

claim on a federal tax return for any taxable year ending on or before September 8, 2003, the additional first year depreciation deduction allowable for the remaining carryover basis of qualified property or 50-percent bonus depreciation property acquired in a transaction described in section 1031(a), (b), or (c), or in a transaction to which section 1033 applies and the taxpayer did not make an election not to deduct the additional first year depreciation deduction for the class of property applicable to the remaining carryover basis, the taxpayer may claim the additional first year depreciation deduction allowable for the remaining carryover basis in accordance with paragraph (f)(5) of this section either:

(A) By filing an amended return (or a qualified amended return, if applicable (for further guidance, see Rev. Proc. 94-69 (1994-2 C.B. 804) and § 601.601(d)(2)(ii)(b) of this chapter)) on or before December 31, 2003, for the year of replacement and any affected subsequent taxable year; or,

(B) By following the applicable administrative procedures issued under § 1.446-1(e)(3)(ii) for obtaining the Commissioner's automatic consent to a change in method of accounting (for further guidance, see Rev. Proc. 2002-9 (2002-1 C.B. 327) and § 601.601(d)(2)(ii)(b) of this chapter).

[T.D. 9091, 68 FR 52992, Sept. 8, 2003; 68 FR 63734, Nov. 10, 2003, as amended by T.D. 9115, 69 FR 9546, Mar. 1, 2004]

§ 1.168A-1 Amortization of emergency facilities; general rule.

(a) A person (including an estate or trust (see section 642(f) and § 1.642(f)-1) and a partnership (see section 703 and § 1.703-1)) is entitled, by election, to a deduction with respect to the amortization of the adjusted basis (for determining gain) of an emergency facility, such amortization to be based on a period of 60 months. As to the adjusted basis of an emergency facility, see § 1.168A-5. The taxpayer may elect to begin the 60-month amortization period with (1) the month following the month in which such facility was completed or acquired, or (2) the taxable year succeeding that in which such facility was completed or acquired (see § 1.168A-2). The date on which, or the month with-

in which, an emergency facility is completed or acquired is to be determined upon the facts in the particular case. Ordinarily, the taxpayer is in possession of all the facts and, therefore, in a position to ascertain such date. A statement of the date ascertained by the taxpayer, together with a statement of the pertinent facts relied upon, should be filed with the taxpayer's election to take amortization deductions with respect to such facility.

(b) Generally, an amortization deduction will not be allowed with respect to an emergency facility for any taxable year unless such facility has been certified before the date of filing of the taxpayer's income tax return for such taxable year. However, this limitation does not apply in the case of a certificate made after August 22, 1957, for an emergency facility to provide primary processing for uranium ore or uranium concentrate under a program of the Atomic Energy Commission for the development of any sources of uranium ore or uranium concentrate, if application for such certificate was filed either (1) before September 2, 1958, and before the expiration of six months after the beginning of construction, reconstruction, erection, or installation or the date of acquisition of the facility, or (2) after September 1, 1958, and on or before December 2, 1958.

(c) In general, with respect to each month of the 60-month period which falls within the taxable year, the amortization deduction is an amount equal to the adjusted basis of the facility at the end of each month divided by the number of months (including the particular month for which the deduction is computed) remaining in the 60-month period. The adjusted basis at the end of any month shall be computed without regard to the amortization deduction for such month. The total amortization deduction with respect to an emergency facility for a particular taxable year is the sum of the amortization deductions allowable for each month of the 60-month period which falls within such taxable year. The amortization deduction taken for any month is in lieu of the deduction for depreciation which would otherwise be allowable under section 167. See,

however, §1.168A-6, relating to depreciation with respect to any portion of the emergency facility not subject to amortization.

