

114TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To amend the Internal Revenue Code of 1986 to modify rules relating to  
cost recovery.

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IN THE SENATE OF THE UNITED STATES

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\_\_\_\_\_ introduced the following bill; which was read twice  
and referred to the Committee on \_\_\_\_\_

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## **A BILL**

To amend the Internal Revenue Code of 1986 to modify  
rules relating to cost recovery.

1       *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE, ETC.**

4       (a) IN GENERAL.—This Act may be cited as the  
5 “Cost Recovery Reform and Simplification Act of 2016”.

6       (b) REFERENCE.—Except as otherwise expressly pro-  
7 vided, whenever in this Act an amendment or repeal is  
8 expressed in terms of an amendment to, or repeal of, a  
9 section or other provision, the reference shall be consid-

1 ered to be made to a section or other provision of the In-  
2 ternal Revenue Code of 1986.

3 **SEC. 2. POOLED ASSET COST RECOVERY SYSTEM AND DE-**  
4 **PRECIATION OF STRAIGHT LINE PROPERTY.**

5 (a) IN GENERAL.—Section 168 is amended by strik-  
6 ing so much as precedes subsection (k) and inserting the  
7 following:

8 **“SEC. 168. DEPRECIATION FOR POOLED PROPERTY AND**  
9 **OTHER TANGIBLE PROPERTY.**

10 “(a) GENERAL RULE.—Except as otherwise provided  
11 in this section, the depreciation deduction provided by sec-  
12 tion 167(a) for any section 168 property shall be deter-  
13 mined—

14 “(1) in the case of pooled property, by applying  
15 the applicable rate to the balance of each asset pool  
16 of the taxpayer as of the close of the taxable year,  
17 and

18 “(2) in the case of property classified as  
19 straight line property under subsection (c), as pro-  
20 vided in subsection (g).

21 “(b) SECTION 168 PROPERTY.—For purposes of this  
22 section—

23 “(1) SECTION 168 PROPERTY.—

24 “(A) IN GENERAL.—The term ‘section 168  
25 property’ means—

1 “(i) pooled property, and

2 “(ii) tangible property which is classi-  
3 fied under subsection (c) as straight line  
4 property.

5 “(B) EXCEPTIONS.—Such term shall not  
6 include any of the following:

7 “(i) CERTAIN PUBLIC UTILITY PROP-  
8 erty.—Any public utility property if the  
9 taxpayer does not use a normalization  
10 method of accounting.

11 “(ii) FILMS AND VIDEO TAPE.—Any  
12 motion picture film or video tape.

13 “(iii) SOUND RECORDINGS.—Any  
14 works which result from the fixation of a  
15 series of musical, spoken, or other sounds,  
16 regardless of the nature of the material  
17 (such as discs, tapes, or other  
18 phonorecordings) in which such sounds are  
19 embodied.

20 “(2) POOLED PROPERTY.—The term ‘pooled  
21 property’ means—

22 “(A) any tangible property which is not  
23 classified under subsection (c) as straight line  
24 property, and

1                   “(B) any computer software (as defined in  
2                   section 197(e)(3)(B)) that is not an amortizable  
3                   section 197 intangible.

4                   “(c) CLASSIFICATION AND ASSIGNMENT OF SECTION  
5 168 PROPERTY.—

6                   “(1) IN GENERAL.—All section 168 property  
7                   shall be classified as pooled property or straight line  
8                   property as provided in this section.

9                   “(2) CLASSIFICATION AND ASSIGNMENT.—Sub-  
10                   ject to paragraph (3), section 168 property shall be  
11                   treated as follows:

12                   “(A) POOL 1.—The following assets shall  
13                   be classified as pooled property and assigned to  
14                   pool 1:

15                   “(i) Except as otherwise provided in  
16                   this paragraph, any asset with a class life  
17                   of 4 or fewer years.

18                   “(ii) Any race horse—

19                   “(I) which is placed in service be-  
20                   fore January 1, 2017, or

21                   “(II) which is placed in service  
22                   after December 31, 2016, and which  
23                   is more than 2 years old at the time  
24                   such horse is placed in service by such  
25                   purchaser.

1           “(iii) Any asset treated as 3-year  
2           property under subsection (e)(3)(A) of this  
3           section as in effect on the day before the  
4           date of the enactment of the Cost Recovery  
5           Reform and Simplification Act of 2016  
6           (other than an asset described in clause (i)  
7           thereof).

8           “(iv) Any asset which is computer  
9           software described in subsection (b)(2)(B).

10           “(B) POOL 2.—The following assets shall  
11           be classified as pooled property and assigned to  
12           pool 2:

13           “(i) Except as otherwise provided in  
14           this paragraph, any asset with a class life  
15           of more than 4 years but less than 10  
16           years.

17           “(ii) Any asset treated as 5-year prop-  
18           erty under subsection (e)(3)(B) of this sec-  
19           tion as in effect on the day before the date  
20           of the enactment of the Cost Recovery Re-  
21           form and Simplification Act of 2016.

22           “(C) POOL 3.—The following assets shall  
23           be classified as pooled property and assigned to  
24           pool 3:

1           “(i) Except as otherwise provided in  
2           this paragraph, any asset with a class life  
3           of 10 or more years but less than 16 years.

4           “(ii) Any motorsports entertainment  
5           complex (as defined in subsection (i)(15) of  
6           this section as in effect on the day before  
7           the date of the enactment of the Cost Re-  
8           covery Reform and Simplification Act of  
9           2016, determined without regard to sub-  
10          paragraph (D) thereof) which is placed in  
11          service before January 1, 2017.

12          “(iii) Any asset treated as 7-year  
13          property under subsection (e)(3)(C) of this  
14          section as in effect on the day before the  
15          date of the enactment of the Cost Recovery  
16          Reform and Simplification Act of 2016  
17          (other than an asset described in clause  
18          (ii) thereof).

19          “(D) POOL 4.—The following assets shall  
20          be classified as pooled property and assigned to  
21          pool 4:

22                 “(i) Except as otherwise provided in  
23                 this paragraph, any asset with a class life  
24                 of 16 or more years but less than 20 years.

1           “(ii) Any asset treated as 10-year  
2           property under subsection (e)(3)(D) of this  
3           section as in effect on the day before the  
4           date of the enactment of the Cost Recovery  
5           Reform and Simplification Act of 2016.

6           “(E) POOL 5.—The following assets shall  
7           be classified as pooled property and assigned to  
8           pool 5:

9           “(i) Except as otherwise provided in  
10          this paragraph, any asset with a class life  
11          of 20 or more years but less than 25 years.

12          “(ii) Any asset treated as 15-year  
13          property under subsection (e)(3)(E) of this  
14          section as in effect on the day before the  
15          date of the enactment of the Cost Recovery  
16          Reform and Simplification Act of 2016.

17          “(F) POOL 6.—The following assets shall  
18          be classified as pooled property and assigned to  
19          pool 6:

20          “(i) Except as otherwise provided in  
21          this paragraph, any asset with a class life  
22          of 25 or more years.

23          “(ii) Any asset treated as 20-year  
24          property under subsection (e)(3)(F) of this  
25          section as in effect on the day before the

1 date of the enactment of the Cost Recovery  
2 Reform and Simplification Act of 2016.

3 “(G) STRAIGHT LINE PROPERTY.—The fol-  
4 lowing assets shall be classified as straight line  
5 property:

6 “(i) Any residential rental property.

7 “(ii) Any nonresidential real property.

8 “(iii) Any water utility property.

9 “(iv) Any railroad grading or tunnel  
10 bore.

11 “(3) MODIFICATIONS.—

12 “(A) IN GENERAL.—The Secretary, in con-  
13 sultation with the Secretary of Commerce, may,  
14 by regulations—

15 “(i) reclassify property described in  
16 paragraph (2) as straight line property or  
17 pooled property,

18 “(ii) in the case of pooled property—

19 “(I) modify the class life given to  
20 any such property for purposes of this  
21 subsection, or

22 “(II) reassign the pool to which  
23 any property described in subpara-  
24 graphs (A)(ii), (iii), or (iv), (B)(ii),  
25 (C)(ii) or (iii), (D)(ii), (E)(ii), or



1 (F)(ii) of paragraph (1) is assigned,  
2 and

3 “(iii) for purposes of making any re-  
4 classification of property as pooled prop-  
5 erty under clause (i) or modification under  
6 clause (ii), modify asset classes described  
7 in Revenue Procedure 87-56 (or any  
8 amendment thereto made before the date  
9 of the enactment of the Cost Recovery Re-  
10 form and Simplification Act of 2016) or  
11 create new asset classes.

12 “(B) CRITERIA FOR MODIFICATION.—Any  
13 reclassification or modification under subpara-  
14 graph (A) shall be made—

15 “(i) based on the anticipated useful  
16 life and the anticipated decline in value  
17 over time of the asset, and

18 “(ii) after taking into account when  
19 the asset is technologically or functionally  
20 obsolete.

21 “(C) PUBLICATION AND NOTIFICATION.—  
22 In any case in which the Secretary makes a re-  
23 classification of or modification with respect to  
24 property pursuant to subparagraph (A), the  
25 Secretary shall publish a schedule reflecting the

1 appropriate classification and assignment of all  
2 section 168 property.

3 “(D) TREATMENT UNDER CONGRESSIONAL  
4 REVIEW ACT.—For purposes of applying chap-  
5 ter 8 of title 5, United States Code, any reclas-  
6 sification or reassignment under subparagraph  
7 (A) shall be treated as a major rule.

8 “(E) STUDY.—

9 “(i) IN GENERAL.—The Secretary, in  
10 consultation with the Secretary of Com-  
11 merce, shall conduct an on-going study  
12 analyzing the number of asset pools, the  
13 appropriate applicable rate for asset pools,  
14 the class lives of pooled property, and the  
15 method and recovery period for assets clas-  
16 sified as straight line property under this  
17 subsection.

18 “(ii) REPORT.—Not later than the  
19 date that is 5 years after the date of the  
20 enactment of the Cost Recovery Reform  
21 and Simplification Act of 2016, and not  
22 less frequently than every 10 years after  
23 such date, the Secretary shall submit a re-  
24 port to Congress on recommendations for

1 changes in law relating to the study con-  
2 ducted under clause (i).

3 “(4) SPECIAL RULE FOR ASSETS USED OUTSIDE  
4 THE UNITED STATES.—For purposes of subsection  
5 (a)(1), pooled property which is used predominantly  
6 outside the United States shall be treated as as-  
7 signed to a separate pool from the pool to which  
8 property not used predominantly outside the United  
9 States is assigned.

10 “(5) CLASS LIFE.—For purposes of paragraph  
11 (1), the term ‘class life’ means the class life as de-  
12 termined under Revenue procedure 87-56 (including  
13 any amendments thereto made before the date of the  
14 enactment of the Cost Recovery Reform and Sim-  
15 plification Act of 2016).

