

This subsection shall not apply in determining adjusted basis for purposes of section 437(c) of the Internal Revenue Code of 1939. This subsection shall apply only with respect to taxable years beginning on or after the changeover date and before the taxpayer's 1956 adjustment date.

(f) *Equity invested capital, etc.* If an election is made under this section, then (notwithstanding the terms and conditions prescribed by the Commissioner in connection with the changeover):

(1) *Equity invested capital.* In determining equity invested capital under sections 458 and 718 of the Internal Revenue Code of 1939, accumulated earnings and profits as of the changeover date, and as of the beginning of each taxable year thereafter, shall be reduced by the depreciation sustained before March 1, 1913, as computed under subsection (d)(1)(B); and

(2) *Definition of equity capital.* In determining the adjusted basis of assets for the purpose of section 437(c) of the Internal Revenue Code of 1939 (and in addition to any other adjustments required by such Code), the basis shall be reduced by depreciation sustained before March 1, 1913 (as computed under subsection (d)), together with any depreciation allowable under subsection (e)(2) for any period before the year for which the excess profits credit is being computed.

(g) *Definitions.* For purposes of this section:

(1) *Depreciation.* The term "depreciation" means exhaustion, wear and tear, and obsolescence.

(2) *Changeover.* The term "changeover" means a change from the retirement to the straight line method of computing the allowance of deductions for depreciation.

(3) *Changeover date.* The term "changeover date" means the first day of the first taxable year for which the changeover was effective.

(4) *1956 adjustment date.* The term "1956 adjustment date" means, in the case of any taxpayer, the first day of his first taxable year beginning after December 31, 1955.

(5) *Predecessor.* The term "predecessor" means any person from whom property of a kind or class to which this section refers was acquired, if the basis of such property is determined by reference to its basis in the hands of such person. Where a series of transfers of property has occurred and where in each instance the basis of the property was determined by reference to its basis in the hands of the prior holder, the term includes each such prior holder.

(6) The term "Secretary" means the Secretary of the Treasury or his delegate.

(7) The term "Commissioner" means the Commissioner of Internal Revenue.

**§ 1.9001-1 Change from retirement to straight-line method of computing depreciation.**

(a) *In general.* The Retirement-Straight Line Adjustment Act of 1958 (72 Stat. 1669), which is contained in section 94 of the Technical Amendments Act of 1958, approved September 2, 1958, provides various adjustments to be made by certain railroads which changed from the retirement to the straight-line method of computing the allowance of deductions for the depreciation of those roadway assets which are defined in this section as retirement-straight line property. The adjustments are available to all eligible taxpayers who make an irrevocable election to have the provisions of the Retirement-Straight Line Adjustment Act of 1958 apply. This election shall be made at the time and in the manner prescribed by this section. If an election is made in accordance with this section, then the provisions of the Act and of §§ 1.9001 to 1.9001-4, inclusive, shall apply. An election made in accordance with this section shall not be considered a change in accounting method for purposes of section 481 of the Code.

(b) *Making of election.* (1) Subsection (b) of the Act provides that any taxpayer who held retirement-straight line property on its 1956 adjustment date may elect to have the provisions of the Act apply. The election shall be irrevocable and shall apply to all retirement-straight line property, including such property for periods when held by predecessors of the taxpayer.

(2) An election may be made in accordance with the provisions of this section even though the taxpayer has, at the time of election, litigated some or all of the issues covered by the provisions of the Act and has received from the courts a determination which is less favorable to the taxpayer than the treatment provided by the Act. Once an election has been made in accordance with the provisions of this section, the taxpayer may not receive the benefit of more favorable treatment, as a result of litigation, than that provided by the Act on the issues involved.

(3) The election to have the provisions of the Act apply shall be made by

filing a statement to that effect, on or before January 11, 1960, with the district director for the internal revenue district in which the taxpayer's income tax return for its first taxable year beginning after December 31, 1955, was filed. A copy of this statement shall be filed with any amended return, or claim for refund, made under the Act.

(c) *Definitions.* For purposes of the Act and §§1.9001 to 1.9001-4, inclusive:

(1) *The Act.* The term *the Act* means the Retirement-Straight Line Adjustment Act of 1958, as contained in section 94 of the Technical Amendments Act of 1958 (72 Stat. 1669).

(2) *Commissioner.* The term *Commissioner* means the Commissioner of Internal Revenue.

(3) *Retirement-straight line property.* The term *retirement-straight line property* means any property of a kind or class with respect to which the taxpayer (or a predecessor of the taxpayer) changed, pursuant to the terms and conditions prescribed for it by the Commissioner, from the retirement to the straight-line method of computing the allowance for any taxable year beginning after December 31, 1940, and before January 1, 1956, of deductions for depreciation. The term does not include any specific property which has always been properly accounted for in accordance with the straight-line method of computing the depreciation allowances or which, under the terms-letter, was permitted or required to be accounted for under the retirement method.

(4) *Depreciation.* The term *depreciation* means exhaustion, wear and tear, and obsolescence.

(5) *Predecessor.* The term *predecessor* means any person from whom property of a kind or class to which the Act refers was acquired, if the basis of such property is determined by reference to its basis in the hands of such person. Where a series of transfers of property has occurred and where in each instance the basis of the property was determined by reference to its basis in the hands of the prior holder, the term includes each such prior holder.

(6) *Changeover.* The term *changeover* means a change from the retirement to the straight-line method of computing

the allowance of deductions for depreciation.

(7) *Changeover date.* The term *changeover date* means the first day of the first taxable year for which the changeover was effective.

(8) *1956 adjustment date.* The term *1956 adjustment date* means, in the case of any taxpayer, the first day of its first taxable year beginning after December 31, 1955.

(9) *Terms-letter.* The term *terms-letter* means the terms and conditions prescribed by the Commissioner in connection with the changeover.

(10) *Terms-letter reserve.* The term *terms-letter reserve* means the reserve for depreciation prescribed by the Commissioner in connection with the changeover.

(11) *Depreciation sustained before March 1, 1913.* The term *depreciation sustained before March 1, 1913* may be construed to mean, to the extent that it is impossible to determine the actual amount of such depreciation from the books and records, that amount which is obtained by (i) deducting the "cost of reproduction new less depreciation" from the "cost of reproduction new", as ascertained as of the valuation date by the Interstate Commerce Commission under the provisions of section 19a of part I of the Interstate Commerce Act (49 U.S.C. 19a), and then (ii) making such retroactive adjustments to the remainder as are required, in the opinion of the Commissioner of Internal Revenue, to properly reflect the depreciation sustained before March 1, 1913. For this purpose, any retirement-straight line property held on March 1, 1913, and retired on or before the valuation date shall be taken into account.

**§1.9001-2 Basis adjustments for taxable years beginning on or after 1956 adjustment date.**

(a) *In general.* Subsection (d) of the Act provides the basis adjustments required to be made by the taxpayer as of the 1956 adjustment date in respect of all periods before that date in order to determine the adjusted basis of all retirement-straight line property held by the taxpayer on that date. This adjusted basis on the 1956 adjustment date shall be used by the taxpayer for all purposes of the Code for any taxable