

method change authorized by this paragraph (g)(2) is “88.” If Form 3115 is revised or renumbered, any reference in this section to that form is treated as a reference to the revised or renumbered form.

[T.D. 9132, 69 FR 33843, June 17, 2004, as amended by T.D. 9307, 71 FR 78068, Dec. 28, 2006]

#### § 1.168(i)-5 Table of contents.

This section lists the major paragraphs contained in § 1.168(i)-6.

##### *§ 1.168(i)-6 Like-kind exchanges and involuntary conversions.*

- (a) Scope.
- (b) Definitions.
  - (1) Replacement MACRS property.
  - (2) Relinquished MACRS property.
  - (3) Time of disposition.
  - (4) Time of replacement.
  - (5) Year of disposition.
  - (6) Year of replacement.
  - (7) Exchanged basis.
  - (8) Excess basis.
  - (9) Depreciable exchanged basis.
  - (10) Depreciable excess basis.
  - (11) Like-kind exchange.
  - (12) Involuntary conversion.
- (c) Determination of depreciation allowance.
  - (1) Computation of the depreciation allowance for depreciable exchanged basis beginning in the year of replacement.
    - (i) In general.
    - (ii) Applicable recovery period, depreciation method, and convention.
  - (2) Effect of depreciation treatment of the replacement MACRS property by previous owners of the acquired property.
  - (3) Recovery period and/or depreciation method of the properties are the same, or both are not the same.
    - (i) In general.
    - (ii) Both the recovery period and the depreciation method are the same.
    - (iii) Either the recovery period or the depreciation method is the same, or both are not the same.
  - (4) Recovery period or depreciation method of the properties is not the same.
    - (i) Longer recovery period.
    - (ii) Shorter recovery period.
    - (iii) Less accelerated depreciation method.
    - (iv) More accelerated depreciation method.
    - (v) Convention.
  - (A) Either the relinquished MACRS property or the replacement MACRS property is mid-month property.
  - (B) Neither the relinquished MACRS property nor the replacement MACRS property is mid-month property.
  - (5) Year of disposition and year of replacement.
    - (i) Relinquished MACRS property.
      - (A) General rule.
      - (B) Special rule.
    - (ii) Replacement MACRS property.
      - (A) Remaining recovery period of the replacement MACRS property.
      - (B) Year of replacement is 12 months.
    - (iii) Year of disposition or year of replacement is less than 12 months.
    - (iv) Deferred transactions.
      - (A) In general.
      - (B) Allowable depreciation for a qualified intermediary.
    - (v) Remaining recovery period.
  - (6) Examples.
    - (d) Special rules for determining depreciation allowances.
      - (1) Excess basis.
        - (i) In general.
        - (ii) Example.
      - (2) Depreciable and nondepreciable property.
        - (3) Depreciation limitations for automobiles.
          - (i) In general.
          - (ii) Order in which limitations on depreciation under section 280F(a) are applied.
          - (iii) Examples.
      - (4) Involuntary conversion for which the replacement MACRS property is acquired and placed in service before disposition of relinquished MACRS property.
    - (e) Use of optional depreciation tables.
      - (1) Taxpayer not bound by prior use of table.
        - (2) Determination of the depreciation deduction.
          - (i) Relinquished MACRS property.
          - (ii) Replacement MACRS property.
            - (A) Determination of the appropriate optional depreciation table.
            - (B) Calculating the depreciation deduction for the replacement MACRS property.
              - (iii) Unrecovered basis.
                - (3) Excess basis.
                - (4) Examples.
            - (f) Mid-quarter convention.
              - (1) Exchanged basis.
              - (2) Excess basis.
              - (3) Depreciable property acquired for nondepreciable property.
            - (g) Section 179 election.
            - (h) Additional first year depreciation deduction.
              - (i) Elections.
                - (1) Election not to apply this section.
                - (2) Election to treat certain replacement property as MACRS property.
              - (j) Time and manner of making election under paragraph (i)(1) of this section.
                - (1) In general.
                - (2) Time for making election.
                - (3) Manner of making election.
                - (4) Revocation.
            - (k) Effective date.
              - (1) In general.

## § 1.168(i)-6

## 26 CFR Ch. I (4-1-11 Edition)

- (2) Application to pre-effective date like-kind exchanges and involuntary conversions.
- (3) Like-kind exchanges and involuntary conversions where the taxpayer made the election under section 168(f)(1) for the relinquished property.

[T.D. 9314, 72 FR 9250, Mar. 1, 2007]

### § 1.168(i)-6 Like-kind exchanges and involuntary conversions.

(a) *Scope.* This section provides the rules for determining the depreciation allowance for MACRS property acquired in a like-kind exchange or an involuntary conversion, including a like-kind exchange or an involuntary conversion of MACRS property that is exchanged or replaced with other MACRS property in a transaction between members of the same affiliated group. The allowance for depreciation under this section constitutes the amount of depreciation allowable under section 167(a) for the year of replacement and any subsequent taxable year for the replacement MACRS property and for the year of disposition of the relinquished MACRS property. The provisions of this section apply only to MACRS property to which § 1.168(h)-1 (like-kind exchanges of tax-exempt use property) does not apply. Additionally, paragraphs (c) through (f) of this section apply only to MACRS property for which an election under paragraph (i) of this section has not been made.

(b) *Definitions.* For purposes of this section, the following definitions apply:

(1) *Replacement MACRS property* is MACRS property (as defined in § 1.168(b)-1(a)(2)) in the hands of the acquiring taxpayer that is acquired for other MACRS property in a like-kind exchange or an involuntary conversion.

(2) *Relinquished MACRS property* is MACRS property that is transferred by the taxpayer in a like-kind exchange, or in an involuntary conversion.

(3) *Time of disposition* is when the disposition of the relinquished MACRS property takes place under the convention, as determined under § 1.168(d)-1, that applies to the relinquished MACRS property.

(4) *Time of replacement* is the later of—

- (i) When the replacement MACRS property is placed in service under the

convention, as determined under this section, that applies to the replacement MACRS property; or

- (ii) The time of disposition of the exchanged or involuntarily converted property.

(5) *Year of disposition* is the taxable year that includes the time of disposition.

(6) *Year of replacement* is the taxable year that includes the time of replacement.

(7) *Exchanged basis* is determined after the depreciation deductions for the year of disposition are determined under paragraph (c)(5)(i) of this section and is the lesser of—

- (i) The basis in the replacement MACRS property, as determined under section 1031(d) and the regulations under section 1031(d) or section 1033(b) and the regulations under section 1033(b); or

- (ii) The adjusted depreciable basis (as defined in § 1.168(b)-1(a)(4)) of the relinquished MACRS property.

(8) *Excess basis* is any excess of the basis in the replacement MACRS property, as determined under section 1031(d) and the regulations under section 1031(d) or section 1033(b) and the regulations under section 1033(b), over the exchanged basis as determined under paragraph (b)(7) of this section.

(9) *Depreciable exchanged basis* is the exchanged basis as determined under paragraph (b)(7) of this section reduced by—

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

- (ii) Any adjustments to basis provided by other provisions of the Internal Revenue Code (Code) and the regulations under the Code (including section 1016(a)(2) and (3), for example, depreciation deductions in the year of replacement allowable under section 168(k) or 1400L(b)).

(10) *Depreciable excess basis* is the excess basis as determined under paragraph (b)(8) of this section reduced by—

- (i) The percentage of such basis attributable to the taxpayer's use of property for the taxable year other