16 “(d) APPLICABLE RATE.—For purposes of sub-  
17 section (a)(1)—

18 “(1) IN GENERAL.—Except as provided in para-  
19 graphs (2) and (3), the applicable rate is—

20 “(A) in the case of assets in pool 1, 49  
21 percent,

22 “(B) in the case of assets in pool 2, 34  
23 percent,

24 “(C) in the case of assets in pool 3, 25  
25 percent,

1                   “(D) in the case of assets in pool 4, 18  
2                   percent,

3                   “(E) in the case of assets in pool 5, 11  
4                   percent, and

5                   “(F) in the case of assets in pool 6, 8 per-  
6                   cent.

7                   “(2) 100 PERCENT RATE FOR DE MINIMIS BAL-  
8                   ANCES.—At the election of the taxpayer, in the case  
9                   of any asset pool that has a balance of \$1,000 or  
10                  less as of the close of the taxable year, the applicable  
11                  rate for the taxable year shall be 100 percent.

12                  “(3) TERMINAL LOSSES.—Except as provided  
13                  in section 1031(j), in the case of any asset pool in  
14                  which the taxpayer has a balance of greater than  
15                  zero as of the close of the taxable year but does not  
16                  own any assets assigned to such pool, the applicable  
17                  rate for the taxable year shall be 100 percent.

18                  “(e) DETERMINATION OF ASSET POOL BALANCES.—

19                  “(1) IN GENERAL.—The balance of any asset  
20                  pool for any taxable year shall be the adjusted bal-  
21                  ance of such asset pool as of the close of the pre-  
22                  ceding taxable year (as determined under paragraph  
23                  (2))—

24                  “(A) increased as provided in paragraph  
25                  (3), and



1 “(ii) except as provided in clause (iii),  
2 the adjusted basis of any pooled property  
3 placed in service by the taxpayer during  
4 the taxable year and assigned to such asset  
5 pool, and

6 “(iii) the adjusted basis of any addi-  
7 tion or improvement which is—

8 “(I) made to pooled property  
9 held by the taxpayer and assigned to  
10 such asset pool,

11 “(II) chargeable to capital ac-  
12 count, and

13 “(III) placed in service during  
14 the taxable year.

15 “(B) SPECIAL RULE FOR PASSENGER  
16 AUTOMOBILES.—The increase in balance in any  
17 asset pool with respect to any passenger auto-  
18 mobile shall not exceed \$45,000.

19 “(4) SUBTRACTIONS FROM BALANCE.—

20 “(A) IN GENERAL.—The balance with re-  
21 spect to any asset pool shall be reduced by—

22 “(i) the amount of any reduction with  
23 respect to such pool for such taxable year  
24 pursuant to subsection (b)(2)(E), (b)(5),  
25 or (c)(1) of section 108, and

1 “(ii) except as provided in subpara-  
2 graph (B), the gross proceeds from the dis-  
3 position or transfer during the taxable year  
4 of any asset assigned to such pool.

5 “(B) SPECIAL RULE FOR LEASEBACKS AND  
6 DISPOSITIONS TO RELATED PARTIES AND TAX  
7 SHELTERS.—

8 “(i) IN GENERAL.—In the case of any  
9 specified property—

10 “(I) the amount of the reduction  
11 under subparagraph (A)(ii) shall not  
12 exceed the recomputed basis with re-  
13 spect to such asset, and

14 “(II) the excess of the fair mar-  
15 ket value of such asset over the re-  
16 computed basis shall be treated as  
17 gain from section 1245 property  
18 which is pooled property for purposes  
19 of section 1245.

20 “(ii) RECOMPUTED BASIS.—For pur-  
21 poses of clause (i), the recomputed basis  
22 with respect to any asset is the excess of—

23 “(I) the increases to an asset  
24 pool under paragraph (3) on account  
25 of such asset (including any additions

1 or improvements made to such asset),  
2 over

3 “(II) the amount of deductions  
4 which would have been allowed with  
5 respect to such asset (including addi-  
6 tions and improvements) under this  
7 section before the date of the dispo-  
8 sition or transfer,

9 determined as if such asset were the only  
10 property assigned to its asset pool.

11 “(iii) SPECIFIED PROPERTY.—For  
12 purposes of this paragraph, the term ‘spec-  
13 ified property’ means—

14 “(I) any pooled property disposed  
15 of or transferred to a related person  
16 or a tax shelter, or

17 “(II) any other pooled property  
18 which the taxpayer continues to use  
19 after its disposition or transfer.

20 “(iv) RELATED PERSON.—For pur-  
21 poses of this subparagraph—

22 “(I) IN GENERAL.—A person  
23 (hereinafter in this clause referred to  
24 as the ‘related person’) is related to  
25 any person if the related person bears



1 a relationship to such person de-  
2 scribed in section 267(b) or 707(b)(1)  
3 or the related person and such per-  
4 sons are engaged in a trade or busi-  
5 ness under common control (within  
6 the meaning of subparagraphs (A)  
7 and (B) of section 41(f)(1)). A person  
8 shall be treated as related to another  
9 person if such relationship exists im-  
10 mediately before or immediately after  
11 the acquisition of the property in-  
12 volved.

13 “(II) EXCEPTION.—Notwith-  
14 standing subclause (I), a corporation  
15 shall not be treated as related to any  
16 person if such corporation files a con-  
17 solidated return under section 1502  
18 with such person.

19 “(v) TAX SHELTER.—The term ‘tax  
20 shelter’ has the meaning given such term  
21 under section 461(i)(3).

22 “(f) TREATMENT OF ASSET POOLS WITH NEGATIVE  
23 BALANCES.—In the case of any asset pool with a balance  
24 of less than zero as of the close of any taxable year—

1           “(1) subsection (a) shall not apply to such asset  
2 pool,

3           “(2) the amount of such balance which is less  
4 than zero shall be treated as gain from section 1245  
5 property which is pooled property for purposes of  
6 section 1245, and

7           “(3) an amount equal to the amount treated as  
8 gain under paragraph (2) shall be added to the bal-  
9 ance of such pool for purposes of determining the  
10 adjusted balance of such pool under subsection  
11 (e)(2)(B).

12           “(g) DEPRECIATION FOR STRAIGHT LINE PROP-  
13 erty.—

14           “(1) IN GENERAL.—In the case of straight line  
15 property, the depreciation deduction determined  
16 under this section shall be the amount determined  
17 by using—

18                   “(A) the straight line method (without re-  
19 gard to salvage value),

20                   “(B) the mid-month convention, and

21                   “(C) the applicable recovery period deter-  
22 mined under paragraph (3).

23           “(2) MID-MONTH CONVENTION.—For purposes  
24 of paragraph (1)(B), the mid-month convention is a  
25 convention which treats all property placed in service

1 during any month (or disposed of during any month)  
2 as placed in service (or disposed of) on the mid-point  
3 of such month.

4 “(3) APPLICABLE RECOVERY PERIOD.—For  
5 purposes of paragraph (1)(C), the applicable recovery  
6 period is—

7 “(A) in the case of water utility property,  
8 25 years,

9 “(B) in the case of residential rental prop-  
10 erty, 27.5 years,

11 “(C) in the case of nonresidential real  
12 property, 39 years, and

13 “(D) in the case of any railroad grading or  
14 tunnel bore, 50 years.

15 “(4) TREATMENTS OF ADDITIONS OR IMPROVE-  
16 MENTS TO PROPERTY.—In the case of any addition  
17 to (or improvement of) any property to which this  
18 subsection applies—

19 “(A) any deduction under subsection (a)  
20 for such addition or improvement shall be com-  
21 puted in the same manner as the deduction for  
22 such property would be computed if such prop-  
23 erty had been placed in service at the same  
24 time as such addition or improvement, and

1           “(B) the applicable recovery period for  
2           such addition or improvement shall begin on the  
3           later of—

4                   “(i) the date on which such addition  
5                   (or improvement) is placed in service, or

6                   “(ii) the date on which the property  
7                   with respect to which such addition (or im-  
8                   provement) was made is placed in service.

9           “(h) SPECIAL RULES FOR PROPERTY USED FOR A  
10          PERSONAL USE.—

11                   “(1) IN GENERAL.—If, for any taxable year, an  
12                   asset pool contains 1 or more assets the business use  
13                   percentage of which is not greater than 50 percent  
14                   during the taxable year, the amount of the deduction  
15                   under subsection (a)(1) for the taxable year with re-  
16                   spect to the pool shall be reduced by the sum of the  
17                   amounts computed under paragraph (2) with respect  
18                   to all of such assets.

19                   “(2) AMOUNT OF REDUCED DEDUCTION.—The  
20                   amount computed under this paragraph for any tax-  
21                   able year with respect to any asset described in  
22                   paragraph (1) shall be equal to the personal use per-  
23                   centage with respect to the asset multiplied by the  
24                   amount determined by applying the applicable rate  
25                   for the asset pool to the excess of—



1 the percentage of the use of any property  
2 during any taxable year which is a quali-  
3 fied business use.

4 “(ii) PERSONAL USE PERCENTAGE.—  
5 The term ‘personal use percentage’ means  
6 the percentage of the use of any property  
7 during any taxable year which is not a  
8 qualified business use.

9 “(B) QUALIFIED BUSINESS USE.—Except  
10 as provided in subparagraph (C), the term  
11 ‘qualified business use’ means any use in a  
12 trade or business of the taxpayer.

13 “(C) EXCEPTION FOR CERTAIN USE BY 5-  
14 PERCENT OWNERS AND RELATED PERSONS.—  
15 The term ‘qualified business use’ shall not in-  
16 clude—

17 “(i) leasing property to any 5-percent  
18 owner or related person,

19 “(ii) use of property provided as com-  
20 pensation for the performance of services  
21 by a 5-percent owner or related person, or

22 “(iii) use of property provided as com-  
23 pensation for the performance of services  
24 by any person not described in clause (ii)  
25 unless an amount is included in the gross

1 income of such person with respect to such  
2 use, and, where required, there was with-  
3 holding under chapter 24.

4 “(D) DEFINITIONS.—For purposes of this  
5 paragraph—

6 “(i) 5-PERCENT OWNER.—The term  
7 ‘5-percent owner’ means any person who is  
8 a 5-percent owner with respect to the tax-  
9 payer (as defined in section  
10 416(i)(1)(B)(i)).

11 “(ii) RELATED PERSON.—For pur-  
12 poses of this paragraph, rules similar to  
13 the rules of subsection (e)(4)(B)(iv) shall  
14 apply.

15 “(2) TREATMENT OF CERTAIN TRANS-  
16 FERREES.—

17 “(A) IN GENERAL.—In the case of any  
18 asset transferred in a transaction described in  
19 subparagraph (B), the transferee shall be treat-  
20 ed as the transferor for purposes of computing  
21 the depreciation deduction determined under  
22 this section with respect to—

23 “(i) in the case of property which is  
24 classified as straight line property, so  
25 much of the adjusted basis of the asset in

1 the hands of the transferee as does not ex-  
2 ceed the adjusted basis in the hands of the  
3 transferor, and

4 “(ii) in the case of pooled property, so  
5 much of the balance of the asset pool to  
6 which the asset is assigned as is deter-  
7 mined by the Secretary under regulations.

