

(4) If the taxpayer is required to establish a suspense account under section 466(e) for a trade or business for which the election is made, the initial opening balance of such account (as defined in section 466(e)(2)) for each such trade or business; and

(5) In the case of an election under section 466 that results in a net increase in taxable income under section 481(a)(2), the amount of such net increase.

The statement of election should be made on a Form 3115, which need contain no information other than that required by this paragraph or paragraph (c) of § 1.466-4.

[T.D. 8022, 50 FR 18477, May 1, 1985]

§ 1.466-4 Manner of and time for making election under section 373(c) of the Revenue Act of 1978.

(a) *In general.* Section 373(c)(2) of the Revenue Act of 1978 (92 Stat. 2865) provides an election for taxpayers who satisfy the requirements of section 373(c)(2)(A) (i) and (ii) of the Act. The election is made with respect to a method of accounting for the redemption costs of discount coupons used by the electing taxpayer in a continuous period of one or more taxable years ending before January 1, 1979. The election must be made in the manner prescribed by this section. The election does not require the prior consent of the Internal Revenue Service.

(b) *Manner of and time for making election—(1) General rule.* Except as provided in paragraph (b)(2) of this section, the election under section 373(c) of the Revenue Act of 1978 is made by filing a statement of election containing the information described in paragraph (c) of this section with the taxpayer's income tax return for the taxpayer's first taxable year ending after December 31, 1978. The election must be made not later than the time prescribed by law (including extensions thereof) for filing the income tax return for the taxpayer's first taxable year ending after December 31, 1978. Thus, the election may not be made with an amended income tax return for such year filed after the time prescribed (including extensions) for filing the original return.

(2) *Transitional rule.* If the last day of the time prescribed by law (including extensions thereof) for filing a taxpayer's income tax return for the taxpayer's first taxable year ending after December 31, 1978, falls before December 3, 1979, and the taxpayer does not make an election in the manner prescribed by paragraph (b)(1) of this section, an election is made under section 373(c) of the Act and this section with respect to a continuous period if—

(i) Within the time prescribed by law (including extensions thereof) for filing the taxpayer's income tax return for the taxpayer's first taxable year ending after December 31, 1978, the taxpayer has made a reasonable effort to notify the Commissioner of the taxpayer's intent to make election under section 373(c) of the Act with respect to the continuous period, and

(ii) Before January 2, 1980, the taxpayer files a statement of election containing the information described in paragraph (c) of this section to be associated with the taxpayer's income tax return for the taxpayer's first taxable year ending after December 31, 1978.

(c) *Required information.* The statement of election required by paragraph (b) of this section must indicate that the taxpayer (identified by name, address, and taxpayer identification number) is making an election under section 373(c) of the Revenue Act of 1978 and must set forth the taxable years in the continuous period for which the election is made. The statement of election should be made on the same form 3115 on which the taxpayer has made a statement of election under section 466. The Form 3115 need contain no information other than that required by this paragraph or paragraph (c) of § 1.466-3.

[T.D. 8022, 50 FR 18478, May 1, 1985]

§ 1.467-0 Table of contents.

This section lists the captions that appear in §§ 1.467-1 through 1.467-9.

§ 1.467-1 Treatment of lessors and lessees generally.

- (a) Overview.
 - (1) In general.
 - (2) Cases in which rules are inapplicable.
 - (3) Summary of rules.
 - (i) Basic rules.
 - (ii) Special rules.

§ 1.467-0

26 CFR Ch. I (4-1-04 Edition)

- (4) Scope of rules.
- (5) Application of other authorities.
- (b) Method of accounting for section 467 rental agreements.
 - (c) Section 467 rental agreements.
 - (1) In general.
 - (2) Increasing or decreasing rent.
 - (i) Fixed rent.
 - (A) In general.
 - (B) Certain rent holidays disregarded.
 - (ii) Fixed rent allocated to a rental period.
 - (A) Specific allocation.
 - (1) In general.
 - (2) Rental agreements specifically allocating fixed rent.
 - (B) No specific allocation.
 - (iii) Contingent rent.
 - (A) In general.
 - (B) Certain contingent rent disregarded.
 - (3) Deferred or prepaid rent.
 - (i) Deferred rent.
 - (ii) Prepaid rent.
 - (iii) Rent allocated to a calendar year.
 - (iv) Examples.
 - (4) Rental agreements involving total payments of \$250,000 or less.
 - (i) In general.
 - (ii) Special rules in computing amount described in paragraph (c)(4)(i) of this section.
 - (d) Section 467 rent.
 - (1) In general.
 - (2) Fixed rent for a rental period.
 - (i) Constant rental accrual.
 - (ii) Proportional rental accrual.
 - (iii) Section 467 rental agreement accrual.
 - (e) Section 467 interest.
 - (1) In general.
 - (2) Interest on fixed rent for a rental period.
 - (i) In general.
 - (ii) Section 467 rental agreements with adequate interest.
 - (3) Treatment of interest.
 - (f) Substantial modification of a rental agreement.
 - (1) Treatment as new agreement.
 - (i) In general.
 - (ii) Limitation.
 - (2) Post-modification agreement; in general.
 - (3) Other effects of a modification.
 - (4) Special rules.
 - (i) Carryover of character; leasebacks.
 - (ii) Carryover of character; long-term agreements.
 - (iii) Carryover of character; disqualified agreements.
 - (iv) Allocation of rent.
 - (v) Difference between aggregate rent and interest and aggregate payments.
 - (A) In general.
 - (B) Constant rental accrual prior to the modification.
 - (C) Agreements described in this paragraph (f)(4)(v)(C).
 - (vi) Principal purpose of tax avoidance.
 - (5) Definitions.

