

Improvements

The regulations require capitalization of permanent improvements, betterments, restorations, and adaptations as they relate to certain units of property. The expenses capitalized for improving property can be depreciated as if the improvement were separate property. [Reg. §1.263(a)-3]

De minimis safe harbor election. A taxpayer can expense amounts paid for property that do not exceed \$5,000 per invoice if the taxpayer has an applicable financial statement. If the taxpayer does not have an applicable financial statement, then the amount is limited to \$500 per invoice. An applicable financial statement is one required for SEC reporting, an audited financial statement by a CPA, or a financial statement required by certain government agencies. [Reg. §1.162-3(c)(3)(iii)]

Small taxpayer safe harbor election. A new election is available for qualifying small taxpayers who may elect to not apply the improvement rules to an eligible building property if the total amount paid during the taxable year for repairs, maintenance, improvements, and similar activities performed on the eligible building does not exceed the lesser of:

- \$10,000, or
- 2% of the unadjusted basis of the building. [Reg. §1.263(a)-3(h)]

Qualifying small taxpayer. A qualifying small taxpayer is a taxpayer with gross receipts of \$10 million or less.

Eligible building. An eligible building is a building unit of property that is owned or leased by the qualifying taxpayer with an unadjusted basis of \$1 million or less.

Making the small taxpayer election. Under this election, a taxpayer includes amounts not capitalized under the de minimis safe harbor election and under the routine maintenance safe harbor to determine the annual amount paid for repairs, maintenance, improvements, and similar activities performed on the building. The election may be made annually on a building-to-building basis by including a statement on the taxpayer's timely filed (including extensions) tax return for the year the costs are incurred for the building. A taxpayer may not revoke this election.

Routine maintenance safe harbor. A taxpayer can expense amounts paid for routine maintenance if it is deemed not to improve the property. For a building, the safe harbor applies if the taxpayer expects to perform the maintenance more than once within a 10-year period.

Election to capitalize repair and maintenance costs. The regulations permit a taxpayer to elect to treat amounts paid during the taxable year for repair and maintenance as amounts paid to improve property and as an asset subject to the allowance for depreciation, as long as the taxpayer incurs the amounts in carrying on a trade or business and the taxpayer treats the amounts as capital expenditures on his or her books or records. A taxpayer who elects this treatment must apply the election to all amounts paid for repair and maintenance treated as capital expenditures on his or her books or records for the taxable year.

Making the election. The election is made by attaching a statement to the taxpayer's timely filed tax return (including extensions) for the taxable year in which the improvement is placed in service. The election cannot be revoked. [Reg. §1.263(a)-6]

Please acknowledge receipt by signing below.

Signature

Date