8 “(B) TRANSACTIONS COVERED.—The  
9 transactions described in this subparagraph  
10 are—

11 “(i) any transaction described in sec-  
12 tion 332, 351, 361, 721, or 731, and

13 “(ii) any transaction between mem-  
14 bers of the same affiliated group during  
15 any taxable year for which a consolidated  
16 return is made by such group.

17 Subparagraph (A) shall not apply in the case of  
18 a termination of a partnership under section  
19 708(b)(1)(B).

20 “(3) TREATMENT OF LEASEHOLD IMPROVE-  
21 MENTS.—

22 “(A) IN GENERAL.—In the case of any  
23 building erected (or additions or improvements  
24 made) on leased property, if such building or  
25 improvement is property to which this section



1 applies, the depreciation deduction shall be de-  
2 termined under the provisions of this section.

3 “(B) CROSS REFERENCE.—For treatment  
4 of qualified long-term real property constructed  
5 or improved in connection with cash or rent re-  
6 duction from lessor to lessee, see section  
7 110(b).

8 “(4) RESIDENTIAL RENTAL PROPERTY.—

9 “(A) RESIDENTIAL RENTAL PROPERTY.—  
10 The term ‘residential rental property’ means  
11 any building or structure if 80 percent or more  
12 of the gross rental income from such building  
13 or structure for the taxable year is rental in-  
14 come from dwelling units.

15 “(B) DEFINITIONS.—For purposes of sub-  
16 paragraph (A)—

17 “(i) the term ‘dwelling unit’ means a  
18 house or apartment used to provide living  
19 accommodations in a building or structure,  
20 but does not include a unit in a hotel,  
21 motel, or other establishment more than  
22 one-half of the units in which are used on  
23 a transient basis, and

24 “(ii) if any portion of the building or  
25 structure is occupied by the taxpayer, the

1 gross rental income from such building or  
2 structure shall include the rental value of  
3 the portion so occupied.

4 “(5) NONRESIDENTIAL REAL PROPERTY.—The  
5 term ‘nonresidential real property’ means section  
6 1250 property which is not—

7 “(A) residential rental property, or

8 “(B) property with a class life of less than  
9 27.5 years (as determined before on the day be-  
10 fore the date of the enactment of the Cost Re-  
11 covery Reform and Simplification Act of 2016).

12 “(6) PASSENGER AUTOMOBILE.—

13 “(A) IN GENERAL.—The term ‘passenger  
14 automobile’ means any 4-wheeled vehicle—

15 “(i) which is manufactured primarily  
16 for use on public streets, roads, and high-  
17 ways, and

18 “(ii) which is rated at 6,000 pounds  
19 unloaded gross vehicle weight or less.

20 In the case of a truck or van, clause (ii) shall  
21 be applied by substituting ‘gross vehicle weight’  
22 for ‘unloaded gross vehicle weight’.

23 “(B) EXCEPTION FOR CERTAIN VEHI-  
24 CLES.—The term ‘passenger automobile’ shall  
25 not include—

1                   “(i) any ambulance, hearse, or com-  
2                   bination ambulance-hearse used by the tax-  
3                   payer directly in a trade or business,

4                   “(ii) any vehicle used by the taxpayer  
5                   directly in the trade or business of trans-  
6                   porting persons or property for compensa-  
7                   tion or hire, and

8                   “(iii) under regulations, any truck or  
9                   van.

10                   “(7) RAILROAD GRADING OR TUNNEL BORE.—

11                   The term ‘railroad grading or tunnel bore’ means all  
12                   improvements resulting from excavations (including  
13                   tunneling), construction of embankments, clearings,  
14                   diversions of roads and streams, sodding of slopes,  
15                   and from similar work necessary to provide, con-  
16                   struct, reconstruct, alter, protect, improve, replace,  
17                   or restore a roadbed or right-of-way for railroad  
18                   track.

19                   “(8) WATER UTILITY PROPERTY.—The term  
20                   ‘water utility property’ means property—

21                   “(A) which is an integral part of the gath-  
22                   ering, treatment, or commercial distribution of  
23                   water, and which, without regard to this para-  
24                   graph, would be 20-year property, and

25                   “(B) any municipal sewer.

1           “(9) PUBLIC UTILITY PROPERTY.—The term  
2           ‘public utility property’ means property used pre-  
3           dominantly in the trade or business of the furnishing  
4           or sale of—

5                   “(A) electrical energy, water, or sewage  
6                   disposal services,

7                   “(B) gas or steam through a local distribu-  
8                   tion system,

9                   “(C) telephone services, or other commu-  
10                  nication services if furnished or sold by the  
11                  Communications Satellite Corporation for pur-  
12                  poses authorized by the Communications Sat-  
13                  ellite Act of 1962 (47 U.S.C. 701), or

14                  “(D) transportation of gas or steam by  
15                  pipeline,

16           if the rates for such furnishing or sale, as the case  
17           may be, have been established or approved by a  
18           State or political subdivision thereof, by any agency  
19           or instrumentality of the United States, or by a pub-  
20           lic service or public utility commission or other simi-  
21           lar body of any State or political subdivision thereof.

22           “(10) NORMALIZATION RULES.—

23                   “(A) IN GENERAL.—In order to use a nor-  
24                   malization method of accounting with respect to

1 any public utility property for purposes of sub-  
2 section (b)(1)(B)(i)—

3 “(i) the taxpayer must, in computing  
4 its tax expense for purposes of establishing  
5 its cost of service for ratemaking purposes  
6 and reflecting operating results in its regu-  
7 lated books of account, use a method of de-  
8 preciation with respect to such property  
9 that is the same as, and a depreciation pe-  
10 riod for such property that is no shorter  
11 than, the method and period used to com-  
12 pute its depreciation expense for such pur-  
13 poses; and

14 “(ii) if the amount allowable as a de-  
15 duction under this section with respect to  
16 such property (respecting all elections  
17 made by the taxpayer under this section)  
18 differs from the amount that would be al-  
19 lowable as a deduction under section 167  
20 using the method (including the period,  
21 first and last year convention, and salvage  
22 value) used to compute regulated tax ex-  
23 pense under clause (i), the taxpayer must  
24 make adjustments to a reserve to reflect

1 the deferral of taxes resulting from such  
2 difference.

3 “(B) USE OF INCONSISTENT ESTIMATES  
4 AND PROJECTIONS, ETC.—

5 “(i) IN GENERAL.—One way in which  
6 the requirements of subparagraph (A) are  
7 not met is if the taxpayer, for ratemaking  
8 purposes, uses a procedure or adjustment  
9 which is inconsistent with the requirements  
10 of subparagraph (A).

11 “(ii) USE OF INCONSISTENT ESTI-  
12 MATES AND PROJECTIONS.—The proce-  
13 dures and adjustments which are to be  
14 treated as inconsistent for purposes of  
15 clause (i) shall include any procedure or  
16 adjustment for ratemaking purposes which  
17 uses an estimate or projection of the tax-  
18 payer’s tax expense, depreciation expense,  
19 or reserve for deferred taxes under sub-  
20 paragraph (A)(ii) unless such estimate or  
21 projection is also used, for ratemaking pur-  
22 poses, with respect to the other 2 such  
23 items and with respect to the rate base.

24 “(iii) REGULATORY AUTHORITY.—The  
25 Secretary may by regulations prescribe

1 procedures and adjustments (in addition to  
2 those specified in clause (ii)) which are to  
3 be treated as inconsistent for purposes of  
4 clause (i).

5 “(C) PUBLIC UTILITY PROPERTY WHICH  
6 DOES NOT MEET NORMALIZATION RULES.—In  
7 the case of any public utility property to which  
8 this section does not apply by reason of sub-  
9 section (b)(1)(B)(i), the allowance for deprecia-  
10 tion under section 167(a) shall be an amount  
11 computed using the method and period referred  
12 to in subparagraph (A)(i).”.

13 (b) TECHNICAL AMENDMENTS RELATING TO IMPLE-  
14 MENTATION OF POOLED ASSET COST RECOVERY SYS-  
15 TEM.—

16 (1) TREATMENT OF COMPUTER SOFTWARE.—  
17 Section 167(f) is amended by striking paragraph (1)  
18 and redesignating paragraphs (2) and (3) as para-  
19 graphs (1) and (2), respectively.

20 (2) CHARITABLE CONTRIBUTIONS OF POOLED  
21 PROPERTY.—Section 170(e) is amended by adding  
22 at the end the following new paragraph:

23 “(8) DETERMINATION OF BASIS IN POOLED  
24 PROPERTY.—In any case in which a determination  
25 under this subsection requires a calculation of basis

1 with respect to pooled property (as defined in section  
2 168(b)(2)), the adjusted basis of such property shall  
3 be determined by using the recomputed basis for  
4 such property (determined as provided in section  
5 168(e)(4)(B)(ii)).”.

6 (3) TREATMENT OF ASSETS AFTER DISCHARGE  
7 OF INDEBTEDNESS.—

8 (A) IN GENERAL.—Subparagraph (E) of  
9 section 108(b)(2) is amended to read as follows:

10 “(E) BASIS AND ASSET POOL REDUC-  
11 TIONS.—

12 “(i) BASIS REDUCTION.—The basis of  
13 the property of the taxpayer (other than  
14 property assigned to an asset pool under  
15 section 168).

16 “(ii) ASSET POOL REDUCTION.—The  
17 balance of any asset pool of the taxpayer  
18 to which an asset is assigned under section  
19 168.

20 “(iii) CROSS REFERENCE.—For provi-  
21 sions for making the reductions described  
22 in clauses (i) and (ii), see section 1017.”.

23 (B) ELECTION.—Paragraph (5) of section  
24 108(b) is amended—



1 (i) by inserting “or, in the case of an  
2 asset assigned to an asset pool under sec-  
3 tion 168, the balance of such asset pool”  
4 in subparagraph (A) after “of the tax-  
5 payer”, and

6 (ii) by striking “the aggregate ad-  
7 justed bases of the depreciable property of  
8 the taxpayer” in subparagraph (B) and in-  
9 serting “the sum of the aggregate balances  
10 of the asset pools of the taxpayer under  
11 section 168 and the aggregate adjusted  
12 bases of the depreciable property of the  
13 taxpayer not assigned to such pools”.

14 (C) QUALIFIED REAL PROPERTY BUSINESS  
15 INDEBTEDNESS.—Subparagraph (A) of section  
16 108(c)(1) is amended by striking “the basis of  
17 the depreciable real property of the taxpayer”  
18 and inserting “the balance of any asset pool of  
19 the taxpayer to which an asset is assigned  
20 under section 168 and the basis of any depre-  
21 ciable property of the taxpayer not assigned to  
22 such a pool”.