(d) This section may be illustrated by the following examples:

Example (1). On July 1, 1954, the X Corporation, which makes its income tax returns on the calendar year basis, begins the construction of an emergency facility which is completed on September 30, 1954, at a cost of \$240,000. The certificate covers the entire construction. The X Corporation elects to take amortization deductions with respect to the facility and to begin the 60-month amortization period with October, the month following its completion. The adjusted basis of the facility at the end of October is \$240,000. The allowable amortization deduction with respect to such facility for the taxable year 1954 is \$12,000, computed as follows:

Monthly amortization deductions:	
October: \$240,000 divided by 60	\$4,000
November: \$236,000 (\$240,000 minus \$4,000) divided by 59	4,000
December: \$232,000 (\$236,000 minus \$4,000) divided by 58	4,000
Total amortization deduction for 1954	12,000

Example (2). The Y Corporation, which makes its income tax returns on the basis of a fiscal year ending November 30, purchases an emergency facility (No. 1) on July 29, 1955. On June 15, 1955, it begins the construction of an emergency facility (No. 2) which is completed on August 2, 1955. The entire acquisition and construction of such facilities are covered by the certificate. The Y Corporation elects to take amortization deductions with respect to both facilities and to begin the 60-month amortization period in each case with the month following the month of acquisition or completion. At the end of the first month of the amortization period the adjusted basis of facility No. 1 is \$300,000 and the adjusted basis of facility No. 2 is \$54,000. In September 1955, facility No. 1 is damaged by fire, as a result of which its adjusted basis is properly reduced by \$25,370. The allowable amortization deduction with respect to such facilities for the taxable year ending November 30, 1955, is \$21,410, computed as follows:

<i>Facility No. 1</i>	
Monthly amortization deductions:	
August: \$300,000 divided by 60	\$5,000
September: \$269,630 (\$300,000 minus \$5,000 and \$25,370) divided by 59	4,570
October: \$265,060 (\$269,630 minus \$4,570) divided by 58	4,570
November: \$260,490 (\$265,060 minus \$4,570) divided by 57	4,570
Amortization deduction for 1955	18,710

<i>Facility No. 2</i>	
Monthly amortization deductions:	
September: \$54,000 divided by 60	\$900
October: \$53,100 divided by 59	900
November: \$52,200 divided by 58	900
Amortization deduction for 1955	2,700
Total amortization deduction for 1955	21,410

Example (3). On June 15, 1954, the Z Corporation, which makes its income tax returns on the calendar year basis, completes the construction of an emergency facility at a cost of \$110,000. In its income tax return for 1954, filed on March 15, 1955, the Z Corporation elects to take amortization deductions with respect to such facility and to begin the 60-month amortization period with July 1954, the month following its completion. No certificate with respect to such facility is made until April 10, 1955, and therefore no amortization deduction with respect to such facility is allowable for any month in the taxable year 1954. The Z Corporation is entitled, however, to take a deduction for depreciation of such facility for the taxable year 1954, such deduction being assumed, for the purposes of this example, to be \$2,000. Accordingly, the adjusted basis of such facility at the end of January 1955 (without regard to the amortization deduction for such month) is \$108,000 (\$110,000 minus \$2,000). For the taxable year 1955, the Z Corporation is, with respect to such facility, entitled to an amortization deduction of \$24,000, computed as follows:

Monthly amortization deductions:	
January: \$108,000 divided by 54	\$2,000
February: \$106,000 (\$108,000 minus \$2,000) divided by 53	2,000
March: \$104,000 (\$106,000 minus \$2,000) divided by 52	2,000
For the remaining nine months (similarly computed)	18,000
Total amortization deduction for 1955	24,000

Since the Z Corporation elected in its return for 1954 to take amortization deductions with respect to such facility and to begin the 60-month amortization period with July 1954, it must compute its amortization deductions for the 12 months in the taxable year 1955 on the basis of the remaining months of the established 60-month amortization period, as indicated in the above computation.

[T.D. 6500, 25 FR 11402, Nov. 26, 1960; 25 FR 14021, Dec. 21, 1960. Redesignated and amended by T.D. 8116, 51 FR 46618, Dec. 24, 1986]

§ 1.168A-2 Election of amortization.

(a) *General rule.* An election by the taxpayer to take amortization deductions with respect to an emergency facility and to begin the 60-month amortization period either with the month