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 the employer's property for personal purposes and charges such employee for the use of the property is not regularly engaged in the business of leasing with respect to the property used by the employee.

(d) *Inclusions in income of lessees of passenger automobiles leased after June 18, 1984, and before April 3, 1985*—(1) *In general.* If a taxpayer leases a passenger automobile after June 18, 1984, but before April 3, 1985, for each taxable year (except the last taxable year) during which the taxpayer leases the automobile, the taxpayer must include in gross income an inclusion amount (prorated for the number of days of the lease term included in that taxable year), determined under this paragraph (d)(1), and multiplied by the business/investment use (as defined in § 1.280F–6T(d)(3)(i)) for the particular taxable year. The inclusion amount:

(i) Is 7.5 percent of the excess (if any) of the automobile's fair market value over $16,500 for each of the first three taxable years during which a passenger automobile is leased.

(ii) Is 6 percent of the excess (if any) of the automobile's fair market value over $22,500 for the fourth taxable year during which a passenger automobile is leased.

(iii) Is 6 percent of the excess (if any) of the automobile's fair market value over $28,500 for the fifth taxable year during which a passenger automobile is leased.

(iv) Is 6 percent of the excess (if any) of the automobile's fair market value over $34,500 for the sixth taxable year during which a passenger automobile is leased.

For the seventh and subsequent taxable years during which a passenger automobile is leased, the inclusion amount is 6 percent of the excess (if any) of the automobile's fair market value over the sum of (A) $16,500 and (B) $6,000 multiplied by the number of such taxable years in excess of three years. *See* paragraph (g)(2) of this section for the definition of fair market value.

(2) *Additional inclusion amount when less than predominant use in a qualified business use.* (i) If a passenger automobile, which is leased after June 18, 1984, and before April 3, 1985, is not used predominantly in a qualified business use during a taxable year, the lessee must add to gross income in the first taxable year that the automobile is not so used (and only in that year) an inclusion amount determined under this paragraph (d)(2). This inclusion amount is in addition to the amount required to be included in gross income under paragraph (d)(1) of this section.

(ii) If the fair market value (as defined in paragraph (h)(2) of this section) of the automobile is greater than $16,500, the inclusion amount is determined by multiplying the average of the business/investment use (as defined in paragraph (h)(3) of this section) by the appropriate dollar amount from the table in paragraph (d)(2)(iii) of this section. If the fair market value (as defined in paragraph (h)(2) of this section) of the automobile is $16,500 or less, the inclusion amount is the product of the fair market value of the automobile, the average business/investment use, and the applicable percentage from the table in paragraph (d)(2)(iv) of this section.

(iii) The dollar amount is determined under the following table:

If a passenger automobile is not predominantly used in a qualified business use during—	The dollar amount: Lease term (years) 1	2	3	4 or more
The first taxable year of the lease term	$350	$700	$1,350	$1,850
The second taxable year of the lease term	....	....	650	1,250
The third taxable year of the lease term	....	....	....	650

(iv) The applicable percentage is determined under the following table:

If a passenger automobile is not predominantly used in a qualified business use during—	The applicable percentage: Lease term (years) 1	2	3	4 or more
The first taxable year of the lease term	3.0	6.0	10.2	13.2

If a passenger automobile is not predominantly used in a qualified business use during—	The applicable percentage: Lease term (years)			
	1	2	3	4 or more
The second taxable year of the lease term	....	1.25	6.2	10.4
The third taxable year of the lease term	....	....	2.25	6.5
The fourth taxable year of the lease term	....	....	....	1.7
The fifth taxable year of the lease term	....	....	....	0.5

(e) *Inclusions in income of lessees of passenger automobiles leased after April 2, 1985, and before January 1, 1987*—(1) *In general.* For any passenger automobile that is leased after April 2, 1985, and before January 1, 1987, for each taxable year (except the last taxable year) during which the taxpayer leases the automobile, the taxpayer must include in gross income an inclusion amount determined under subparagraphs (2) through (5) of this paragraph (e). Additional inclusion amounts when a passenger automobile is not used predominantly in a qualified business use during a taxable year are determined under paragraph (e)(6) of this section. *See* paragraph (h)(2) of this section for the definition of fair market value.