23 (D) RULES FOR ADJUSTMENT OF ASSET  
24 POOLS.—Section 1017 is amended—

25 (i) in subsection (a)—

1 (I) by striking “basis” in para-  
2 graph (2) and inserting “the basis of  
3 any property or the balance of any  
4 asset pool under section 168”, and

5 (II) by striking “in reduction of”  
6 and all that follows in the matter fol-  
7 lowing paragraph (2) and inserting  
8 “in reduction of the basis of property  
9 held by the taxpayer at the beginning  
10 of the taxable year following the tax-  
11 able year in which the discharge oc-  
12 curs and the reduction of the asset  
13 pool balances of the taxpayer in such  
14 year.”, and

15 (ii) in subsection (b)—

16 (I) by inserting “the particular  
17 asset pools which are to be reduced,”  
18 after “subsection (a)),” in paragraph  
19 (1),

20 (II) by adding at the end of  
21 paragraph (1) the following new sen-  
22 tence: “Such regulations shall provide  
23 that the amount of reductions applied  
24 to any asset pool of the taxpayer shall  
25 be the amount that bears the same

1 ratio to the total amount of reductions  
2 under subsection (a) as the balance of  
3 such asset pool bears to the sum of  
4 the balance of all of the asset pools of  
5 the taxpayer and the bases of all  
6 property of the taxpayer which is not  
7 held in an asset pool and to which  
8 bases reductions apply under this sec-  
9 tion.”,

10 (III) by striking “in basis” each  
11 place it appears in paragraph (2),

12 (IV) by inserting “the sum of the  
13 balance of the asset pools of the tax-  
14 payer (determined as if the taxable  
15 year ended immediately after the dis-  
16 charge) and” before “the aggregate”  
17 in paragraph (2)(A),

18 (V) by inserting “in property  
19 which is not pooled property (as de-  
20 fined in section 168(b)(2))” after “to  
21 reduce basis” in paragraph (3)(A),  
22 and

23 (VI) by striking paragraph (4).

24 (4) RULES RELATING TO PROPERTY USED FOR  
25 A PERSONAL USE.—

1 (A) IN GENERAL.—Part IX of subchapter  
2 B of chapter 1 is amended—

3 (i) by striking section 280F, and

4 (ii) by striking the item relating to  
5 section 280F in the table of section for  
6 such part.

7 (B) SUBSTANTIATION REQUIREMENTS.—  
8 Section 274 is amended—

9 (i) in subsection (d)(4), by striking  
10 “as defined in section 280F(d)(4)” and in-  
11 serting “as defined in subsection (o)”, and

12 (ii) by redesignating subsection (o) as  
13 subsection (p) and inserting after sub-  
14 section (n) the following new subsection:

15 “(o) LISTED PROPERTY.—

16 “(1) IN GENERAL.—Except as provided in para-  
17 graph (2), the term ‘listed property’ means—

18 “(A) any passenger automobile (as defined  
19 in section 168(i)(6)),

20 “(B) any other property used as a means  
21 of transportation,

22 “(C) any property of a type generally used  
23 for purposes of entertainment, recreation, or  
24 amusement,

1           “(D) any computer or peripheral equip-  
2           ment, and

3           “(E) any other property of a type specified  
4           by the Secretary by regulations.

5           “(2) COMPUTER OR PERIPHERAL EQUIPMENT  
6           DEFINED.—For purposes of paragraph (1)—

7           “(A) IN GENERAL.—The term ‘computer  
8           or peripheral equipment’ means

9           “(i) any computer, and

10           “(ii) any related peripheral equip-  
11           ment.

12           “(B) COMPUTER.—The term ‘computer’  
13           means a programmable electronically activated  
14           device which—

15           “(i) is capable of accepting informa-  
16           tion, applying prescribed processes to the  
17           information, and supplying the results of  
18           these processes with or without human  
19           intervention, and

20           “(ii) consists of a central processing  
21           unit containing extensive storage, logic,  
22           arithmetic, and control capabilities.

23           “(C) RELATED PERIPHERAL EQUIP-  
24           MENT.—The term ‘related peripheral equip-  
25           ment’ means any auxiliary machine (whether

1 on-line or off-line) which is designed to be  
2 placed under the control of the central proc-  
3 essing unit of a computer.

4 “(D) EXCEPTIONS.—The term ‘computer  
5 or peripheral equipment’ shall not include—

6 “(i) any equipment which is an inte-  
7 gral part of other property which is not a  
8 computer,

9 “(ii) typewriters, calculators, adding  
10 and accounting machines, copiers, dupli-  
11 cating equipment, and similar equipment,  
12 and

13 “(iii) equipment of a kind used pri-  
14 marily for amusement or entertainment of  
15 the user.

16 “(3) EXCEPTION FOR CERTAIN COMPUTERS.—  
17 The term ‘listed property’ shall not include any com-  
18 puter or peripheral equipment (as so defined) used  
19 primarily in the taxpayer’s trade or business and  
20 owned or leased by the person operating such trade  
21 or business. For purposes of the preceding sentence,  
22 a computer used in a dwelling unit shall not be  
23 treated as used primarily in a taxpayer’s trade or  
24 business unless the requirements of section

1       280A(c)(1) are met with respect to the portion of  
2       such dwelling unit in which the computer is located.

3           “(4) EXCEPTION FOR PROPERTY USED IN BUSI-  
4       NESS OF TRANSPORTING PERSONS OR PROPERTY.—  
5       Except to the extent provided in regulations, sub-  
6       paragraph (B) of paragraph (1) shall not apply to  
7       any property substantially all of the use of which is  
8       in a trade or business of providing to unrelated per-  
9       sons services consisting of the transportation of per-  
10      sons or property for compensation or hire.”.

11           (C) COORDINATION WITH SECTION 179.—  
12      Section 179(b)(5)(B)(i) is amended by inserting  
13      “and” at the end of subclause (I), by striking  
14      subclause (II), and by redesignating subclause  
15      (III) as subclause (II).

16           (5) DETERMINATION OF EARNING AND PROF-  
17      ITS.—Section 312(k)(3) is amended—

18           (A) by redesignating subparagraph (B) as  
19      subparagraph (C), and

20           (B) by striking subparagraph (A) and in-  
21      serting the following:

22           “(A) IN GENERAL.—Except as provided in  
23      subparagraph (C), in the case of any pooled  
24      property (as defined in section 168(b)(2)), the  
25      adjustment to earnings and profits for deprecia-

1           tion for any taxable year beginning after De-  
2           cember 31, 2016, shall be determined as if the  
3           provisions of section 168(a)(1) had been used  
4           for each taxable year beginning after December  
5           31, 2016.

6           “(B) TRANSITION RULE.—In the case of  
7           pooled property (as so defined) with respect to  
8           which depreciation was not determined as pro-  
9           vided in subparagraph (A) for taxable years  
10          which include December 31, 2016, adjustments  
11          to earnings and profits for depreciation of such  
12          property for taxable years beginning after such  
13          date shall be determined as if the corporation  
14          determined depreciation for such property as  
15          provided in section 168(a)(1) (as in effect on  
16          the date of the enactment of the Cost Recovery  
17          Reform and Simplification Act of 2016) as of  
18          the first day of the first taxable year beginning  
19          after December 31, 2016.”.

20          (6) LIKE-KIND EXCHANGES.—

21                 (A) IN GENERAL.—Section 1031 is amend-  
22                 ed by inserting at the end the following new  
23                 subsection:

24                 “(j) APPLICATION TO POOLED PROPERTY.—



1           “(1) IN GENERAL.—Notwithstanding subsection  
2           (a), except as provided in paragraph (2), gain or loss  
3           on pooled property (as defined in section 168(b)(2))  
4           from any exchange described in subsection (a) shall  
5           be determined under the rules of section 168 with  
6           the modifications described in paragraph (2).

7           “(2) SPECIAL RULES FOR APPLYING SECTION  
8           168.—

9           “(A) TIME OF ASSET RELINQUISHMENT.—  
10           For purposes of subsections (d)(3) and (e)(4) of  
11           section 168, the disposition or transfer of an  
12           asset which is part of an exchange which meets  
13           the requirements of subsection (a) shall be con-  
14           sidered to occur in the taxable year which in-  
15           cludes the earliest of—

16                   “(i) the day that the taxpayer receives  
17                   all assets to be received in such exchange,

18                   “(ii) the date described in clause (i) of  
19                   subsection (a)(3)(B), or

20                   “(iii) the date described in clause (ii)  
21                   of subsection (a)(3)(B).

22           “(B) EXCHANGES INVOLVING ASSETS IN  
23           DIFFERENT POOLS.—In the case of any ex-  
24           change of properties described in subsection (a)  
25           that are not assigned to the same asset pool—

1                   “(i) the balance of the asset pool of  
2                   the relinquished property (determined after  
3                   taking into account the proceeds from any  
4                   money or other property received in such  
5                   exchange) shall be reduced by the lesser  
6                   of—

7                                 “(I) the fair market value of such  
8                                 property on the date described in sub-  
9                                 paragraph (A), or

10                                “(II) the positive balance in the  
11                                asset pool (if any) (determined under  
12                                section 168(e) without regard to this  
13                                subparagraph), and

14                                “(ii) the balance of the asset pool of  
15                                the property received in the exchange shall  
16                                be increased by the amount of the reduc-  
17                                tion described in clause (i).”.

18                                (B) CONFORMING AMENDMENT.—Section  
19                                1031(h)(2)(D) is amended by striking “any  
20                                subparagraph of section 168(g)(4)” and insert-  
21                                ing “any subclause of section 168(k)(2)(D)(ii)”.

22                                (7) INVOLUNTARY CONVERSIONS.—

23                                (A) IN GENERAL.—Section 1033 is amend-  
24                                ed by redesignating subsection (k) as subsection

1 (l) and by inserting after subsection (j) the fol-  
2 lowing new subsection:

3 “(k) SPECIAL RULE FOR POOLED PROPERTY.—

4 “(1) IN GENERAL.—In the case of any pooled  
5 property (as defined in section 168(b)(2)), sub-  
6 section (a) shall not apply and section 168 shall be  
7 applied with the modifications described in para-  
8 graphs (2) and (3).

9 “(2) SPECIAL RULES FOR APPLYING SECTION  
10 168.—

11 “(A) TIME OF CONVERSION.—For pur-  
12 poses of subsections (d)(3) and (e)(4) of section  
13 168, if pooled property (as so defined) is com-  
14 pulsory or involuntary converted (as a result of  
15 its destruction in whole or in part, theft, sei-  
16 zure, or requisition or condemnation or threat  
17 or imminence thereof) into money or into prop-  
18 erty not similar or related in service or use to  
19 the converted property, such conversion shall be  
20 considered to occur in the taxable year which  
21 includes the earliest of—

22 “(i) the date the taxpayer acquires re-  
23 placement property, or

1                   “(ii) the date described subsection  
2                   (a)(2)(B) (determined after the application  
3                   of subsection (e)(2)).

4                   “(B) SPECIAL RULE FOR ASSETS CON-  
5                   VERTED INTO PROPERTY IN DIFFERENT POOL  
6                   FROM ORIGINAL ASSET.—In the case of replace-  
7                   ment property which is not assigned to the  
8                   same asset pool as the converted property which  
9                   it replaces—

10                   “(i) the balance of the asset pool of  
11                   the converted property (determined after  
12                   taking into account any proceeds from the  
13                   conversion not used to purchase replace-  
14                   ment property) shall be reduced by the  
15                   lesser of—

16                   “(I) the fair market value of the  
17                   replacement property, or

18                   “(II) the positive balance in the  
19                   asset pool (if any) (determined under  
20                   section 168(e) without regard to this  
21                   subparagraph), and

22                   “(ii) the balance of the asset pool of  
23                   the replacement property shall be increased  
24                   by the amount of the reduction described  
25                   in clause (i).

