Overview of Tangible Property and Disposition Regulations

The tangible property regulations (TPR) and disposition regulations are now in effect for tax years beginning on or after January 1, 2014. The TPR provide guidance on the application of sections 162(a) and 263(a) to amounts paid to acquire, produce, or improve tangible property. The disposition regulations provide guidance on dispositions of property subject to depreciation under section 168 (MACRS property); they also amend the General Asset Account (GAA) regulations. Complying with the TPR and disposition regulations may require the filing of one or more Forms 3115, Application for Change in Accounting Method. Accounting method changes to comply with these rules are generally eligible for automatic consent. Common automatic accounting method changes under the TPR and disposition regulations include:

- Changes to deduct amounts paid or incurred for repair and maintenance or to capitalize and depreciate amounts paid or incurred for improvements to tangible property, including a change to identify the appropriate unit of property (UOP).
- Changes in the treatment of materials and supplies, including to deduct non- incidental materials and supplies when used or consumed, to deduct incidental materials and supplies when paid or incurred or to deduct rotatable and temporary spare parts when disposed of.
- Late partial disposition elections under Reg. section 1.168(i)-8(d)(2) and revoking certain GAA elections are treated as a change in method of accounting only for taxable years beginning before January 1, 2015 (i.e., for a calendar year taxpayer these changes may only be made for the 2014 tax year).

The rules also contain several safe harbors and annual elections including the following:

- A “de minimis” safe harbor, permitting a tax deduction for expenditures of up to $5,000 per item, for taxpayers with an “applicable financial statement,” so long as the taxpayer consistently applies the written policy under which such amounts are expensed for book purposes as well. This written policy must be in place as of the first day of the tax year. The de minimis safe harbor is an annual election.
- A “book conformity” capitalization safe harbor, allowing taxpayers to capitalize for tax purposes all repair and maintenance costs capitalized for book purposes. There is no requirement for a written policy. This annual election is irrevocable, and will require capitalizing all repair and maintenance costs capitalized that year for book purposes. Taxpayers making this election should review their repair and maintenance costs deducted for book purposes and ensure they are also deductible as repairs under the TPR, because those costs will be ineligible for the safe harbor.
- Expenses associated with activities that meet the routine maintenance safe harbor (RMSH) are exempt from the capitalization standards and therefore deductible. There is no ‘election’ requirement to be made, however, adequate supporting documentation should be retained to support the reasonableness of such expected activities. The RMSH permits a current deduction for periodic maintenance costs performed at least twice within its Alternative Depreciation System (ADS) class life for non-building property or a ten-year period for building property.

Application to Small Business Taxpayers

Small business taxpayers are allowed to implement the TPR going forward without having to calculate a section 481(a) adjustment or file a Form 3115. A small business taxpayer is defined as a business with total assets of less than $10 million or average annual gross receipts of $10 million or less for the prior three tax years. These tests are applied to each separate trade or business.
In addition, the TPR and disposition regulations provide numerous examples demonstrating the rules for identifying the appropriate UOP and major components and for distinguishing deductible repair and maintenance expenses from capital improvements. Correctly applying these fact-intensive standards is critical in ensuring compliance with the regulations.

**How KPMG Can Help**

KPMG’s analysis generally consists of the following focus areas. Projects are customized based on a taxpayer’s industry and can be achieved through a phased approach to align with a taxpayer’s needs. Since the rules are mandatory for 2014 and there are specific issues and IRS guidance related to each industry (e.g., oil and gas, utilities, retail, pipeline, cable system operators, etc.), we recommend taxpayers begin discussions with our specialists immediately to identify the appropriate plan of action for their business. KPMG may:

- Analyze a taxpayer’s policies for compliance with the TPR and disposition regulations.
- Conduct interviews to understand book and tax capitalization, depreciation, and expense procedures and develop an understanding of fixed asset and maintenance/repair systems.
- Utilize statistical sampling to reduce the volume of transactions reviewed in our UOP and repairs analysis.
- Review and analyze a taxpayer’s current UOP definition and identify the appropriate UOPs to which the capitalization standards apply.
- Conduct a detailed analysis of maintenance/repair and fixed asset records to help identify expense opportunities, potential capitalization exposures, and ability to utilize the routine maintenance safe harbor.
- Evaluate current treatment of materials and supplies and identify necessary changes for compliance.
- Analyze retirement procedures and identify the appropriate option in accounting for partial dispositions under the disposition regulations.
- Prepare deliverables reflecting a taxpayer’s compliance with the TPR and disposition regulations.
- Identify and help complete the necessary accounting method changes related to the TPR and disposition regulations.

**For more information, please contact:**

**Lynn Afeman**  
Boston, MA  
T: 617-988-1139  
E: lafeman@kpmg.com

**James Atkinson**  
Washington, DC  
T: 202-533-4950  
E: jlatkinson@kpmg.com

**Peter Baltmanis**  
Dallas, TX  
T: 214-840-6756  
E: pbaltmanis@kpmg.com

**Carol Conjura**  
Washington, DC  
T: 202-533-3040  
E: cconjura@kpmg.com

**Eric Lucas**  
Washington, DC  
T: 202-533-3023  
E: ejlucas@kpmg.com

www.kpmg.com/us/repairregs

The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax advisor. The information is not intended to be “written advice concerning one or more Federal tax matters” subject to the requirements of section 10.37(a)(2) of Treasury Department Circular 230 as the content of this document is issued for general informational purposes only.

Some or all of the services described herein may not be permissible for KPMG audit clients and their affiliates.

© 2015 KPMG LLP, a Delaware limited liability partnership and the U.S. member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative (“KPMG International”), a Swiss entity. All rights reserved. Printed in the U.S.A. The KPMG name, logo and “cutting through complexity” are registered trademarks or trademarks of KPMG International. NDPPS 390410