(2) *Fair market value not greater than $50,000: years one through three.* For any passenger automobile that has a fair market value not greater than $50,000, the inclusion amount for each of the first three taxable years during which the automobile is leased is determined as follows:

(i) For the appropriate range of fair market values in the table in paragraph (e)(2)(iv) of this section, select the dollar amount from the column for the quarter of the taxable year in which the automobile is first used under the lease,

(ii) Prorate the dollar amount for the number of days of the lease term included in the taxable year, and

(iii) Multiply the prorated dollar amount by the business/investment use for the taxable year.

(iv) *Dollar amounts: Years 1–3:*

DOLLAR AMOUNTS: YEARS 1–3

Fair market value		Taxable year quarter			
Greater than—	But not greater than—	4th	3d	2d	1st
$11,250	$11,500	$8	$7	$6	$6
11,500	11,750	24	21	19	17
11,750	12,000	40	35	32	29
12,000	12,250	56	49	44	40
12,250	12,500	72	64	57	52
12,500	12,750	88	78	70	63
12,750	13,000	104	92	83	75
13,000	13,250	120	106	95	86
13,250	13,500	144	128	115	104
13,500	13,750	172	153	137	124
13,750	14,000	200	177	159	145
14,000	14,250	228	202	182	165
14,250	14,500	256	227	204	185
14,500	14,750	284	252	226	206
14,750	15,000	312	277	249	226
15,000	15,250	340	302	271	246
15,250	15,500	369	327	293	266
15,500	15,750	397	352	316	287
15,750	16,000	425	377	338	307
16,000	16,250	453	402	360	327
16,250	16,500	481	426	383	348
16,500	16,750	509	451	405	368
16,750	17,000	537	476	428	388
17,000	17,500	579	514	461	419
17,500	18,000	635	563	506	459
18,000	18,500	691	613	550	500
18,500	19,000	748	663	595	541
19,000	19,500	804	713	640	581
19,500	20,000	860	763	685	622
20,000	20,500	916	812	729	662
20,500	21,000	972	862	774	703
21,000	21,500	1,028	912	819	744
21,500	22,000	1,084	962	863	784
22,000	23,000	1,169	1,036	930	845
23,000	24,000	1,281	1,136	1,020	926
24,000	25,000	1,393	1,236	1,109	1,007
25,000	26,000	1,506	1,335	1,199	1,089
26,000	27,000	1,618	1,435	1,288	1,170
27,000	28,000	1,730	1,534	1,377	1,251
28,000	29,000	1,842	1,634	1,467	1,332
29,000	30,000	1,955	1,734	1,556	1,413
30,000	31,000	2,067	1,833	1,646	1,495
31,000	32,000	2,179	1,933	1,735	1,576
32,000	33,000	2,292	2,032	1,824	1,657
33,000	34,000	2,404	2,132	1,914	1,738
34,000	35,000	2,516	2,232	2,003	1,819
35,000	36,000	2,629	2,331	2,093	1,901
36,000	37,000	2,741	2,431	2,182	1,982
37,000	38,000	2,853	2,530	2,271	2,063
38,000	39,000	2,965	2,630	2,361	2,144
39,000	40,000	3,078	2,730	2,450	2,225
40,000	41,000	3,190	2,829	2,540	2,307
41,000	42,000	3,302	2,929	2,629	2,388
42,000	43,000	3,415	3,028	2,718	2,469
43,000	44,000	3,527	3,128	2,808	2,550
44,000	45,000	3,639	3,228	2,897	2,631
45,000	46,000	3,752	3,327	2,987	2,713
46,000	47,000	3,864	3,427	3,076	2,794
47,000	48,000	3,976	3,526	3,165	2,875
48,000	49,000	4,088	3,626	3,255	2,956
49,000	50,000	4,201	3,726	3,344	3,037

(3) *Fair market value not greater than $50,000: years four through six.* For any

passenger automobile that has a fair market value greater than $18,000, but not greater than $50,000, the inclusion amount for the fourth, fifth, and sixth taxable years during which the automobile is leased is determined as follows:

(i) For the appropriate range of fair market values in the table in paragraph (e)(3)(iv) of this section, select the dollar amount from the column for the taxable year in which the automobile is used under the lease,

(ii) Prorate the dollar amount for the number of days of the lease term included in the taxable year, and

(iii) Multiply this dollar amount by the business/investment use for the taxable year.

