see section 541(c) of Pub. L. 97–424, set out as a note under section 46 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 264(b) of Pub. L. 97–34 provided that: ''The amendments made by this section [amending this section] shall apply with respect to rehabilitation expenditures incurred after December 31, 1980.''

Amendment by sections 203 and 209 of Pub. L. 97–34 applicable to property placed in service after Dec. 31, 1980, in taxable years ending after that date, except that amendment by section 203(c) of Pub. L. 97–34 effective Jan. 1, 1981, and applicable with respect to taxable years ending after that date, see section 209(a), (b) of Pub. L. 97–34, set out as an Effective Date note under section 168 of this title.

Amendment by section 212(d)(1) of Pub. L. 97–34 applicable to expenditures incurred after Dec. 31, 1981, in taxable years ending after that date, see section 212(e) of Pub. L. 97–34, set out as a note under section 46 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 2(b) of Pub. L. 96–613 provided that: ''The amendments made by subsection (a) [amending this section] shall apply with respect to taxable years ending after December 31, 1953.''

EFFECTIVE AND TERMINATION DATES OF 1978 AMENDMENTS

Amendment by section 312(c)(4) of Pub. L. 95–600 applicable to taxable years ending after Dec. 31, 1978, see section 312(d) of Pub. L. 95–600, set out as an Effective Date of 1978 Amendment note under section 46 of this title.

Section 701(f)(8) of Pub. L. 95–600, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''The amendments made by this subsection [amending this section and sections 57, 191, 280B, 1245, and 1250 of this title] shall take effect as if included in the respective provisions of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] to which such amendments relate, as such provision[s] were added to such Code, or amended, by section 2124 of the Tax Reform Act of 1976 [Pub. L. 94–455, title XXI, § 2124, Oct. 4, 1976, 90 Stat. 1916].''

Amendment by Pub. L. 95–615 to cease to have effect on the day after Nov. 8, 1978, see section 210(a) of Pub. L. 95–615, set out as a Termination Date of 1978 Amendment note under section 61 of this title.

Amendment by section 301(d)(3) of Pub. L. 95–618 applicable to property which is placed in service after Sept. 30, 1978, but not to property which is constructed, reconstructed, erected, or acquired pursuant to a contract which, on Oct. 1, 1978, and at all times thereafter, was binding on the taxpayer, see section 301(d)(4) of Pub. L. 95–618, set out as an Effective Date of 1978 Amendment note under section 48 of this title.

Section 301(e)(2) of Pub. L. 95–618 provided that: ''The amendment made by paragraph (1) [amending this section] shall apply to taxable years ending after the date of enactment of this Act [Nov. 9, 1978].''

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1901(a)(27)(A) of Pub. L. 94–455 applicable with respect to taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94–455, set out as a note under section 2 of this title.

Amendment by section 202(c)(3) of Pub. L. 94–455 applicable for taxable years ending after Dec. 31, 1975, see section 202(d) of Pub. L. 94–455, set out as a note under section 1250 of this title.

Section 203(b) of Pub. L. 94–455, as amended by Pub. L. 95–171, § 4(b), Nov. 12, 1977, 91 Stat. 1355; Pub. L. 95–615, § 7(b), Nov. 8, 1978, 92 Stat. 3098, provided that: ''The amendments made by paragraphs (1), (3), and (4) of subsection (a) [amending this section] shall apply to expenditures paid or incurred after December 31, 1975. The amendment made by paragraph (2) of subsection (a) [amending this section] shall apply to expenditures incurred after December 31, 1975.''

[Section 7(b) of Pub. L. 95–615 [which amended section 203(b) of Pub. L. 94–455 exactly as that section 203(b) had been amended by Pub. L. 95–171] to cease to have effect on the day after Nov. 8, 1978, see section 210(a) of Pub. L. 95–615, set out as a Termination Date of 1978 Amendment note under section 61 of this title.]

Section 2124(c)(2), (d)(2) of Pub. L. 94–455, which provided that the amendment of this section was applicable to that portion of the basis attributable to construction, reconstruction, or erection after Dec. 31, 1975, and before Jan. 1, 1981, and with respect to additions to capital account occurring after June 30, 1976, and before July 1, 1981, was repealed by section 2(e)(3), (4) of Pub. L. 96–541.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 5(d) of Pub. L. 93–625 provided that: ''The amendments made by this section [amending section 1250 of this title and enacting and repealing provisions set out as notes under this section] shall apply with respect to property placed in service after December 31, 1973.''

