

the property by the financial institution. For possible application of section 167(1) to the lessee, see subparagraph (2) of this paragraph.

(2) *Certain rental payments.* Under section 167(1)(5), if a taxpayer leases property which is public utility property and the regulatory body having jurisdiction over such property for purposes of determining the taxpayer's operating results in its regulated books of account or for ratemaking purposes allows only an amount of such lessee's expenses with respect to the lease which is less than the amount which the taxpayer deducts for purposes of its Federal income tax liability, then a portion of the difference between such amounts shall not be allowed as a deduction by the taxpayer for purposes of its Federal income tax liability in such manner and time as the Commissioner or his delegate may determine consistent with the principles of §1.167(1)-1 and this section applicable as to when a method of depreciation other than a subsection (1) method may be used for purposes of section 167(a).

(c) *Certain partnership arrangements.* Under section 167(1)(5), if property held by a partnership is not public utility property in the hands of the partnership but would be public utility property if an election was made under section 761 to be excluded from partnership treatment, then section 167(1) shall be applied by treating the partners as directly owning the property in proportion to their partnership interests.

(d) *Cross reference.* See §1.167(1)-1(c)(1) for treatment of certain property as "pre-1970 public utility property" and §1.167(1)-1(e)(4)(ii) for applicable 1968 method in the case of property acquired in certain transactions.

[T.D. 7315, 39 FR 20202, June 7, 1974]

**§ 1.167(l)-4 Public utility property; election to use asset depreciation range system.**

(a) *Application of section 167(l) to certain property subject to asset depreciation range system.* If the taxpayer elects to compute depreciation under the asset depreciation range system described in §1.167(a)-11 with respect to certain public utility property placed in service

after December 31, 1970, see §1.167(a)-11(b) (6).

(Sec. 167 of the Internal Revenue Code of 1954 (26 U.S.C. 167) and sec. 7805 of the Internal Revenue Code of 1954 (26 U.S.C. 7805))

[T.D. 7128, 36 FR 11939, June 23, 1971. Redesignated by T.D. 7315, 39 FR 20203, June 7, 1974]

**§ 1.167(m)-1 Class lives.**

(a) For rules regarding the election to use the class life system authorized by section 167(m), see the provisions of §1.167(a)-11.

(Sec. 167(m), 85 Stat. 508 (26 U.S.C. 167))

[T.D. 7272, 38 FR 9986, Apr. 23, 1973]

**§ 1.168-5 Special rules.**

(a) *Retirement-replacement-betterment (RRB) property*—(1) *RRB replacement property placed in service before January 1, 1985.* (i) Except as provided in paragraph (a)(1)(ii) of this section, the recovery deduction for the taxable year for retirement-replacement-betterment (RRB) replacement property (as defined in paragraph (a)(3) of this section) placed in service before January 1, 1985, shall be (in lieu of the amount determined under section 168(b)) an amount determined by applying to the unadjusted basis (as defined in section 168(d)(1) and the regulations thereunder) of such property the applicable percentage determined in accordance with the following table:

If the recovery year is:	And the year the property is placed in service is:			
	1981	1982	1983	1984
	The applicable percentage is:			
1 .....	100	50	33	25
2 .....		50	45	38
3 .....			22	25
4 .....				12

(ii) The provisions of paragraph (a)(1)(i) of this section do not apply to any taxpayer who did not use the RRB method of depreciation under section 167 as of December 31, 1980. In such case, RRB replacement property placed in service by the taxpayer after December 31, 1980, shall be treated as other 5-year recovery property under section 168.