

Reg. Section 1.167(a)-4T

Leased property (temporary).

(a) In general. Capital expenditures made by either a lessee or lessor for the erection of a building or for other permanent improvements on leased property are recovered by the lessee or lessor under the provisions of the Internal Revenue Code applicable to the cost recovery of the building or improvements, if subject to depreciation or amortization, without regard to the period of the lease. For example, if the building or improvement is property to which section 168 applies, the lessee or lessor determines the depreciation deduction for the building or improvement under section 168. See section 168(i)(8)(A). If the improvement is property to which section 167 or section 197 applies, the lessee or lessor determines the depreciation or amortization deduction for the improvement under section 167 or section 197, as applicable.

(b) Effective/applicability date –

(1) In general. Except as provided in paragraphs (b)(2) and (b)(3) of this section, this section applies to taxable years beginning on or after January 1, 2012.

(2) Application of this section to leasehold improvements placed in service after December 31, 1986, in taxable years beginning before January 1, 2012. For leasehold improvements placed in service after December 31, 1986, in taxable years beginning before January 1, 2012, a taxpayer may--

(i) Apply the provisions of this section; or

(ii) Depreciate any leasehold improvement to which section 168 applies under the provisions of section 168 and depreciate or amortize any leasehold improvement to which section 168 does not apply under the provisions of the Internal Revenue Code that are applicable to the cost recovery of that leasehold improvement, without regard to the period of the lease.

(3) Application of this section to leasehold improvements placed in service before January 1, 1987. For leasehold improvements placed in service before January 1, 1987, see § 1.167(a)-4 in effect prior to January 1, 2012 (§ 1.167(a)-4 as contained in 26 CFR part 1 edition revised as of April 1, 2011).

(4) Change in method of accounting. Except as provided in § 1.446-1(e)(2)(ii)(d)(3)(i), a change to comply with this section for depreciable assets placed in service in a taxable year ending on or after December 30, 2003, is a change in method of accounting to which the provisions of section 446(e) and the regulations under section 446(e) apply. Except as provided in § 1.446-1(e)(2)(ii)(d)(3)(i), a taxpayer also may treat a change to comply with this section for depreciable assets placed in service in a taxable year ending before December 30, 2003, as a change in method of accounting to which the provisions of section 446(e) and the regulations under section 446(e) apply.

(5) Expiration date. The applicability of this section expires on December 23, 2014.