1           “(C) REPLACEMENT PROPERTY.—For pur-  
2           poses of this paragraph, the term ‘replacement  
3           property’ means any property which is—

4                   “(i) pooled property (as defined in  
5                   section 168(b)(2)),

6                   “(ii) similar or related in service or  
7                   use to property which was compulsory or  
8                   involuntary converted (as a result of its de-  
9                   struction in whole or in part, theft, seizure,  
10                  or requisition or condemnation or threat or  
11                  imminence thereof) into money or into  
12                  property not similar or related in service or  
13                  use, and

14                  “(iii) purchased to replace the con-  
15                  verted property before the date described  
16                  in subsection (a)(2)(B) (determined after  
17                  the application of subsection (e)(2)).

18           “(3) TRANSITION RULE FOR CERTAIN ASSETS  
19           CONVERTED PRIOR TO 2017.—If—

20                   “(A) any pooled property (as so defined)  
21                   was compulsorily or involuntarily converted into  
22                   money or into property not similar or related in  
23                   service or use in a taxable year beginning before  
24                   January 1, 2017,

1           “(B) the period described in subsection  
2           (a)(2)(B) with respect to such converted prop-  
3           erty has not expired before the last day of the  
4           taxpayer’s last taxable year beginning before  
5           January 1, 2017, and

6           “(C) the taxpayer has not purchased other  
7           property similar or related in service or use to  
8           the property so converted, or purchased stock in  
9           the acquisition of control of a corporation own-  
10          ing such other property, on or before such last  
11          day,

12          then the balance of the asset pool to which such con-  
13          verted property would be assigned shall be increased  
14          by the amount of money or the basis of the con-  
15          verted property held by the taxpayer on the first day  
16          of the taxpayer’s first taxable year beginning after  
17          January 1, 2016, and paragraph (2) shall apply.”.

18                (B) CONFORMING AMENDMENTS.—

19                (i) Section 1033(f) is amended by  
20                striking “subsection (a)” and inserting  
21                “subsections (a) and (k)”.

22                (ii) Section 1033(i) is amended by  
23                striking “subsection (a)” and inserting  
24                “subsections (a) and (k)(1)(B)”.

1           (8) TREATMENT OF PROPERTY ON INDIAN RES-  
2           ERVATIONS.—

3           (A) IN GENERAL.—Part VI of subchapter  
4           B of chapter 1 is amended by inserting after  
5           section 179E the following new section:

6   **“SEC. 179F. PROPERTY ON INDIAN RESERVATIONS.**

7           “(a) IN GENERAL.—Except as provided in subsection  
8           (f), 20 percent of the cost of qualified Indian reservation  
9           property shall—

10           “(1) be treated as an expense which is not  
11           chargeable to capital account, and

12           “(2) be allowed as a deduction for the taxable  
13           year in which the qualified Indian reservation prop-  
14           erty is placed in service.

15           “(b) QUALIFIED INDIAN RESERVATION PROPERTY  
16           DEFINED.—For purposes of this section—

17           “(1) IN GENERAL.—The term ‘qualified Indian  
18           reservation property’ means property which is pooled  
19           property (as defined in section 168(b)(2)) or non-  
20           residential real property (as defined in section  
21           168(i)(4)) and which is—

22           “(A) used by the taxpayer predominantly  
23           in the active conduct of a trade or business  
24           within an Indian reservation,

1           “(B) not used or located outside the In-  
2           dian reservation on a regular basis,

3           “(C) not acquired (directly or indirectly)  
4           by the taxpayer from a person who is related to  
5           the taxpayer (within the meaning of section  
6           465(b)(3)(C)), and

7           “(D) not property (or any portion thereof)  
8           placed in service for purposes of conducting or  
9           housing class I, II, or III gaming (as defined in  
10          section 4 of the Indian Regulatory Act (25  
11          U.S.C. 2703)).

12          “(2) SPECIAL RULE FOR RESERVATION INFRA-  
13          STRUCTURE INVESTMENT.—

14                 “(A) IN GENERAL.—Paragraph (1)(B)  
15                 shall not apply to qualified infrastructure prop-  
16                 erty located outside of the Indian reservation if  
17                 the purpose of such property is to connect with  
18                 qualified infrastructure property located within  
19                 the Indian reservation.

20                 “(B) QUALIFIED INFRASTRUCTURE PROP-  
21                 ERTY.—For purposes of this subparagraph, the  
22                 term ‘qualified infrastructure property’ means  
23                 qualified Indian reservation property (deter-  
24                 mined without regard to paragraph (1)(B))  
25                 which—



1 “(i) benefits the tribal infrastructure,  
2 “(ii) is available to the general public,  
3 and  
4 “(iii) is placed in service in connection  
5 with the taxpayer’s active conduct of a  
6 trade or business within an Indian reserva-  
7 tion.

8 Such term includes, but is not limited to, roads,  
9 power lines, water systems, railroad spurs, and  
10 communications facilities.

11 “(c) REAL ESTATE RENTALS.—For purposes of this  
12 section, the rental to others of real property located within  
13 an Indian reservation shall be treated as the active con-  
14 duct of a trade or business within an Indian reservation.

15 “(d) INDIAN RESERVATION DEFINED.—For purposes  
16 of this section, the term ‘Indian reservation’ means a res-  
17 ervation, as defined in—

18 “(1) section 3(d) of the Indian Financing Act  
19 of 1974 (25 U.S.C. 1452(d)), or

20 “(2) section 4(10) of the Indian Child Welfare  
21 Act of 1978 (25 U.S.C. 1903(10)).

22 For purposes of the preceding sentence, such section 3(d)  
23 shall be applied by treating the term ‘former Indian res-  
24 ervations in Oklahoma’ as including only lands which are  
25 within the jurisdictional area of an Oklahoma Indian tribe

1 (as determined by the Secretary of the Interior) and are  
2 recognized by such Secretary as eligible for trust land sta-  
3 tus under 25 CFR Part 151 (as in effect on the date of  
4 the enactment of the Taxpayer Relief Act of 1997).

5 “(e) COORDINATION WITH NONREVENUE LAWS.—  
6 Any reference in this subsection to a provision not con-  
7 tained in this title shall be treated for purposes of this  
8 subsection as a reference to such provision as in effect  
9 on August 10, 1993.

10 “(f) ELECTION OUT.—If a taxpayer makes an elec-  
11 tion under this subsection with respect to any class of  
12 property for any taxable year, this subsection shall not  
13 apply to all property in such class placed in service during  
14 such taxable year. Such election, once made, shall be irrev-  
15 ocable.

16 “(g) SUNSET.—

17 “(1) IN GENERAL.—This section shall not apply  
18 to property placed in service after December 31,  
19 2016.

20 “(2) SPECIAL RULE FOR PROPERTY PLACED IN  
21 SERVICE BEFORE 2017.—In the case of any qualified  
22 Indian reservation property held by the taxpayer on  
23 the first day of the taxpayer’s first taxable year be-  
24 ginning after December 31, 2016—

1           “(A) such property shall be treated as  
2 placed in service by the taxpayer on such date,

3           “(B) the adjusted basis of such property in  
4 the hands of the taxpayer on such date shall be  
5 treated as the cost of such property for pur-  
6 poses of subsection (a), and

7           “(C) the amount of the deduction allowed  
8 with respect to such property under this section  
9 by reason of this subsection shall be applied to  
10 reduce the adjusted basis of such property be-  
11 fore the application of section 168(e)(3)(A)(i).”.

12           (B) CLERICAL AMENDMENT.—The table of  
13 sections for part VI of subchapter B of chapter  
14 1 is amended by inserting after the item relat-  
15 ing to section 179E the following new item:

“Sec. 179F. Property on Indian reservations.”.

16           (9) GAIN FROM DISPOSITIONS OF POOLED  
17 PROPERTY.—Section 1245(a) is amended by insert-  
18 ing after paragraph (3) the following new para-  
19 graph:

20           “(4) APPLICATION TO POOLED PROPERTY.—In  
21 the case of any section 1245 property which is  
22 pooled property (as defined in section 168(b)(2))—

23           “(A) paragraph (1) shall not apply, and

24           “(B) any amount which, under subsection  
25 (e)(2)(B) or (f) of section 168, is treated as

1 gain from such pooled property shall be treated  
2 as ordinary income and shall be recognized not-  
3 withstanding any other provision of this sub-  
4 title.”.

5 (c) CONFORMING AMENDMENTS.—

6 (1) Section 43(c)(5) is amended—

7 (A) by striking “(as defined in section  
8 168(i)(16) (determined without regard to sub-  
9 paragraph (B) thereof)” in subparagraph (A),  
10 and

11 (B) by adding at the end the following new  
12 subparagraph:

13 “(C) ALASKA NATURAL GAS PIPELINE.—  
14 The term ‘Alaska natural gas pipeline’ means  
15 the natural gas pipeline system located in the  
16 State of Alaska which has a capacity of more  
17 than 500,000,000,000 Btu of natural gas per  
18 day. Such term includes the pipe, trunk lines,  
19 related equipment, and appurtenances used to  
20 carry natural gas, but does not include any gas  
21 processing plant.”.

22 (2) Section 45A(c)(7) is amended by striking  
23 “168(j)(6)” and inserting “179F(d)”.

24 (3) Section 47(c)(2)(B) is amended—

1 (A) by striking clause (i) and redesignating  
2 clauses (ii) through (vi) as clauses (i) through  
3 (v), respectively,

4 (B) by striking “168(h)” in clause (iv)(I)  
5 (as redesignated by clause (i)) and inserting  
6 “470(f)”, and

7 (C) by striking “under section 168(c)” in  
8 clause (v) (as redesignated by clause (i)) and  
9 inserting “under section 169(g)”.

10 (4)(A) Section 50(b)(1)(B) is amended by strik-  
11 ing “168(g)(4)” and inserting “168(k)(2)(D)(ii)”.

12 (B) Section 50(b)(4)(A)(ii) is amended—

13 (i) by striking “168(h)(2)(C)” and insert-  
14 ing “470(f)(2)(C)”,

15 (ii) by striking “168(h)(2)(A)(iii)” and in-  
16 serting “470(f)(2)(A)(iii)”, and

17 (iii) by striking “168(h)(2)(B)” and insert-  
18 ing “470(f)(2)(B)”.

19 (C) Section 50(b) is amended—

20 (i) by striking “(determined under section  
21 168(i)(3))” in paragraph (4)(B), and

22 (ii) by adding at the end the following new  
23 paragraph:

24 “(5) LEASE TERM.—For purposes of paragraph  
25 (4)(B)—

1           “(A) IN GENERAL.—In determining a lease  
2 term—

3           “(i) there shall be taken into account  
4 options to renew,

5           “(ii) the term of a lease shall include  
6 the term of any service contract or similar  
7 arrangement (whether or not treated as a  
8 lease under section 7701(e))—

9           “(I) which is part of the same  
10 transaction (or series of related trans-  
11 actions) which includes the lease, and

12           “(II) which is with respect to the  
13 property subject to the lease or sub-  
14 stantially similar property, and

15           “(iii) 2 or more successive leases  
16 which are part of the same transaction (or  
17 a series of related transactions) with re-  
18 spect to the same or substantially similar  
19 property shall be treated as 1 lease.