EFFECTIVE DATE OF 1971 AMENDMENT

Section 109(d)(1) of Pub. L. 92–178 provided that: ''The amendments made by subsection (a) [amending this section] shall apply to property placed in service after December 31, 1970.''

EFFECTIVE DATE OF 1969 AMENDMENT

Section 441(b) of Pub. L. 91–172 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to all taxable years for which a return has not been filed before August 1, 1969.''

Section 521(g) of Pub. L. 91–172 provided that: ''The amendments made by this section [amending this section and sections 381 and 1250 of this title] shall apply with respect to taxable years ending after July 24, 1969.''

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–26 applicable with respect to taxable years ending after March 9, 1967, see section 4 of Pub. L. 90–26, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–800 applicable to taxable years ending after Oct. 9, 1966, see section 4 of Pub. L. 89–800, set out as a note under section 46 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by section 13(b) of Pub. L. 87–834 applicable to taxable years beginning after Dec. 31, 1962, and amendment by section 13(c)(1) of Pub. L. 87–834 applicable to taxable years beginning after Dec. 31, 1961, and ending after Oct. 16, 1962, see section 13(g) of Pub. L. 87–834, set out as an Effective Date note under section 1245 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–866 applicable only if mailing occurs after Sept. 2, 1958, see section 89(d) of Pub. L. 85–866, set out as a note under section 7502 of this title.

SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 101–508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101–508, set out as a note under section 45K of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101–1147 and 1171–1177] or title XVIII [§§1800–1899A] of Pub. L. 99–514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99–514, as amended, set out as a note under section 401 of this title.

DISCONTINUATION OF RETIREMENT-REPLACEMENT-BETTERMENT METHOD OF DEPRECIATION; TRANSITIONAL RULE

Section 203(c)(2), (3) of Pub. L. 97–34, as amended by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(2) CHANGE IN METHOD OF ACCOUNTING.—Sections 446 and 481 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] shall not apply to the change in the method of depreciation to comply with the provisions of this subsection [which struck out subsec. (r) of this section relating to the retirement-replacement-betterment method of accounting].

''(3) TRANSITIONAL RULE.—The adjusted basis of RRB property (as defined in section 168(g)(6) of such Code) as of December 31, 1980, shall be depreciated using a useful life of no less than 5 years and no more than 50 years and a method described in section 167(b) of such Code, including the method described in section 167(b)(2) of such Code, switching to the method described in section 167(b)(3) of such Code at a time to maximize the deduction.''

INTERNAL REVENUE CODE PROVISIONS RELATING TO DEPRECIATION AS NOT APPLICABLE TO CALCULATIONS OF SECRETARY OF HEALTH AND HUMAN SERVICES IN DETERMINING COSTS OF PROGRAMS

Section 203(e) of Pub. L. 97–34, as amended by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''The Secretary of Health and Human Services is not required to apply any provision of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], as amended, in calculating depreciation (for the purpose of determining any cost under a program administered by the Secretary), unless a provision of law requires so expressly.''

CLASS LIFE SYSTEM; APPLICATION TO REAL PROPERTY; GENERAL RULE

Section 5(a) of Pub. L. 93–625, as amended by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''In the case of buildings and other items of section 1250 property (within the meaning of section 1250(c) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]) placed in service before the effective date of the class lives first prescribed by the Secretary of the Treasury or his delegate under section 167(m) of such Code for the class in which such property falls, if an election under such section 167(m) applies to the taxpayer for the taxable year in which such property is placed in service, the taxpayer may, in accordance with regulations prescribed by the Secretary of the Treasury or his delegate, elect to determine the useful life of such property—

''(1) under Revenue Procedure 62–21 (as amended and supplemented) as in effect on December 31, 1970, or

''(2) on the facts and circumstances.''

TRANSITIONAL RULES FOR REASONABLE ALLOWANCE FOR DEPRECIATION

Section 109(e) of Pub. L. 92–178, as amended by Pub. L. 93–625, §5(b), Jan. 3, 1975, 88 Stat. 2112; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(1) [Repealed. Pub. L. 93–625, §5(b), Jan. 3, 1975, 88 Stat. 2112.]

