

Final Regulations Significant Provisions

Materials and Supplies

The threshold for deducting materials and supplies is \$200 per item. Materials and supplies include many items that are expected to be consumed in 12 months or less, or that have an economic useful life of 12 months or less.

De Minimis Safe Harbor

Taxpayers with "applicable financial statements" (generally audited financial statements) can apply the safe harbor to deduct property that costs \$5,000 or less per invoice or per item. The regulations extend the safe harbor to taxpayers without an "applicable financial statement", but only for property that costs \$500 or less per invoice or per item.

Taxpayers must have written book policies in place at the beginning of their tax year to use this safe harbor. This puts a premium on taxpayers developing a policy by the beginning of 2014. Please note the written policy is not limited to the safe harbor thresholds; however, only purchases below the thresholds will be covered by the safe harbor.

The regulations provide that the de minimis safe harbor is an irrevocable election made annually. If elected, the safe harbor must also be applied to amounts paid for materials and supplies.

Routine Maintenance

For maintenance to be considered routine, it must be reasonably expected to occur more than once during the class life of the property. For real property, the regulations limit the measuring period to 10 years, rather than the 40-year class life. We recommend documenting planned routine maintenance expenditures upon placing property in service.

Improvements

Taxpayers must determine whether amounts paid constitute an improvement to a unit of property. Amounts paid are considered an improvement if the result is a betterment, a restoration, or an adaptation to a new or different use of the unit of property. For real property, the unit of property rules apply to eight separate building systems, as well as to the overall structure.

Small Taxpayer Safe Harbor - Buildings

For buildings with an unadjusted basis of \$1 million or less, a "small taxpayer" may elect to deduct amounts paid for repairs, maintenance, improvements and similar activities if the total amount paid does not exceed the lesser of \$10,000 or 2% of the unadjusted basis of the property. A small taxpayer is defined as having average annual gross receipts of \$10 million or less.

Capitalization Election

The final regulations allow taxpayers to capitalize repair and maintenance costs if they are capitalized for financial accounting purposes.