20           “(B) SPECIAL RULE FOR FAIR RENTAL OP-  
21 TIONS ON NONRESIDENTIAL REAL PROPERTY  
22 OR RESIDENTIAL RENTAL PROPERTY.—For  
23 purposes of clause (i) of subparagraph (A), in  
24 the case of nonresidential real property (as de-  
25 fined in section 168(i)(5)) or residential rental

1 property (as defined in section 168(i)(4)), there  
2 shall not be taken into account any option to  
3 renew at fair market value, determined at the  
4 time of renewal.”.

5 (D) Section 50(b)(4)(D) is amended by insert-  
6 ing “(as in effect on the day before the date of the  
7 enactment of the Cost Recovery Reform and Sim-  
8 plification Act of 2016)” after “168(h)”.

9 (E) Section 50(b)(4) is amended by striking  
10 subparagraph (E).

11 (5) Section 56 is amended—

12 (A) by striking subsection (a)(1), and

13 (B) by striking subsection (g)(4)(A).

14 (6) Section 110 is amended—

15 (A) by striking “(including for purposes of  
16 section 168(i)(8)(B))” in subsection (b), and

17 (B) by striking “168(i)(3)” in subsection  
18 (c)(2) and inserting “50(b)(5)”.

19 (7) Section 142 is amended—

20 (A) in subsection (b)(1)(B)(ii), by striking  
21 “168(i)(3)” and inserting “50(b)(5)”, and

22 (B) in subsection (k)(3)(C), by inserting  
23 “(other than property described in section  
24 168(b)(2)(B))” after “but for section 179)”.

25 (8) Section 167 is amended—

1 (A) in subsection (g)(6)(A), by striking  
2 “paragraph (3) or (4) of section 168(f)” and  
3 inserting “clauses (ii) or (iii) of section  
4 168(b)(1)(B)”, and

5 (B) in subsection (f)—

6 (i) by striking “subsection (h) of sec-  
7 tion 168” each place it appears and insert-  
8 ing “subsection (f) of section 470”, and

9 (ii) by striking “168(i)(3)” and insert-  
10 ing “50(b)(5)”.

11 (9) Section 168(k) is amended—

12 (A) in paragraph (2)(A)(i)(I), by striking  
13 “which has a recovery period of 20 years or  
14 less” and inserting “which is not classified as  
15 straight line property under subsection (e)”,

16 (B) by striking paragraph (2)(D) and in-  
17 serting the following:

18 “(D) EXCEPTION FOR CERTAIN PROP-  
19 erty.—

20 “(i) IN GENERAL.—The term ‘quali-  
21 fied property’ shall not include—

22 “(I) any tangible property which  
23 during the taxable year is used pre-  
24 dominantly outside the United States,



1 “(II) any tax-exempt use prop-  
2 erty (as defined in section 470(f)),

3 “(III) any tax-exempt bond fi-  
4 nanced property, and

5 “(IV) any imported property cov-  
6 ered by an Executive order under  
7 clause (iv).

8 “(ii) EXCEPTION FOR CERTAIN PROP-  
9 erty USED OUTSIDE THE UNITED  
10 STATES.—Subclause (I) of clause (i) shall  
11 not apply to—

12 “(I) any aircraft which is reg-  
13 istered by the Administrator of the  
14 Federal Aviation Agency and which is  
15 operated to and from the United  
16 States or is operated under contract  
17 with the United States;

18 “(II) rolling stock which is used  
19 within and without the United States  
20 and which is—

21 “(aa) of a rail carrier sub-  
22 ject to part A of subtitle IV of  
23 title 49, or

24 “(bb) of a United States  
25 person (other than a corporation

1 described in item (aa)) but only  
2 if the rolling stock is not leased  
3 to one or more foreign persons  
4 for periods aggregating more  
5 than 12 months in any 24-month  
6 period;

7 “(III) any vessel documented  
8 under the laws of the United States  
9 which is operated in the foreign or do-  
10 mestic commerce of the United States;

11 “(IV) any motor vehicle of a  
12 United States person (as defined in  
13 section 7701(a)(30)) which is oper-  
14 ated to and from the United States;

15 “(V) any container of a United  
16 States person which is used in the  
17 transportation of property to and  
18 from the United States;

19 “(VI) any property (other than a  
20 vessel or an aircraft) of a United  
21 States person which is used for the  
22 purpose of exploring for, developing,  
23 removing, or transporting resources  
24 from the outer Continental Shelf  
25 (within the meaning of section 2 of

1 the Outer Continental Shelf Lands  
2 Act, as amended and supplemented;  
3 (43 U.S.C. 1331));

4 “(VII) any property which is  
5 owned by a domestic corporation  
6 (other than a corporation which has  
7 an election in effect under section  
8 936) or by a United States citizen  
9 (other than a citizen entitled to the  
10 benefits of section 931 or 933) and  
11 which is used predominantly in a pos-  
12 session of the United States by such  
13 a corporation or such a citizen, or by  
14 a corporation created or organized in,  
15 or under the law of, a possession of  
16 the United States;

17 “(VIII) any communications sat-  
18 ellite (as defined in section 103(3) of  
19 the Communications Satellite Act of  
20 1962, 47 U.S.C. 702(3)), or any in-  
21 terest therein, of a United States per-  
22 son;

23 “(IX) any cable, or any interest  
24 therein, of a domestic corporation en-  
25 gaged in furnishing telephone services

1 described in section 404(a)(1)(C) (or  
2 of a wholly owned domestic subsidiary  
3 of such a corporation), if such cable is  
4 part of a submarine cable system  
5 which constitutes part of a commu-  
6 nication link exclusively between the  
7 United States and one or more for-  
8 eign countries;

9 “(X) any property (other than a  
10 vessel or an aircraft) of a United  
11 States person which is used in inter-  
12 national or territorial waters within  
13 the northern portion of the Western  
14 Hemisphere for the purpose of explor-  
15 ing for, developing, removing, or  
16 transporting resources from ocean  
17 waters or deposits under such waters;

18 “(XI) any property described in  
19 section 48(l)(3)(A)(ix) (as in effect on  
20 the day before the date of the enact-  
21 ment of the Revenue Reconciliation  
22 Act of 1990) which is owned by a  
23 United States person and which is  
24 used in international or territorial

1 waters to generate energy for use in  
2 the United States; and

3 “(XII) any satellite (not de-  
4 scribed in subclause (VIII)) or other  
5 spacecraft (or any interest therein)  
6 held by a United States person if such  
7 satellite or other spacecraft was  
8 launched from within the United  
9 States.

10 For purposes of subclause (X), the term  
11 ‘northern portion of the Western Hemi-  
12 sphere’ means the area lying west of the  
13 30th meridian west of Greenwich, east of  
14 the international dateline, and north of the  
15 Equator, but not including any foreign  
16 country which is a country of South Amer-  
17 ica.

18 “(iii) TAX-EXEMPT BOND FINANCED  
19 PROPERTY.—For purposes of this subpara-  
20 graph—

21 “(I) IN GENERAL.—Except as  
22 otherwise provided in this clause, the  
23 term ‘tax-exempt bond financed prop-  
24 erty’ means any property to the extent  
25 such property is financed (directly or

1 indirectly) by an obligation the inter-  
2 est on which is exempt from tax under  
3 section 103(a).

4 “(II) ALLOCATION OF BOND PRO-  
5 CEEDS.—For purposes of subclause  
6 (I), the proceeds of any obligation  
7 shall be treated as used to finance  
8 property acquired in connection with  
9 the issuance of such obligation in the  
10 order in which such property is placed  
11 in service.

12 “(III) QUALIFIED RESIDENTIAL  
13 RENTAL PROJECTS.—The term ‘tax-  
14 exempt bond financed property’ shall  
15 not include any qualified residential  
16 rental project (within the meaning of  
17 section 142(a)(7)).

18 “(iv) IMPORTED PROPERTY.—

19 “(I) COUNTRIES MAINTAINING  
20 TRADE RESTRICTIONS OR ENGAGING  
21 IN DISCRIMINATORY ACTS.—If the  
22 President determines that a foreign  
23 country—

24 “(aa) maintains nontariff  
25 trade restrictions, including vari-

1                   able import fees, which substan-  
2                   tially burden United States com-  
3                   merce in a manner inconsistent  
4                   with provisions of trade agree-  
5                   ments, or

6                   “(bb) engages in discrimina-  
7                   tory or other acts (including tol-  
8                   erance of international cartels) or  
9                   policies unjustifiably restricting  
10                  United States commerce,

11                 the President may by Executive order  
12                 provide for the application of clause  
13                 (i)(IV) to any article or class of arti-  
14                 cles manufactured or produced in  
15                 such foreign country for such period  
16                 as may be provided by such Executive  
17                 order. Any period specified in the pre-  
18                 ceding sentence shall not apply to any  
19                 property ordered before (or the con-  
20                 struction, reconstruction, or erection  
21                 of which began before) the date of the  
22                 Executive order unless the President  
23                 determines an earlier date to be in the  
24                 public interest and specifies such date  
25                 in the Executive order.

1                   “(II) IMPORTED PROPERTY.—

2                   For purposes of this subparagraph,  
3                   the term ‘imported property’ means  
4                   any property if—

5                   “(aa) such property was  
6                   completed outside the United  
7                   States, or

8                   “(bb) less than 50 percent  
9                   of the basis of such property is  
10                  attributable to value added with-  
11                  in the United States.

12                  For purposes of this subparagraph,  
13                  the term ‘United States’ includes the  
14                  Commonwealth of Puerto Rico and  
15                  the possessions of the United  
16                  States.”, and

17                  (C) by striking paragraph (2)(F).

18                  (10) Section 179 is amended—

19                  (A) in subsection (d)(1)(A)(ii), by striking  
20                  “and to which section 167 applies” and insert-  
21                  ing “and to which section 168 applies”.

22                  (B) in subsection (d)(5)(B), by striking  
23                  “as defined in subsection 168(i)(1))” and in-  
24                  serting “within the meaning of section 168”,  
25                  and



1 (C) in subsection (f)(2)—

2 (i) by inserting “(as in effect on the  
3 day before the date of the enactment of the  
4 Cost Recovery Reform and Simplification  
5 Act of 2016” after “168(e)(6)” in sub-  
6 paragraph (A),

7 (ii) by inserting “(as in effect on the  
8 day before the date of the enactment of the  
9 Cost Recovery Reform and Simplification  
10 Act of 2016” after “168(e)(7)” in sub-  
11 paragraph (B), and

12 (iii) by inserting “(as in effect on the  
13 day before the date of the enactment of the  
14 Cost Recovery Reform and Simplification  
15 Act of 2016” after “168(e)(8)” in sub-  
16 paragraph (C).

