

the calendar year basis, purchases an emergency facility, consisting of land with a building thereon, at a cost of \$306,000 of which \$60,000 is allocable to the land and \$246,000 to the building. The certificate covers the entire acquisition. The corporation elects to take amortization deductions with respect to the facility and to begin the 60-month amortization period with the taxable year 1955. Depreciation of the building in the amount of \$6,000 is deducted and allowed for the taxable year 1954. On March 25, 1956, the corporation files notice with the district director of its election to discontinue the amortization deductions beginning with the month of April 1956. The adjusted basis of the facility on January 31, 1955, is \$300,000, or the cost of the facility (\$306,000) less the depreciation allowed for 1954 (\$6,000). The amortization deductions for the taxable year 1955 and the months of January, February, and March 1956, amount to \$75,000, or \$5,000 per month for 15 months. Since, at the beginning of the amortization period (January 1, 1955), the adjusted basis of the land (\$60,000) is one-fifth of the adjusted basis of the entire facility (\$300,000) and since there are no adjustments to basis other than on account of amortization during the period, the adjusted basis of the land should be reduced by \$15,000, or one-fifth of the entire amortization deduction, and the adjusted basis of the building should be reduced by \$60,000, or four-fifths of the entire amortization deduction. Accordingly, the adjusted basis of the facility as of April 1, 1956, is \$225,000, of which \$180,000 is allocable to the building for the purpose of depreciation deductions under section 167, and \$45,000 is allocable to the land.

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#### § 1.168A-4 Definitions.

As used in the regulations under section 168, the term—

(a) “Certifying authority” means the certifying authority designated by the President by Executive order.

(b) “Emergency facility” means any facility, land, building, machinery, or equipment, or any part thereof, the acquisition of which occurred after December 31, 1949, or the construction, reconstruction, erection, or installation of which was completed after such date, and with respect to which a certificate under section 168(e) has been made. In the case of an application for a certificate under section 168(e) which is filed after March 23, 1951, only the part of any such facility which is constructed, reconstructed, erected, or in-

stalled by any person not earlier than six months prior to the filing of such application, and which is certified in accordance with section 168(e), shall be deemed to be an emergency facility, notwithstanding that the other part of such facility was constructed, reconstructed, erected, or installed earlier than six months prior to the filing of such application. However, if the facility is one described in section 168(e)(2)(C) and the application was filed after September 1, 1958, and on or before December 2, 1958, the preceding sentence shall not apply. The term “emergency facility,” as so defined, may include, among other things, improvements of land, such as the construction of roads, bridges, and airstrips, and the dredging of channels.

(c) “Emergency period” means the period beginning on January 1, 1950, and ending on the date on which the President proclaims that the utilization of a substantial portion of the certified emergency facilities is no longer required in the interest of national defense.

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#### § 1.168A-5 Adjusted basis of emergency facility.

(a) *In general.* (1) The adjusted basis of an emergency facility for the purpose of computing the amortization deduction may differ from what would otherwise constitute the adjusted basis of such emergency facility in that it shall be the adjusted basis for determining gain (see Part II (section 1011 and following), Subchapter 0, Chapter 1 of the Code) and in that it may be only a portion of what would otherwise constitute the adjusted basis. It will be only a portion of such other adjusted basis if only a portion of the basis (unadjusted) is attributable to certified construction, reconstruction, erection, installation, or acquisition taking place after December 31, 1949. Also, it will be only a portion of what would otherwise constitute the adjusted basis of the emergency facility if only a portion of the basis (unadjusted) is certified as attributable to defense purposes or, in the case of a certification after August 22, 1957, if only a portion

of the basis (unadjusted) is certified as attributable to the national defense program. It is therefore necessary first to determine the unadjusted basis of the emergency facility from which the adjusted basis for amortization purposes is derived.

(2) The unadjusted basis for amortization purposes is the same as the unadjusted basis otherwise determined only when the entire construction, reconstruction, erection, installation, or acquisition takes place after December 31, 1949, and is certified in its entirety by the certifying authority.

(3) In cases in which only a portion of the construction, reconstruction, erection, installation, or acquisition takes place after December 31, 1949, and that portion is certified in its entirety by the certifying authority, the unadjusted basis for the purpose of amortization is so much of the entire unadjusted basis as is attributable to the certified construction, reconstruction, erection, installation, or acquisition which takes place after December 31, 1949. For example, the X Corporation begins the construction of a facility on November 15, 1949, and such facility is completed on April 1, 1952, at a cost of \$5,000,000, of which \$4,600,000 is attributable to construction after December 31, 1949. The entire construction after December 31, 1949, is certified by the certifying authority. The unadjusted basis of the emergency facility for amortization purposes is therefore \$4,600,000. For depreciation of the remaining portion (\$400,000) of the cost see § 1.168A-6.

(4) If the certifying authority certifies only a portion of the construction, reconstruction, erection, installation, or acquisition of property which takes place after December 31, 1949, the unadjusted basis for amortization purposes is limited to such portion so certified. Assuming the same facts as in the example in subparagraph (3) of this paragraph, except that only 50 percent of the construction, reconstruction, erection, installation, or acquisition after December 31, 1949, is certified, the unadjusted basis for amortization purposes is 50 percent of \$4,600,000, or \$2,300,000.

