

§ 1.280F-4T

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

is \$60,000. The maximum amount of G's 1984 recovery deduction is \$3,200 (*i.e.*, the lesser of $.80 \times \$4,000$ or $.80 \times .25 \times \$60,000$).

(iv) In 1985, G's business use percentage is 80 percent and such use constitutes his total business/investment use. The maximum amount of G's 1985 recovery deduction is \$4,800 (*i.e.*, the lesser of $.80 \times \$6,000$ or $.80 \times .38 \times \$60,000$).

(v) In 1986, G's business use percentage is 45 percent and such use constitutes his total business/investment use. Under paragraph (b)(2) of this section, as a result of the decline in the business use percentage to 50 percent or less, the automobile ceases to be section 38 property in its entirety and G must recapture (pursuant to §§ 1.47-1(c) and 1.47-2(e)) the investment tax credit previously claimed. Since G's business use percentage in 1986 is not greater than 50 percent, under the provisions of paragraph (d) of this section, G must recompute (for recapture purposes) his recovery deductions for 1984 and 1985 using the straight line method over a 5-year recovery period (*i.e.*, earnings and profits life for 3-year recovery property using the half-year convention) to determine if any excess depreciation must be included in his 1986 taxable income. G's recomputed recovery deductions for 1984 and 1985 are \$3,200 (*i.e.*, the lesser of $.80 \times \$4,000$ or $.80 \times .10 \times \$60,000$), and \$4,800 (*i.e.*, the lesser of $.80 \times \$6,000$ or $.80 \times .20 \times \$60,000$), respectively. G does not have to recapture any excess depreciation since his recovery deductions for 1984 and 1985 computed using the straight line method over a 5-year recovery period are the same as the amounts actually claimed during those years.

(vi) Under paragraph (c)(2) of this section, for 1986 and succeeding taxable years G must compute his remaining recovery deductions using the straight line method over a 5-year recovery period beginning with the third recovery year. The maximum amount of G's 1986 recovery deduction is \$2,700 (*i.e.*, the lesser of $.45 \times \$6,000$ or $.45 \times .20 \times \$60,000$). For taxable years 1987 through 1993, G's business use percentage is 55 percent and such use constitutes his total business/investment use. G's 1987 and 1988 recovery deductions are \$3,300 per year (*i.e.*, the lesser of $.55 \times \$6,000$ or $.55 \times .20 \times \$60,000$). For taxable year 1989 (the last recovery year), G's recovery deduction is \$3,300 (*i.e.*, $.55 \times .10 \times \$60,000$ or $.55 \times \$6,000$).

(vii) As of the beginning of 1990, G will have claimed a total of \$20,600 of recovery deductions. Under § 1.280F-2T(c), G may expense his remaining unrecovered basis (up to a certain amount per year) in the first succeeding taxable year after the end of the recovery period and in taxable years thereafter. If G had used his automobile for 100 percent business use in taxable years 1984 through 1989, G could have claimed a recovery deduction of \$4,000 in 1984 and a recovery deduction of \$6,000 in each of those remain-

ing years. At the beginning of 1990, therefore, G's unrecovered basis (as defined in section 280F(d)(8)) is \$26,000 (*i.e.*, $\$60,000 - \$34,000$). The maximum amount of G's 1990 recovery deduction is \$3,300 (*i.e.*, $.55 \times \$6,000$). At the beginning of 1991, G's unrecovered basis is \$20,000 (*i.e.*, \$26,000 adjusted under section 280F(d)(2) and § 1.280F-4T(a) to account for the amount that would have been claimed in 1990 for 100 percent business/investment use during that year). The maximum amount of G's 1991 recovery deduction is \$3,300 (*i.e.*, $.55 \times \$6,000$) and his unrecovered basis as of the beginning of 1992 is \$14,000 (*i.e.*, $\$20,000 - \$6,000$). In 1992, G disposes of the automobile. G is not allowed a recovery deduction for 1992.

(98 Stat. 494, 26 U.S.C. 280F; 68A Stat. 917, 26 U.S.C. 7805)

[T.D. 7986, 49 FR 42707, Oct. 24, 1984; as amended by T.D. 8061, 50 FR 46038, Nov. 6, 1985]

§ 1.280F-4T Special rules for listed property (temporary).