''(2) SUBSIDIARY ASSETS.—If a significant portion of a class of property first prescribed by the Secretary of the Treasury or his delegate under section 167(m) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] consists of subsidiary assets, all such subsidiary assets in such class placed in service by the taxpayer during the period beginning on January 1, 1971, and ending on December 31, 1973 (or such earlier date on which a class which includes such subsidiary assets subsequently pre-

scribed by the Secretary of the Treasury or his delegate under such section becomes effective), may, in accordance with regulations prescribed by the Secretary of the Treasury or his delegate, be excluded by the taxpayer from an election under such section.''

REHABILITATION EXPENDITURES FOR LOW INCOME RENTAL HOUSING INCURRED AFTER DECEMBER 31, 1974, AND BEFORE JANUARY 1, 1978, PURSUANT TO CONTRACT ENTERED BEFORE DECEMBER 31, 1974

Pub. L. 93–482, § 4, Oct. 26, 1974, 88 Stat. 1456, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''Notwithstanding the provisions of section 167(k)(1) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (relating to depreciation of expenditures to rehabilitate low income rental housing), the provisions of section 167(k) shall apply with respect to rehabilitation expenditures incurred with respect to low income rental housing after December 31, 1974, and before January 1, 1978, if such expenditures are incurred pursuant to a binding contract entered into before December 31, 1974.''

§ 168. Accelerated cost recovery system

(a) General rule

Except as otherwise provided in this section, the depreciation deduction provided by section 167(a) for any tangible property shall be determined by using—

(1) the applicable depreciation method,

(2) the applicable recovery period, and

(3) the applicable convention.

(b) Applicable depreciation method

For purposes of this section—

(1) In general

Except as provided in paragraphs (2) and (3), the applicable depreciation method is—

(A) the 200 percent declining balance method,

(B) switching to the straight line method for the 1st taxable year for which using the straight line method with respect to the adjusted basis as of the beginning of such year will yield a larger allowance.

(2) 150 percent declining balance method in certain cases

Paragraph (1) shall be applied by substituting ''150 percent'' for ''200 percent'' in the case of—

(A) any 15-year or 20-year property not referred to in paragraph (3),

(B) any property used in a farming business (within the meaning of section 263A(e)(4)),

(C) any property (other than property described in paragraph (3)) which is a qualified smart electric meter or qualified smart electric grid system, or

(D) any property (other than property described in paragraph (3)) with respect to which the taxpayer elects under paragraph (5) to have the provisions of this paragraph apply.

(3) Property to which straight line method applies

The applicable depreciation method shall be the straight line method in the case of the following property:

(A) Nonresidential real property.

(B) Residential rental property.

(C) Any railroad grading or tunnel bore.

(D) Property with respect to which the taxpayer elects under paragraph (5) to have the provisions of this paragraph apply.

(E) Property described in subsection (e)(3)(D)(ii).

(F) Water utility property described in subsection (e)(5).

(G) Qualified leasehold improvement property described in subsection (e)(6).

(H) Qualified restaurant property described in subsection (e)(7).

(I) Qualified retail improvement property described in subsection (e)(8).

(4) Salvage value treated as zero

Salvage value shall be treated as zero.

(5) Election

An election under paragraph (2)(C) or (3)(D) may be made with respect to 1 or more classes of property for any taxable year and once made with respect to any class shall apply to all property in such class placed in service during such taxable year. Such an election, once made, shall be irrevocable.

(c) Applicable recovery period

For purposes of this section, the applicable recovery period shall be determined in accordance with the following table:

In the case of:	The applicable recovery period is:
3-year property	3 years
5-year property	5 years
7-year property	7 years
10-year property	10 years
15-year property	15 years
20-year property	20 years
Water utility property	25 years
Residential rental property	27.5 years
Nonresidential real property	39 years.
Any railroad grading or tunnel bore	50 years.

(d) Applicable convention

For purposes of this section—

(1) In general

Except as otherwise provided in this subsection, the applicable convention is the half-year convention.

(2) Real property

In the case of—

(A) nonresidential real property,

(B) residential rental property, and

(C) any railroad grading or tunnel bore,

the applicable convention is the mid-month convention.

(3) Special rule where substantial property placed in service during last 3 months of taxable year

(A) In general

Except as provided in regulations, if during any taxable year—

(i) the aggregate bases of property to which this section applies placed in service during the last 3 months of the taxable year, exceed

(ii) 40 percent of the aggregate bases of property to which this section applies placed in service during such taxable year,