(iv) Dollar Amounts: Years 4–6:

DOLLAR AMOUNTS: YEARS 4–6

Fair market value		Year		
Greater than—	But not greater than—	4	5	6
$18,000	$18,500	$15	....	....
18,500	19,000	45	....	....
19,000	19,500	75	....	....
19,500	20,000	105	....	....
20,000	20,500	135	....	....
20,500	21,000	165	....	....
21,000	21,500	195	....	....
21,500	22,000	225	....	....
22,000	23,000	270	....	....
23,000	24,000	330	$42	....
24,000	25,000	390	102	....
25,000	26,000	450	162	....
26,000	27,000	510	222	....
27,000	28,000	570	282	....
28,000	29,000	630	342	$54
29,000	30,000	690	402	114
30,000	31,000	750	462	174
31,000	32,000	810	522	234
32,000	33,000	870	582	294
33,000	34,000	930	642	354
34,000	35,000	990	702	414
35,000	36,000	1,050	762	474
36,000	37,000	1,110	822	534
37,000	38,000	1,170	882	594
38,000	39,000	1,230	942	654
39,000	40,000	1,290	1,002	714
40,000	41,000	1,350	1,062	774
41,000	42,000	1,410	1,122	834
42,000	43,000	1,470	1,182	894
43,000	44,000	1,530	1,242	954
44,000	45,000	1,590	1,302	1,014
45,000	46,000	1,650	1,362	1,074
46,000	47,000	1,710	1,422	1,134
47,000	48,000	1,770	1,482	1,194
48,000	49,000	1,830	1,542	1,254
49,000	50,000	11,890	1,602	1,314

(4) *Fair market value greater than $50,000: years one through six.* (i) For any passenger automobile that has a fair market value greater than $50,000, the inclusion amount for the first six taxable years during which the automobile is leased is determined as follows:

(A) Determine the dollar amount by using the appropriate formula in paragraph (e)(4)(ii) of this section,

(B) Prorate the dollar amount for the number of days of the lease term included in the taxable year, and

(C) Multiply this dollar amount by the business/investment use for the taxable year.

(ii) The dollar amount is computed as follows:

(A) If the automobile is first used under the lease in the fourth quarter of a taxable year, the dollar amount for each of the first three taxable years during which the automobile is leased is the sum of—

(*1*) $124, and

(*2*) 11 percent of the excess of the automobile's fair market value over $13,200.

(B) If the automobile is first used under the lease in the third quarter of a taxable year, the dollar amount for each of the first three taxable years during which the automobile is leased is the sum of—

(*1*) $110, and

(*2*) 10 percent of the excess of the automobile's fair market value over $13,200.

(C) If the automobile is first used under the lease in the second quarter of a taxable year, the dollar amount for each of the first three taxable years during which the automobile is leased is the sum of—

(*1*) $100, and

(*2*) 9 percent of the excess of the automobile's fair market value over $13,200.

(D) If the automobile is first used under the lease in the first quarter of a taxable year, the dollar amount for each of the first three taxable years during which the automobile is leased is the sum of—

(*1*) $90, and

(*2*) 8 percent of the excess of the automobile's fair market value over $13,200.

(E) For the fourth taxable year during which the automobile is leased, the dollar amount is 6 percent of the excess of the automobile's fair market value over $18,000.

(F) For the fifth taxable year during which the automobile is leased, the dollar amount is 6 percent of the excess of the automobile's fair market value over $22,800.

(G) For the sixth taxable year during which the automobile is leased, the dollar amount is 6 percent of the excess of the automobile's fair market value over $27,600.

(5) *Seventh and subsequent taxable years.* (i) For any passenger automobile that has a fair market value less than or equal to $32,400, the inclusion amount for the seventh and subsequent taxable years during which the automobile is leased is zero.

(ii) For any passenger automobile that has a fair market value greater than $32,400, the inclusion amount for the seventh and subsequent taxable years during which the automobile is leased is 6 percent of—

(A) The excess (if any) of the automobile's fair market value, over

(B) The sum of—

(*1*) $13,200 and

(*2*) $4,800 multiplied by the number of taxable years in excess of three years.

(6) *Additional inclusion amount when less than predominant use in a qualified business use.* (i) If a passenger automobile, which is leased after April 2, 1985, and before January 1, 1987, is not predominantly used in a qualified business use during a taxable year, the lessee must add to gross income in the first taxable year that the automobile is not so used (and only in that year) an inclusion amount determined under this paragraph (e)(6). This inclusion amount is in addition to the amount required to be included in gross income under paragraph (e) (2), (3), (4), and (5) of this section.