(a) *Limitations on allowable recovery deductions in subsequent taxable years—*

(1) *Subsequent taxable years affected by reason of personal use in prior years.* For purposes of computing the amount of the recovery deduction for "listed property" for a subsequent taxable year, the amount that would have been allowable as a recovery deduction during an earlier taxable year if all of the use of the property was use described in section 168(c) is treated as the amount of the recovery deduction allowable during that earlier taxable year. The preceding sentence applies with respect to all earlier taxable years, beginning with the first taxable year in which some or all use of the "listed property" is use described in section 168(c). For example, on July 1, 1984, B purchases and places in service listed property (other than a passenger automobile) which is 5-year recovery property under section 168. B selects the use of the accelerated percentages under section 168. B's business/investment use of the property (all of which is qualified business use as defined in section 280F(d)(6)(B) and § 1.280F-6T(d)(2)) in 1984 through 1988 is 80 percent, 70 percent, 60 percent, and 55 percent, respectively, and B claims recovery deductions for those years based on those percentages. B's qualified business use for the property for 1989 and taxable years thereafter increases to

100 percent. Pursuant to this rule, B may not claim a recovery deduction in 1989 (or for any subsequent taxable year) for the increase in business use because there is no adjusted basis remaining to be recovered for cost recovery purposes after 1988.

(2) *Special rule for passenger automobiles.* In the case of a passenger automobile that is subject to the limitations of § 1.280F-2T, the amount treated as the amount that would have been allowable as a recovery deduction if all of the use of the automobile was use described in section 168(c) shall not exceed \$4,000 for the year the passenger automobile is placed in service and \$6,000 for each succeeding taxable year (adjusted to account for the automobile price inflation adjustment, if any, under section 280F(d)(7) and for short taxable year under § 1.280F-2T(i)(2)). See § 1.280F-3T(g). *Example 8.*

(b) *Treatment of improvements that qualify as capital expenditures—(1) In general.* In the case of any improvement that qualifies as a capital expenditure under section 263 made to any listed property other than a passenger automobile, the rules of this paragraph (b) apply. See § 1.280F-2T(f) for the treatment of an improvement made to a passenger automobile.

(2) *Investment tax credit allowed for the improvement.* If the improvement qualifies as an investment in new section 38 property under section 48(b) and § 1.48-2(b), the investment tax credit for that improvement is limited by paragraph (b)(1) of § 1.280F-3T, as applied to the item of listed property as a whole.

(3) *Cost recovery of the improvement.* The improvement is treated as a new item of recovery property. The method of cost recovery with respect to that improvement is limited by § 1.280F-3T(c), as applied to the item of listed property as a whole.

(98 Stat. 494, 26 U.S.C. 280F; 68A Stat. 917, 26 U.S.C. 7805)

[T.D. 7986, 49 FR 42710, Oct. 24, 1984]

§ 1.280F-5T Leased property (temporary).

(a) *In general.* Except as otherwise provided in this section, the limitation on cost recovery deductions and the investment tax credit provided in section 280F (a) and (b) and §§ 1.280F-2T and

1.280F-3T do not apply to any listed property leased or held for leasing by any person regularly engaged in the business of leasing listed property. If a person is not regularly engaged in the business of leasing listed property, the limitations on cost recovery deductions and the investment tax credit provided in section 280F and §§ 1.280F-2T and 1.280F-3T apply to such property leased or held for leasing by such person. The special rules for lessees set out in this section apply with respect to all lessees of listed property, even those whose lessors are not regularly engaged in the business of leasing listed property. For rules on determining inclusion amounts with respect to passenger automobiles, see paragraphs (d), (e) and (g) of this section, and see § 1.280F-7(a). For rules on determining inclusion amounts with respect to other listed property, see paragraphs (f) and (g) of this section, and see § 1.280F-7(b).

(b) *Section 48(d) election.* If a lessor elects under section 48(d) with respect to any listed property to treat the lessee as having acquired such property, the amount of the investment tax credit allowed to the lessee is subject to the limitation prescribed in § 1.280F-3T(b) (1) and (2). If a lessor elects under section 48(d) with respect to any passenger automobile to treat the lessee as having acquired such automobile, the amount of the investment tax credit allowed to the lessee is also subject to the limitations prescribed in § 1.280F-2T (a) and (i).

(c) *Regularly engaged in the business of leasing.* For purposes of paragraph (a) of this section, a person shall be considered regularly engaged in the business of leasing listed property only if contracts to lease such property are entered into with some frequency over a continuous period of time. The determination shall be made on the basis of the facts and circumstances in each case, taking into account the nature of the person's business in its entirety. Occasional or incidental leasing activity is insufficient. For example, a person leasing only one passenger automobile during a taxable year is not regularly engaged in the business of leasing automobiles. In addition, an employer that allows an employee to use