American Society of Cost Segregation Professionals www.ascsp.org

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February 24, 2012

To: Internal Revenue Service

Re: Comments on the recently issued "Guidance Regarding Deduction and Capitalization of Expenditures Related to Tangible Property" (Repair vs. Capitalization Temp. Regs.)

The American Society of Cost Segregation Professionals (ASCSP) represents the largest group of cost segregation professionals in the United States. The issuance of the Temporary Regulations has a direct correlation to the type of analysis that is conducted during a cost segregation study. ASCSP has a unique perspective that comes from a practical understanding of how building related expenditures may affect the use, condition, and life of property being repaired or improved as well as construction estimating and valuation techniques with respect to acquired properties.

COMMENT: Disposition of Structural Components – ASCSP commends the IRS for recognizing that taxpayers who improve or replace certain structural components of a building should be allowed a retirement deduction for the replaced assets. We agree that the determination of the original or adjusted tax basis of components removed may be difficult for taxpayers. Without further guidance, we are concerned that inappropriate methodologies used will significantly misrepresent the basis of the building component being removed.

As experts in this area, we emphasize that this should not be done without proper consideration of several factors that existed <u>at the time the building or building component was placed in service.</u> These factors include the condition of the component, age, replacement cost of the component removed and most importantly, the methodology utilized to calculate the relative fair market value of the acquired components. We believe it is important for the temporary regulations to be specific in its language to ensure this methodology is applied consistently to <u>all of the structural components of the building</u> along with the eight systems identified within these temporary regulations.

It appears that the IRS is referencing this methodology in the following example:

> Example 5. (i) On July 1, 2009, D, a calendar-year taxpayer, purchased and placed in service a multi-story office building that costs $20,000,000. The cost of each structural component of the building was not separately stated. D accounts for the building in its records as a single asset with a cost of $20,000,000. D depreciates the building as nonresidential real property and uses the optional depreciation table that corresponds with the general depreciation system, the straight-line method, a 39-year recovery period, and the mid-month convention. As of January 1, 2012, the depreciation reserve for the building is $1,261,000.
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> (ii) On June 30, 2012, D replaces one of the building's elevators. Because D cannot identify the cost of the structural components of the office building from its records, D **<u>uses a reasonable method that is consistently applied to all of the structural components</u>** of the office building to determine the cost of the elevator. Using this reasonable method, D allocates $150,000 of the $20,000,000 purchase price for the building to the retired elevator. Using the optional depreciation table that corresponds with the general depreciation system, the straight-line method, a 39-year recovery period, and the mid-month convention, the depreciation allowed or allowable for the retired elevator as of December 31, 2011, is $9,457.50.

> (iii) For D's 2012 Federal income tax return, loss for the retired elevator is determined as follows. The depreciation allowed or allowable for 2012 for the retired elevator is $1,923 ((unadjusted depreciable basis of $150,000 x depreciation rate of 2.564 percent for 2012) x 6/12). Thus, the adjusted depreciable basis of the retired elevator is $138,619.50 (the adjusted depreciable basis of $140,542.50 removed from the building cost less the depreciation allowed or allowable of $1,923 for 2012). As a result, D recognizes a loss of $138,619.50 for the retired elevator in 2012, which is subject to section 1231.
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> (iv) For D's 2012 Federal income tax return, the depreciation allowance for the building is computed as follows. As of January 1, 2012, the unadjusted depreciable basis of the building is reduced from $20,000,000 to $19,850,000 ($20,000,000 less the unadjusted depreciable basis of $150,000 for the retired elevator), and the depreciation reserve of the building is reduced from $1,261,000 to $1,251,542.50 ($1,261,000 less the depreciation allowed or allowable of $9,457.50 for the retired elevator as of December 31, 2011). Consequently, the depreciation allowance for the building for 2012 is $508,954 ($19,850,000 x depreciation rate of 2.564 percent for 2012).

It appears the above example demonstrates the intent of the temporary regulations to require taxpayers to use a method that is <u>consistently applied to all of the structural components</u> of the building. However, the language within the temporary regulations and the examples used is vague in describing methods that would be acceptable. Considering the detailed analysis and valuation techniques that ASCSP Certified Members are required to utilize, ASCSP recommends that the IRS recognize the procedures described in the ASCSP Minimum Quality Standards Manual as an appropriate method of determining the cost basis of the building and its structural components. It's important to note that any report issued that does not comply with ASCSP mandated standards cannot be stamped with the ASCSP logo or infer in any way that it is held to the standards set forth by the ASCSP. This also includes the use of any ASCSP designation, such as CCSP, or SCSP on any report signed by anyone for any reason.

Additionally, should the IRS seek assistance in the development of further prescribed methods, the ASCSP would welcome the opportunity to work with the IRS.

Thank you for considering our comments.

ASCSP Board of Directors
ASCSP Technical Standards Committee

For questions regarding these comments, please contact the ASCSP Technical Standards Committee

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