17 (11) Section 181(d)(2)(A) is amended by strik-  
18 ing “168(f)(3)” and inserting “168(b)(1)(B)(ii)”.

19 (12) Section 197(f)(10) is amended—

20 (A) by striking “subsection (h) of section  
21 168” and inserting “subsection (f) of section  
22 470 (determined as if rules similar to the rules  
23 of section 168(h)(5) (as in effect for taxable  
24 years beginning in 2016) applied”, and

1 (B) by striking “168(i)(3)” and inserting  
2 “50(b)(5)”.

3 (13) Section 199(c) is amended—

4 (A) by striking “168(f)(4)” in paragraph  
5 (5)(C) and inserting “168(b)(1)(B)(iii)”, and

6 (B) by striking “168(f)(3)” in paragraph  
7 (6) and inserting “168(b)(1)(B)(ii)”.

8 (14) Section 263A is amended—

9 (A) by striking paragraph (2) of subsection  
10 (e), and

11 (B) in subsection (f)(4)(A), by striking  
12 clauses (i) and (ii) and inserting the following:

13 “(i) property which is assigned to pool  
14 6, or

15 “(ii) property classified as straight  
16 line property under section 168(c)(1).”.

17 (15) Section 291(c)(1) is amended by inserting  
18 “, and such amount shall be treated as straight line  
19 property for purposes of section 168” after “sub-  
20 section (a)(4)”.

21 (16) Section 404(a)(1)(C) is amended by strik-  
22 ing “services described in section 168(i)(10)(C)” and  
23 inserting “services described in section  
24 168(i)(9)(C)”.

25 (17) Section 460 is amended—

1 (A) by striking subsection (c)(6),d

2 (B) by striking “168(h)(2)(D)” in sub-  
3 section (d)(2) and inserting “470(f)(2)(D)”,  
4 and

5 (C) in subsection (e)(6) by inserting “(as  
6 in effect on the day before the date of the en-  
7 actment of the Cost Recovery Reform and Sim-  
8 plication Act of 2016)” after  
9 “168(e)(2)(E)(ii)” each place it appears.

10 (18) Section 467 is amended—

11 (A) in section (b)(4)(A), by striking “75  
12 percent of”, and

13 (B) by striking the table in subsection  
14 (e)(3)(A) and inserting the following:

“In the case of:	The statu- tory recov- ery period is:
Property assigned to pool 1 .....	3 years
Property assigned to pool 2 .....	5 years
Property assigned to pool 3 .....	7 years
Property assigned to pool 4 .....	10 years
Property assigned to pool 5 .....	15 years
Property assigned to pool 6 .....	20 years
Property classified as straight line property under section 168(e)(1) .....	The period prescribed under section 168(g)(3).’.

15 (19)(A) Section 470 is amended—

16 (i) by striking subsection (c) and inserting  
17 the following:

1           “(c) TAX-EXEMPT USE LOSS.—The term ‘tax-exempt  
2 use loss’ means, with respect to any taxable year, the  
3 amount (if any) by which—

4           “(1) the sum of—

5                   “(A) the aggregate deductions (other than  
6 interest) directly allocable to a tax-exempt use  
7 property, plus

8                   “(B) the aggregate deductions for interest  
9 properly allocable to such property, exceed

10           “(2) the aggregate income from such prop-  
11 erty.”,

12           (ii) by redesignating subsections (f) and  
13 (g) as subsections (g) and (h), respectively, and

14           (iii) by inserting after subsection (e) the  
15 following new subsection:

16           “(f) TAX-EXEMPT USE PROPERTY.—

17                   “(1) IN GENERAL.—For purposes of this sec-  
18 tion—

19                   “(A) PROPERTY OTHER THAN NONRESI-  
20 DENTIAL REAL PROPERTY.—Except as other-  
21 wise provided in this subsection, the term ‘tax-  
22 exempt use property’ means that portion of any  
23 specified property (other than nonresidential  
24 real property) leased to a tax-exempt entity.

1                   “(B) NONRESIDENTIAL REAL PROP-  
2                   ERTY.—

3                   “(i) IN GENERAL.—In the case of  
4                   nonresidential real property, the term ‘tax-  
5                   exempt use property’ means that portion of  
6                   the property leased to a tax-exempt entity  
7                   in a disqualified lease.

8                   “(ii) DISQUALIFIED LEASE.—For pur-  
9                   poses of this subparagraph, the term ‘dis-  
10                  qualified lease’ means any lease of the  
11                  property to a tax-exempt entity, but only  
12                  if—

13                   “(I) part or all of the property  
14                   was financed (directly or indirectly)  
15                   by an obligation the interest on which  
16                   is exempt from tax under section  
17                   103(a) and such entity (or a related  
18                   entity) participated in such financing,

19                   “(II) under such lease there is a  
20                   fixed or determinable purchase price  
21                   or sale option which involves such en-  
22                   tity (or a related entity) or there is  
23                   the equivalent of such an option,

24                   “(III) such lease has a lease term  
25                   in excess of 20 years, or

1                   “(IV) such lease occurs after a  
2                   sale (or other transfer) of the prop-  
3                   erty by, or lease of the property from,  
4                   such entity (or a related entity) and  
5                   such property has been used by such  
6                   entity (or a related entity) before such  
7                   sale (or other transfer) or lease.

8                   “(iii)     35-PERCENT     THRESHOLD  
9                   TEST.—Clause (i) shall apply to any prop-  
10                  erty only if the portion of such property  
11                  leased to tax-exempt entities in disqualified  
12                  leases is more than 35 percent of the prop-  
13                  erty.

14                  “(iv)     TREATMENT     OF     IMPROVE-  
15                  MENTS.—For purposes of this subpara-  
16                  graph, improvements to a property (other  
17                  than land) shall not be treated as a sepa-  
18                  rate property.

19                  “(v)     LEASEBACKS     DURING     1ST     3  
20                  MONTHS OF USE NOT TAKEN INTO AC-  
21                  COUNT.—Subclause (IV) of clause (ii) shall  
22                  not apply to any property which is leased  
23                  within 3 months after the date such prop-  
24                  erty is first used by the tax-exempt entity  
25                  (or a related entity).

1           “(C) SPECIFIED PROPERTY.—For pur-  
2           poses of subparagraph (A), the term ‘specified  
3           property’ means—

4                   “(i) any tangible property,

5                   “(ii) any section 197 intangible prop-  
6           erty (as defined in section 197),

7                   “(iii) any property described in sec-  
8           tion 167(f), and

9                   “(iv) any property described in section  
10          168(b)(2)(B).

11           “(D) EXCEPTION WHERE PROPERTY USED  
12          IN UNRELATED TRADE OR BUSINESS.—The  
13          term ‘tax-exempt use property’ shall not include  
14          any portion of a property if such portion is pre-  
15          dominantly used by the tax-exempt entity (di-  
16          rectly or through a partnership of which such  
17          entity is a partner) in an unrelated trade or  
18          business the income of which is subject to tax  
19          under section 511. For purposes of subpara-  
20          graph (B)(iii), any portion of a property so  
21          used shall not be treated as leased to a tax-ex-  
22          empt entity in a disqualified lease.

23           “(E) NONRESIDENTIAL REAL PROPERTY  
24          DEFINED.—For purposes of this paragraph, the  
25          term ‘nonresidential real property’ has the

1 meaning given such term under 168(i)(5), ex-  
2 cept that such term shall include residential  
3 rental property (as defined under section  
4 168(i)(4)).

5 “(2) TAX-EXEMPT ENTITY.—

6 “(A) IN GENERAL.—For purposes of this  
7 subsection, the term ‘tax-exempt entity’  
8 means—

9 “(i) the United States, any State or  
10 political subdivision thereof, any possession  
11 of the United States, or any agency or in-  
12 strumentality of any of the foregoing,

13 “(ii) an organization (other than a co-  
14 operative described in section 521) which  
15 is exempt from tax imposed by this chap-  
16 ter,

17 “(iii) any foreign person or entity, and

18 “(iv) any Indian tribal government de-  
19 scribed in section 7701(a)(40).

20 For purposes of applying this subsection, any  
21 Indian tribal government referred to in clause  
22 (iv) shall be treated in the same manner as a  
23 State.

24 “(B) EXCEPTION FOR CERTAIN PROPERTY  
25 SUBJECT TO UNITED STATES TAX AND USED BY



1 FOREIGN PERSON OR ENTITY.—Clause (iii) of  
2 subparagraph (A) shall not apply with respect  
3 to any property if more than 50 percent of the  
4 gross income for the taxable year derived by the  
5 foreign person or entity from the use of such  
6 property is—

7 “(i) subject to tax under this chapter,

8 or

9 “(ii) included under section 951 in the  
10 gross income of a United States share-  
11 holder for the taxable year with or within  
12 which ends the taxable year of the con-  
13 trolled foreign corporation in which such  
14 income was derived.

15 For purposes of the preceding sentence, any ex-  
16 clusion or exemption shall not apply for pur-  
17 poses of determining the amount of the gross  
18 income so derived, but shall apply for purposes  
19 of determining the portion of such gross income  
20 subject to tax under this chapter.

21 “(C) FOREIGN PERSON OR ENTITY.—For  
22 purposes of this paragraph, the term ‘foreign  
23 person or entity’ means—

24 “(i) any foreign government, any  
25 international organization, or any agency

1 or instrumentality of any of the foregoing,  
2 and

3 “(ii) any person who is not a United  
4 States person.

5 Such term does not include any foreign partner-  
6 ship or other foreign pass-thru entity.

7 “(D) TREATMENT OF CERTAIN TAXABLE  
8 INSTRUMENTALITIES.—For purposes of this  
9 subsection, a corporation shall not be treated as  
10 an instrumentality of the United States or of  
11 any State or political subdivision thereof if—

12 “(i) all of the activities of such cor-  
13 poration are subject to tax under this  
14 chapter, and

15 “(ii) a majority of the board of direc-  
16 tors of such corporation is not selected by  
17 the United States or any State or political  
18 subdivision thereof.

19 “(E) CERTAIN PREVIOUSLY TAX-EXEMPT  
20 ORGANIZATIONS.—

21 “(i) IN GENERAL.—For purposes of  
22 this subsection, an organization shall be  
23 treated as an organization described in  
24 subparagraph (A)(ii) with respect to any  
25 property (other than property held by such

1 organization) if such organization was an  
2 organization (other than a cooperative de-  
3 scribed in section 521) exempt from tax  
4 imposed by this chapter at any time during  
5 the 5-year period ending on the date such  
6 property was first used by such organiza-  
7 tion. The preceding sentence and subpara-  
8 graph (D)(ii) shall not apply to the Fed-  
9 eral Home Loan Mortgage Corporation.

10 “(ii) ELECTION NOT TO HAVE CLAUSE  
11 (I) APPLY.—

12 “(I) IN GENERAL.—In the case  
13 of an organization formerly exempt  
14 from tax under section 501(a) as an  
15 organization described in section  
16 501(c)(12), clause (i) shall not apply  
17 to such organization with respect to  
18 any property if such organization  
19 elects not to be exempt from tax  
20 under section 501(a) during the tax-  
21 exempt use period with respect to  
22 such property.