(ii) If the fair market value (as defined in paragraph (h)(2) of this section) of the automobile is greater than $11,250, the inclusion amount is determined by multiplying the average of the business/investment use (as defined in paragraph (h)(3) of this section) by the appropriate dollar amount from the table in paragraph (e)(6)(iii) of this section. If the fair market value of the automobile is $11,250 or less, the inclusion amount is the product of the fair market value of the automobile, the average business/investment use, and the applicable percentage from the table in paragraph (e)(6)(iv) of this section.

(iii) The dollar amount is determined under the following table:

If a passenger automobile is not predominantly used in a qualified business use during—	The dollar amount is: Lease term (years)—			
	1	2	3	4 or more
The first taxable year of the lease term	$350	$700	$1,150	$1,500
The second taxable year of the lease term		150	700	1,200
The third taxable year of the lease term			250	750

(iv) The applicable percentage is determined under the following table:

If a passenger automobile is not predominantly used in a qualified business use during—	The applicable percentage: Lease term (years)—			
	1	2	3	4 or more
The first taxable year of the lease term	3.0	6.0	10.2	13.2
The second taxable year of the lease term		1.25	6.2	10.4
The third taxable year of the lease term			2.25	6.5
The fourth taxable year of the lease term				1.7
The fifth taxable year of the lease term				0.5

(f) *Inclusions in income of lessees of listed property other than passenger automobiles*—(1) *In general.* If listed property other than a passenger automobile is not used predominantly in a qualified business use in any taxable year in which such property is leased, the lessee must add an inclusion amount to gross income in the first taxable year in which such property is not so predominantly used (and only in that year). This inclusion amount is determined under paragraph (f)(2) of this section for property leased after June 18, 1984, and before January 1, 1987. The inclusion amount is determined under

§ 1.280F–7(b) for property leased after December 31, 1986.

(2) *Inclusion amount for property leased after June 18, 1984, and before January 1, 1987.* The inclusion amount for property leased after June 18, 1984, and before January 1, 1987, is the product of the following amounts:

(i) The fair market value (as defined in paragraph (h)(2) of this section) of the property,

(ii) The average business/investment use (as defined in paragraph (h)(3) of this section), and

(iii) The applicable percentage (as determined under paragraph (f)(3) of this section).

(3) *Applicable percentages.* The applicable percentages for 3-, 5-, and 10-year recovery property are determined according to the following tables:

(i) In the case of 3-year recovery property:

Taxable year during lease term	For the first taxable year in which the business use percentage is 50 percent or less, the applicable percentage for such taxable year is—					
	1	2	3	4	5	6 and later
For a lease term of:						
1 year	3.0	....	....	....	....	....
2 years	6.0	1.25	....	....	....	....
3 years	10.2	6.2	2.25	....	....	....
4 or more years	13.2	10.4	6.5	1.7	0.5	0

(ii) In the case of 5-year recovery property:

Taxable year during lease term	For the first taxable year in which the business use percentage is 50 percent or less, the applicable percentage for such taxable year is—											
	1	2	3	4	5	6	7	8	9	10	11	12
For a lease term of:												
1 year	2.7	....	....	....	....	....	....	....	....	....	....	....
2 years	5.3	1.2	....	....	....	....	....	....	....	....	....	....
3 years	9.9	6.1	1.6	....	....	....	....	....	....	....	....	....
4 years	14.4	11.1	7.3	2.3	....	....	....	....	....	....	....	....
5 years	18.4	15.7	12.4	8.2	3.0	....	....	....	....	....	....	....
6 or more years	21.8	19.6	16.7	13.5	9.6	5.25	4.4	3.6	2.8	1.8	1.0	0

(iii) In the case of 10-year recovery property:

Taxable year during lease term	For the first taxable year in which the business use percentage is 50 pct or less, the applicable percentage for such taxable year is—														
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
For a lease term of:															
1 year	2.5	....	....	....	....	....	....	....	....	....	....	....	....	....	....
2 years	5.1	.6	....	....	....	....	....	....	....	....	....	....	....	....	....
3 years	9.8	5.6	1.0	....	....	....	....	....	....	....	....	....	....	....	....
4 years	14.0	10.3	6.2	1.4	....	....	....	....	....	....	....	....	....	....	....
5 years	17.9	14.5	10.9	6.7	1.8	....	....	....	....	....	....	....	....	....	....
6 years	21.3	18.3	15.1	11.4	7.1	2.1	....	....	....	....	....	....	....	....	....
7 years	21.9	19.0	15.9	12.4	8.4	3.9	2.4	....	....	....	....	....	....	....	....
8 years	22.4	19.6	16.7	13.4	9.7	5.5	4.5	2.7	....	....	....	....	....	....	....
9 years	22.9	20.2	17.4	14.3	10.9	7.0	6.4	5.1	3.0	....	....	....	....	....	....
10 years	23.5	20.9	18.2	15.2	11.9	8.3	8.1	7.2	5.7	3.3	....	....	....	....	....
11 years	23.9	21.4	18.8	16.0	12.8	9.3	9.4	8.9	7.7	5.9	3.1	....	....	....	....
12 years	24.3	21.9	19.3	16.5	13.4	10.1	10.3	10.0	9.3	7.8	5.5	2.9	....	....	....
13 years	24.7	22.2	19.7	16.9	14.0	10.7	11.1	11.0	10.4	9.2	7.4	5.2	2.7	....	....
14 years	25.0	22.5	20.1	17.3	14.4	11.1	11.6	11.7	11.3	10.3	8.8	6.9	4.8	2.5	....
15 or more years	25.3	22.8	20.3	17.5	14.7	11.5	12.0	12.2	11.9	11.1	9.8	8.2	6.5	4.5	2.3

(g) *Special rules applicable to inclusions in income of lessees.* This paragraph (g) applies to the inclusions in gross income of lessees prescribed under paragraphs (d)(2), (e)(6), or (f) of this section, or prescribed under § 1.280F–7(b).

(1) *Lease term commences within 9 months of the end of lessee's taxable year.* If:

(i) The lease term commences within 9 months before the close of the lessee's taxable year,

(ii) The property is not predominantly used in a qualified business use during that portion of the taxable year, and

(iii) The lease term continues into the lessee's subsequent taxable year, then the inclusion amount is added to gross income in the lessee's subsequent taxable year and the amount is determined by taking into account the average of the business/investment use for both taxable years and the applicable percentage for the taxable year in which the lease term begins (or, in the case of a passenger automobile with a fair market value greater than $16,500, the appropriate dollar amount for the taxable year in which the lease term begins).

(2) *Lease term less than one year.* If the lease term is less than one year, the amount which must be added to gross income is an amount that bears the same ratio to the inclusion amount determined before the application of this paragraph (g)(2) as the number of days in the lease term bears to 365.

(3) *Maximum inclusion amount.* The inclusion amount shall not exceed the sum of all deductible amounts in connection with the use of the listed property properly allocable to the lessee's taxable year in which the inclusion amount must be added to gross income.

(h) *Definitions*—(1) *Lease term.* In determining the term of any lease for purposes of this section, the rules of section 168(i)(3)(A) shall apply.

(2) *Fair market value.* For purposes of this section, the fair market value of listed property is such value on the first day of the lease term. If the capitalized cost of listed property is specified in the lease agreement, the lessee shall treat such amount as the fair market value of the property.

(3) *Average business/investment use.* For purposes of this section, the average business/investment use of any listed property is the average of the business/investment use for the first taxable year in which the business use percentage is 50 percent or less and all preceding taxable years in which such property is leased. See paragraph (g)(1) of this section for special rule when lease term commences within 9 months before the end of the lessee's taxable year.

(i) *Examples.* This section may be illustrated by the following examples.

Example 1. On January 1, 1985, A, a calendar year taxpayer, leases and places in service a passenger automobile with a fair market value of $55,000. The lease is to be for a period of four years. During taxable years 1985 and 1986, A uses the automobile exclusively in a trade or business. Under paragraph (d)(1) of this section, A must include in gross income in both 1985 and 1986, $2,887.50 (*i.e.,* ($55,000 − $16,500)×7.5%).

Example 2. The facts are the same as in *Example 1,* and in addition, A uses the automobile only 45 percent in a trade or business during 1987. Under paragraph (d)(1) of this section for 1987, A must include in gross income $1,299.38 (*i.e.,* ($55,000 − $16,500)×7.5%×45%). In addition, under paragraph (d)(2) of this section, A must also include in gross income in 1987, $530.85 (*i.e.,* $650×81.67%, average business/investment use).

Example 3. On August 1, 1985, B, a calendar year taxpayer, leases and places in service an item of listed property which is 5-year recovery property, with a fair market value of $10,000. The lease is to be for a period of 5 years. B's qualified business use of the property is 40 percent in 1985, 100 percent in 1986, and 90 percent in 1987. Under paragraphs (f)(1) and (g)(1) of this section, before the application of paragraph (g)(3) of this section, B must include in gross income in 1986, $1,288.00 (*i.e.,* $10,000×70%×18.4%, the product of the fair market value, the average business use for both taxable years, and the applicable percentage for year one from the table in paragraph (f)(3)(iii) of this section).

