



# DEDUCTING AND CAPITALIZING BUSINESS EXPENSES UNDER NEW TANGIBLE PROPERTY RULES

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The IRS issued tangible property regulations that are effective for all tax years after December 31, 2013. The following clarifies when you can deduct amounts

paid to acquire, produce, or improve tangible property and when those amounts must be capitalized.

The tangible property rules are lengthy and complex. The summary below is intended to give an overview of these the rules.

**Capitalization or Deduction** – The general rule is that amounts paid to improve a unit of property must be capitalized. An improvement is defined as an expenditure that betters a unit of property, restores it, or adapts it to a new and different use.

On the other hand, a current deduction is allowed for repairs and maintenance to property. Deductible repair and maintenance expenses are defined in a negative way: they are deductible if not otherwise required to be capitalized.

**Unit of Property** – One key concept in the regulations is the “unit of property” (UOP) that is being improved or repaired. The smaller the UOP, the more likely it is that costs incurred in connection with it will have to be capitalized.

For example, work on an engine of a vehicle is more likely to be classified as an expense that must be capitalized if the engine is classified as a separate UOP. By contrast, if the UOP is the vehicle, the engine work has a better chance of qualifying as a repair.

**Property Other than Buildings** – In general, for property other than buildings, a single UOP consists of all components that are functionally interdependent, such that one component can't be placed in service without the other components.

Example: A business buys a battery-powered golf cart for its foreman to use in getting around a large warehouse. It buys the chassis from one vendor and the battery from another, and then assembles the two components. Here, the cart is the UOP, since the chassis can't be placed in service without the battery.

**Buildings** – The regulations generally treat each building and its structural components as one UOP, the

“building.” There are also nine specific building systems that are treated as separate from the building structure. An improvement to the building is defined by its effect on those systems, rather than on the building as a whole.

If a taxpayer restores a building structure, such as by replacing the entire roof, the expense is treated as an improvement to the single UOP consisting of the building. If the taxpayer makes an improvement to a building system, such as the heating, ventilation, and air conditioning (HVAC) system, that expense is also an improvement to the building UOP. Accordingly, these expenditures are capitalized.

**Deducting Materials and Supplies** – A deduction is allowed for amounts paid to produce and acquire materials and supplies that are consumed during the year. Materials and supplies are defined to include five specific categories of property used or consumed in the business operations.

UOPs with an economic useful life of no more than 12 months qualify as materials and supplies under this rule. Likewise, certain inexpensive items that cost \$200 or less to acquire or produce qualify as materials and supplies. Accordingly, these items are expensed.

**De Minimis Safe Harbor** – The new rules allow a taxpayer to deduct certain limited amounts paid for tangible property that are expensed for financial accounting purposes. The safe harbor amount depends on whether the taxpayer has an applicable financial statement (AFS). An AFS can be a certified audited financial statement that is used for credit purposes, for reporting to partners, or for other non-tax purposes.

A taxpayer with an AFS may rely on the de minimis safe harbor if no more than \$5,000 per invoice, or per item as substantiated by the invoice, was paid for the property. For businesses without an AFS, the maximum figure is \$500 rather than \$5,000.

To use the safe harbor, the business must have accounting procedures in place at the beginning of the tax year that treat amounts paid for property that costs less than a specified dollar amount or has an economic useful life of 12 months or less, as an expense.

**Routine Maintenance Safe Harbor** – The regulations include a safe harbor that allows certain expenses of routine maintenance to be deducted rather than

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capitalized. Routine maintenance means recurring activities that keep business property, including buildings, in ordinarily efficient operating condition, such as inspection, cleaning, testing, and replacement of damaged or worn parts.

For a building structure or system, the taxpayer must reasonably expect to perform the maintenance more than once during the 10-year period that begins when the structure or system is placed in service. For property other than buildings, the taxpayer must reasonably expect to perform the activities more than once during the property's class life for depreciation purposes.

**Per-Building Safe Harbor for Qualifying Small Taxpayers** – Qualifying small taxpayers, those with average annual gross receipts of \$10 million or less in the three preceding tax years, can deduct improvements made to building property with an unadjusted basis of \$1 million or less. This safe harbor applies only if the total

amount paid during the tax year for repairs, maintenance, and improvements to the building doesn't exceed the lesser of \$10,000 or 2% of the building's unadjusted basis. This safe harbor may be elected annually on a building-by-building basis.

**Accounting Method Changes** – A change to conform to the regulations is considered a change in accounting method, for which an accounting adjustment is required. The IRS has issued procedures under which taxpayers can obtain automatic consent to the accounting method change.

The IRS has also issued a number of special procedures for small businesses (those with less than \$10 million of assets or \$10 million or less of gross receipts) exempting them from being required to file for an accounting method change in certain circumstances.

Please give us a call if you have any questions.