- (6) Safe harbors.
- (7) Special rules for certain transfers.
 - (i) In general.
 - (ii) Exception.
- (g) Treatment of amounts payable by lessor to lessee.
 - (1) Interest.
 - (2) Other amounts. [Reserved]
 - (h) Meaning of terms.
 - (i) [Reserved]
 - (j) Computational rules.
 - (1) Counting conventions.
 - (2) Conventions regarding timing of rent and payments.
 - (i) In general.
 - (ii) Time amount is payable.
 - (3) Annualized fixed rent.
 - (4) Allocation of fixed rent within a period.
 - (5) Rental period length.

§ 1.467-2 Rent accrual for section 467 rental agreements without adequate interest.

- (a) Section 467 rental agreements for which proportional rental accrual is required.
- (b) Adequate interest on fixed rent.
 - (1) In general.
 - (2) Section 467 rental agreements that provide for a variable rate of interest.
 - (3) Agreements with both deferred and prepaid rent.
- (c) Computation of proportional rental amount.
 - (1) In general.
 - (2) Section 467 rental agreements that provide for a variable rate of interest.
 - (d) Present value.
 - (e) Applicable Federal rate.
 - (1) In general.
 - (2) Source of applicable Federal rates.
 - (3) 110 percent of applicable Federal rate.
 - (4) Term of the section 467 rental agreement.
 - (i) In general.
 - (ii) Section 467 rental agreements with variable interest.
 - (f) Examples.

§ 1.467-3 Disqualified leasebacks and long-term agreements.

- (a) General rule.
- (b) Disqualified leaseback or long-term agreement.
 - (1) In general.
 - (2) Leaseback.
 - (3) Long-term agreement.
 - (i) In general.
 - (ii) Statutory recovery period.
 - (A) In general.
 - (B) Special rule for rental agreements relating to properties having different statutory recovery periods.
 - (c) Tax avoidance as principal purpose for increasing or decreasing rent.
 - (1) In general.
 - (2) Tax avoidance.
 - (i) In general.

§ 1.467-1

26 CFR Ch. I (4-1-04 Edition)

(viii) Exception for agreements entered into prior to effective date of section 467.

- (3) Adjustment by Commissioner.
- (4) Effective date of modification.
- (5) Examples.
- (h) Omissions or duplications.
 - (1) In general.
 - (2) Example.

§ 1.467-8 Automatic consent to change to constant rental accrual for certain rental agreements.

- (a) General rule.
- (b) Agreements to which automatic consent applies.

§ 1.467-9 Effective dates and automatic method changes for certain agreements.

- (a) In general.
- (b) Automatic consent for certain rental agreements.
- (c) Application of regulation project IA-292-84 to certain leasebacks and long-term agreements.
- (d) Entered into.
- (e) Change in method of accounting.
 - (1) In general.
 - (2) Application of regulation project IA-292-84.
 - (3) Automatic change procedures.

[T.D. 8820, 64 FR 26851, May 18, 1999, as amended by T.D. 8917, 66 FR 1039, Jan. 5, 2001]

§ 1.467-1 Treatment of lessors and lessees generally.

(a) *Overview*—(1) *In general*. When applicable, section 467 requires a lessor and lessee of tangible property to treat rents consistently and to use the accrual method of accounting (and time value of money principles) regardless of their overall method of accounting. In addition, in certain cases involving tax avoidance, the lessor and lessee must take rent and stated or imputed interest into account under a constant rental accrual method, pursuant to which the rent is treated as accruing ratably over the entire lease term.

(2) *Cases in which rules are inapplicable*. Section 467 applies only to leases (or other similar arrangements) that constitute section 467 rental agreements as defined in paragraph (c) of this section. For example, a rental agreement is not a section 467 rental agreement, and, therefore, is not subject to the provisions of this section and §§ 1.467-2 through 1.467-9 (the section 467 regulations), if it specifies equal amounts of rent for each month throughout the lease term and all pay-

ments of rent are due in the calendar year to which the rent relates (or in the preceding or succeeding calendar year). In addition, the section 467 regulations do not apply to a rental agreement that requires total rents of \$250,000 or less. For purposes of determining whether the agreement has total rents of \$250,000 or less, certain specified contingent rent is disregarded.

(3) *Summary of rules*—(i) *Basic rules*. Paragraph (c) of this section provides rules for determining whether a rental agreement is a section 467 rental agreement. Paragraphs (d) and (e) of this section provide rules for determining the amount of rent and interest, respectively, required to be taken into account by a lessor and lessee under a section 467 rental agreement. Paragraphs (f) through (h) and (j) of this section provide various definitions and special rules relating to the application of the section 467 regulations. Paragraph (i) of this section is reserved.

(ii) *Special rules*. Section 1.467-2 provides rules for section 467 rental agreements that have deferred or prepaid rents without providing for adequate interest. Section 1.467-3 provides rules for application of the constant rental accrual method, including criteria for determining whether an agreement is subject to this method. Section 1.467-4 provides rules for establishing and adjusting a section 467 loan (the amount that a lessor is deemed to have loaned to the lessee, or vice versa, pursuant to the application of the section 467 regulations). Section 1.467-5 provides rules for applying the section 467 regulations where a rental agreement requires payments of interest at a variable rate. Section 1.467-6, relating to the treatment of certain section 467 rental agreements with contingent payments, is reserved. Section 1.467-7 provides rules for the treatment of dispositions by a lessor of property subject to a section 467 rental agreement and the treatment of assignments by lessees and certain lessee-financed renewals of a section 467 rental agreement. Section 1.467-7 also provides rules for the treatment of modified rental agreements. Section 1.467-8 provides special transitional rules relating to the method of