(5) The adjusted basis of an emergency facility for amortization pur-

poses is the unadjusted basis for amortization purposes less the adjustments properly applicable thereto. Such adjustments are those specified in sections 1016 and 1017, except that no adjustments are to be taken into account which increase the adjusted basis. (See paragraph (b) of this section.) If the taxpayer constructs, reconstructs, erects, installs, or acquires an emergency facility pursuant to a cost reimbursement contract with an obligation for reimbursement by the United States of all or a part of the cost of such facility, the unadjusted basis of such facility for amortization purposes shall not include that part of the cost for which the taxpayer is entitled to reimbursement, and the amount received as reimbursement shall be treated as a capital receipt. However, amounts received by a taxpayer which represent in fact compensation by reason of termination of a government contract or payment for articles under such a contract, though denominated reimbursements for all or a part of the cost of an emergency facility, are not to be treated as capital receipts but are to be taken into account in computing income, and are therefore not to be applied in reduction of the basis of such facility.

(6) The following examples will illustrate the computation of the adjusted basis of an emergency facility for amortization purposes:

*Example (1).* The X Corporation completes an emergency facility on July 1, 1954, the entire unadjusted basis of which is \$500,000, and the unadjusted basis of which for the purpose of amortization is \$300,000. The X Corporation elects to begin amortization as of January 1, 1955. The only adjustment to basis for the period July 1, 1954, to January 31, 1955, other than depreciation or amortization for January 1955, is \$5,000 for depreciation for the last six months of 1954. The adjusted basis for the purpose of amortization is therefore \$300,000 less \$3,000 ( $300,000/500,000 \times \$5,000$ ), or \$297,000.

*Example (2).* On July 31, 1956, the Y Corporation has an emergency facility (a building) which was completed on July 1, 1952, the entire basis of which is \$500,000 and the unadjusted basis of which for the purpose of amortization is \$300,000. The corporation elected to begin amortization as of January 1, 1953, at which time it was entitled to \$5,000 depreciation for the last six months of 1952. On July 1, 1956, the facility was damaged by

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fire, as the result of which its adjusted basis is properly reduced by \$200,000. The adjusted basis of the emergency facility as of July 1956 for the purpose of amortization and de-

preciation, and the adjusted basis for other purposes, are \$23,849.18, \$49,250.82, and \$73,100.00, respectively, computed as follows:

	For amortiza- tion	For deprecia- tion	For other pur- poses
Unadjusted basis .....	\$300,000.00	\$200,000.00	\$500,000
Less depreciation to Jan. 1, 1953 .....	3,000.00	2,000.00	5,000
Adjusted basis January 1953 .....	297,000.00	198,000.00	495,000
Less amortization for 42 months .....	207,900.00	.....	207,900
Less depreciation for 42 months .....	.....	14,000.00	14,000
Adjusted basis at time of fire .....	89,100.00	184,000.00	273,100
Less fire loss (apportioned as explained below) .....	65,250.82	134,749.18	200,000
Adjusted basis after fire loss .....	23,849.18	49,250.82	73,100

The \$200,000 fire loss is applied against the adjusted basis for the purpose of amortization and the adjusted basis for the purpose of depreciation in the proportion that each such adjusted basis at the time of the fire bears to their sum, i.e.,  $89,100/273,100 \times \$200,000$  or \$65,250.82, against the amortization basis, and  $184,000/273,100 \times \$200,000$ , or \$134,749.18 against the depreciation basis.

(b) *Capital additions.* (1) If, after the completion or acquisition of an emergency facility which has been certified by the certifying authority, further expenditures are made for construction, reconstruction, erection, installation, or acquisition attributable to such facility but not covered by such certification, such expenditures shall not be added to the adjusted basis of the emergency facility for amortization purposes under such certification. If such further expenditures are separately certified in accordance with the provisions of section 168(e) (1) or (2) and this section, they are treated as certified expenditures in connection with a new and separate emergency facility and, if proper election is made, will be taken into account in computing the adjusted basis of such new and separate emergency facility for the purpose of amortization.

(2) The application of subparagraph (1) of this paragraph may be illustrated by the following example:

*Example.* On March 1, 1954, the certifying authority certifies as an emergency facility a heating plant proposed to be constructed by the Z Corporation. Such facility is completed on July 1, 1954. The Z Corporation, on August 1, 1954, begins the installation in the plant of an additional boiler, which is not included in the certification for the plant but

is certified as a new and separate emergency facility. For amortization purposes, the adjusted basis of the heating plant is determined without including the cost of the additional boiler. Such cost is taken into account in computing the adjusted basis of the new and separate emergency facility (the boiler), as to which the taxpayer has a separate election for amortization purposes and a separate amortization period.

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**§ 1.168A-6 Depreciation of portion of emergency facility not subject to amortization.**

(a) The rule that an amortization deduction with respect to an emergency facility is in lieu of any deduction for depreciation which would otherwise be allowable under section 167 is subject to the exception provided in section 168(f). Under this exception, if the property constituting such facility is depreciable property under section 167 and the regulations thereunder and if the adjusted basis of such facility as computed under section 1011 for purposes other than the amortization deductions is in excess of the adjusted basis computed for the purpose of the amortization deductions, then the excess shall be charged off over the useful life of the facility and recovered through depreciation deductions. Thus, if the construction of an emergency facility is begun on or before December 31, 1949, and completed after such date, no amortization deductions are allowable with respect to the amount attributable to such construction on or before such date (see § 1.168A-5). However,