Example 4. On October 1, 1985, C, a calendar year taxpayer, leases and places in service an item of listed property which is 3-year recovery property with a fair market value of $15,000. The lease term is 6 months (ending March 31, 1986) during which C uses the property 45 percent in a trade or business, the only business/investment use. Under paragraphs (f)(1) and (g) (1) and (2) of this section, before the application of paragraph (g)(3) of this section, C must include in gross income in 1986, $100.97 (*i.e.,* $15,000×45%×3%×182/365, the product of the fair market value, the average business use for both taxable years, and the applicable percentage for year one from the table in paragraph (f)(3)(i) of this section, prorated for the length of the lease term).

Example 5. On July 15, 1985, A, a calendar year taxpayer, leases and places in service a passenger automobile with a fair market value of $45,300. The lease is for a period of 5 years, during which A uses the automobile exclusively in a trade or business. Under paragraph (e) (2) and (3) of this section, for taxable years 1985 through 1989, A must include the following amounts in gross income:

Taxable year	Dollar amount	Proration	Business use (percent)	Inclusion
1985	$3,327	170/365	100	$1,550
1986	3,327	365/365	100	3,327
1987	3,327	365/365	100	3,327
1988	1,650	366/366	100	1,650
1989	1,362	365/365	100	1,362

Example 6. The facts are the same as in *Example 1*, except that A uses the automobile only 45 percent in a trade or business during 1987 through 1990. Under §1.280F–5T(e)(6), A must include in gross income for taxable year 1987, the first taxable year in which the automobile is not used predominantly in a trade or business, an additional amount based on the average business/investment use for taxable years 1985 through 1987. For taxable years 1985 through 1989, A must include the following amounts in gross income:

Taxable year	Dollar amount	Proration	Business use (percent)	Inclusion
1985	$3,327	170/365	100	$1,550
1986	3,327	365/365	100	3,327
1987	3,327	365/365	45	1,497
	750	....	81.67	612
1988	1,650	366/366	45	743
1989	1,362	365/365	45	613

(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; as amended by T.D. 8061, 50 FR 46038, Nov. 6, 1985; T.D. 8218, 53 FR 29881, Aug. 9, 1988; T.D. 8473, 58 FR 19060, Apr. 12, 1993]

§ 1.280F–6T Special rules and definitions (temporary).

(a) *Deductions of employee*—(1) *In general.* Employee use of listed property shall not be treated as business/investment use (as defined in paragraph (d)(3) of this section) for purposes of determining the amount of any recovery deduction allowable (including any deduction under section 179) to the employee unless that use is for the convenience of the employer and required as a condition of employment.

(2) *''Convenience of the employer'' and ''condition of employment'' requirements*—(i) *In general.* The terms *convenience of the employer* and *condition of employment* generally have the same meaning for purposes of section 280F as they have for purposes of section 119 (relating to the exclusion from gross income for meals or lodging furnished for the convenience of the employer).

(ii) *''Condition of employment.''* In order to satisfy the ''condition of employment'' requirement, the use of the property must be required in order for the employee to perform the duties of his or her employment properly. Whether the use of the property is so required depends on all the facts and circumstances. Thus, the employer need not explicitly require the employee to use the property. Similarly, a mere statement by the employer that the use of the property is a condition of employment is not sufficient.

(iii) *''Convenience of employer''.* [Reserved]

(3) *Employee use.* For purposes of this section, the term *employee use* means any use in connection with the performance of services by the employee as an employee.

(4) *Examples.* The principles of this paragraph are illustrated in the following examples:

Example 1. A is employed as a courier with W, which provides local courier services. A owns and uses a motorcycle to deliver packages to downtown offices for W. W does not provide delivery vehicles and explicitly requires all of its couriers to own a car or motorcycle for use in their employment with the company. A's use of the motorcycle for delivery purposes is for the convenience of W and is required as a condition of employment.

Example 2. B is an inspector for X, a construction company with many construction sites in the local area. B is required to travel to the various construction sites on a regular basis; B uses her automobile to make these trips. Although X does not furnish B an automobile, X does not explicitly require B to use here own automobile. However, X reimburses B for any costs she incurs in traveling to the various job sites. B's use of here automobile in here employment is for the