23 “(II) TAX-EXEMPT USE PE-  
24 RIOD.—For purposes of subclause (I),  
25 the term ‘tax-exempt use period’

1 means the period beginning with the  
2 taxable year in which the property de-  
3 scribed in subclause (I) is first used  
4 by the organization and ending with  
5 the close of the 15th taxable year fol-  
6 lowing the last taxable year of the ap-  
7 plicable recovery period of such prop-  
8 erty.

9 “(III) ELECTION.—Any election  
10 under subclause (I), once made, shall  
11 be irrevocable.

12 “(iii) TREATMENT OF SUCCESSOR OR-  
13 GANIZATIONS.—Any organization which is  
14 engaged in activities substantially similar  
15 to those engaged in by a predecessor orga-  
16 nization shall succeed to the treatment  
17 under this subparagraph of such prede-  
18 cessor organization.

19 “(iv) FIRST USED.—For purposes of  
20 this subparagraph, property shall be treat-  
21 ed as first used by the organization—

22 “(I) when the property is first  
23 placed in service under a lease to such  
24 organization, or

1                   “(II) in the case of property  
2                   leased to (or held by) a partnership  
3                   (or other pass-thru entity) in which  
4                   the organization is a member, the  
5                   later of when such property is first  
6                   used by such partnership or pass-thru  
7                   entity or when such organization is  
8                   first a member of such partnership or  
9                   pass-thru entity.

10                   “(3) RELATED ENTITIES.—For purposes of this  
11                   subsection—

12                   “(A)(i) Each governmental unit and each  
13                   agency or instrumentality of a governmental  
14                   unit is related to each other such unit, agency,  
15                   or instrumentality which directly or indirectly  
16                   derives its powers, rights, and duties in whole  
17                   or in part from the same sovereign authority.

18                   “(ii) For purposes of clause (i), the United  
19                   States, each State, and each possession of the  
20                   United States shall be treated as a separate  
21                   sovereign authority.

22                   “(B) Any entity not described in subpara-  
23                   graph (A)(i) is related to any other entity if the  
24                   2 entities have—

1 “(i) significant common purposes and  
2 substantial common membership, or

3 “(ii) directly or indirectly substantial  
4 common direction or control.

5 “(C)(i) An entity is related to another enti-  
6 ty if either entity owns (directly or through 1  
7 or more entities) a 50 percent or greater inter-  
8 est in the capital or profits of the other entity.

9 “(ii) For purposes of clause (i), entities  
10 treated as related under subparagraph (A) or  
11 (B) shall be treated as 1 entity.

12 “(D) An entity is related to another entity  
13 with respect to a transaction if such transaction  
14 is part of an attempt by such entities to avoid  
15 the application of this subsection.

16 “(4) TAX-EXEMPT USE OF PROPERTY LEASED  
17 TO PARTNERSHIPS, ETC., DETERMINED AT PARTNER  
18 LEVEL.—For purposes of this subsection—

19 “(A) IN GENERAL.—In the case of any  
20 property which is leased to a partnership, the  
21 determination of whether any portion of such  
22 property is tax-exempt use property shall be  
23 made by treating each tax-exempt entity part-  
24 ner’s proportionate share of such property as  
25 being leased to such partner.

1           “(B) OTHER PASS-THRU ENTITIES;  
2 TIERED ENTITIES.—Rules similar to the rules  
3 of subparagraph (A) shall also apply in the case  
4 of any pass-thru entity other than a partnership  
5 and in the case of tiered partnerships and other  
6 entities.

7           “(C) PRESUMPTION WITH RESPECT TO  
8 FOREIGN ENTITIES.—Unless it is otherwise es-  
9 tablished to the satisfaction of the Secretary, it  
10 shall be presumed that the partners of a foreign  
11 partnership (and the beneficiaries of any other  
12 foreign pass-thru entity) are persons who are  
13 not United States persons.

14           “(D) DETERMINATION OF PROPORTIONATE  
15 SHARE.—

16           “(i) IN GENERAL.—For purposes of  
17 subparagraph (A), a tax-exempt entity’s  
18 proportionate share of any property owned  
19 by a partnership shall be determined on  
20 the basis of such entity’s share of partner-  
21 ship items of income or gain (excluding  
22 gain allocated under section 704(c)),  
23 whichever results in the largest propor-  
24 tionate share.





1 dividend or interest received or ac-  
2 crued by a tax-exempt entity from  
3 such tax-exempt controlled entity)  
4 shall be treated as unrelated business  
5 taxable income for purposes of section  
6 511.

7 Any such election shall be irrevocable and  
8 shall bind all tax-exempt entities holding  
9 interests in such tax-exempt controlled en-  
10 tity. For purposes of subclause (II), there  
11 shall only be taken into account dividends  
12 which are properly allocable to income of  
13 the tax-exempt controlled entity which was  
14 not subject to tax under this chapter.

15 “(iii) TAX-EXEMPT CONTROLLED EN-  
16 TITY.—

17 “(I) IN GENERAL.—The term  
18 ‘tax-exempt controlled entity’ means  
19 any corporation (which is not a tax-  
20 exempt entity determined without re-  
21 gard to this subparagraph and para-  
22 graph (2)(E)) if 50 percent or more  
23 (in value) of the stock in such cor-  
24 poration is held by 1 or more tax-ex-

1           empt entities (other than a foreign  
2           person or entity).

3                   “(II) ONLY 5-PERCENT SHARE-  
4           HOLDERS TAKEN INTO ACCOUNT IN  
5           CASE OF PUBLICLY TRADED STOCK.—  
6           For purposes of subclause (I), in the  
7           case of a corporation the stock of  
8           which is publicly traded on an estab-  
9           lished securities market, stock held by  
10          a tax-exempt entity shall not be taken  
11          into account unless such entity holds  
12          at least 5 percent (in value) of the  
13          stock in such corporation. For pur-  
14          poses of this subclause, related enti-  
15          ties (within the meaning of paragraph  
16          (3)) shall be treated as 1 entity.

17                   “(III) SECTION 318 TO APPLY.—  
18          For purposes of this clause, a tax-ex-  
19          empt entity shall be treated as holding  
20          stock which it holds through applica-  
21          tion of section 318 (determined with-  
22          out regard to the 50-percent limita-  
23          tion contained in subsection (a)(2)(C)  
24          thereof).

1           “(5) LEASE; LEASE TERM.—For purposes of  
2 this subsection—

3           “(A) IN GENERAL.—The term ‘lease’ in-  
4 cludes any grant of a right to use property.

5           “(B) LEASE TERM.—The term of any lease  
6 shall be determined under section 50(b)(5).

7           “(6) REGULATIONS.—The Secretary shall pre-  
8 scribe such regulations as may be necessary or ap-  
9 propriate to carry out the purposes of this sub-  
10 section.”.

11           (B) Section 470(d)(4) is amended by striking  
12 “as defined in section 168(i)(1)” and inserting  
13 “within the meaning of section 168”.

14           (C) Section 470(g)(2), as redesignated by sub-  
15 paragraph (A)(ii), is amended by striking  
16 “168(i)(3)” and inserting “50(b)(5)”.

17           (20) Section 512(b)(17)(B)(ii)(I) is amended by  
18 striking “168(h)(4)(B)” and inserting  
19 “470(f)(3)(B)”.

20           (21) Section 514(c)(9) is amended—

21           (A) in subparagraph (B)(vi)—

22           (i) by striking “within the meaning of  
23 section 168(h)(6)” in subclause (II), and

1 (ii) by striking “subparagraph (E)” in  
2 subclause (III) and inserting “subpara-  
3 graph (F)”, and

4 (B) by redesignating subparagraphs (E)  
5 through (H) as subparagraphs (F) through (I),  
6 respectively, and by inserting after subpara-  
7 graph (D) the following new subparagraph:

8 “(E) QUALIFIED ALLOCATION.—

9 “(i) IN GENERAL.—For purposes of  
10 subparagraph (B)(vi)(II), the term ‘quali-  
11 fied allocation’ means any allocation to a  
12 tax-exempt entity (as defined in section  
13 470(f)) which—

14 “(I) is consistent with such enti-  
15 ty’s being allocated the same distribu-  
16 tive share of each item of income,  
17 gain, loss, deduction, credit, and basis  
18 and such share remains the same dur-  
19 ing the entire period the entity is a  
20 partner in the partnership, and

21 “(II) has substantial economic ef-  
22 fect within the meaning of section  
23 704(b)(2).

1 For purposes of this clause, items allocated  
2 under section 704(c) shall not be taken  
3 into account.

4 “(ii) REGULATIONS.—For purposes of  
5 determining whether there is a qualified al-  
6 location under clause (i), the Secretary—

7 “(I) shall prescribe regulations  
8 that set forth the proper treatment  
9 for partnership guaranteed payments,  
10 and

11 “(II) may prescribe regulations  
12 that provide for the exclusion or seg-  
13 regation of items.”.

14 (22) Section 527(i)(3)(D) is amended by strik-  
15 ing “168(h)(4)” and inserting “470(f)(3)”.

16 (23) Section 860E(e)(5) is amended by striking  
17 “168(h)(2)(D)” in the last sentence thereof and in-  
18 serting “470(f)(2)(D)”.

19 (24) Section 865(c)(3)(B) is amended by strik-  
20 ing “168(g)(4)” and inserting “168(k)(2)(D)(ii)”.

21 (25) Section 936(i)(4)(B) is amended—

22 (A) by striking “which is 3-year or 5-year  
23 property” in clause (ii) and inserting “which is  
24 assigned to pool 1 or pool 2”, and

1 (B) by striking “which is 7-year or 10-year  
2 property” in clause (iii) and inserting “which is  
3 assigned to pool 3 or pool 4”.

4 (26) Section 1393(a)(4)(B) is amended by  
5 striking “168(j)(6)” and inserting “179F(d)”.

6 (27) Section 1397C(d)(2)(A) is amended by  
7 striking “168(e)(2)” and inserting “169(i)(4)”.

8 (28) Section 1397D(a)(1) is amended by insert-  
9 ing “(as such section was in effect on the day before  
10 the date of the enactment of the Cost Recovery Re-  
11 form and Simplification Act of 2016)” after “168”.

12 (29) Section 1400I(b)(2)(A) is amended—

13 (A) by inserting “(as in effect on the day  
14 before the date of the enactment of the Cost  
15 Recovery Reform and Simplification Act of  
16 2016)” after “under section 168”, and

17 (B) by striking “168(e)” in clause (i) and  
18 inserting “169(i)(5)”.

19 (30) Section 1400J(b)(1) is amended by insert-  
20 ing “(as such section was in effect on the day before  
21 the date of the enactment of the Cost Recovery Re-  
22 form and Simplification Act of 2016)” after “168”.

23 (31) Section 1400U-3(e) is amended—

24 (A) in paragraph (1), by inserting “(as  
25 such section was in effect on the day before the

1 date of the enactment of the Cost Recovery Re-  
2 form and Simplification Act of 2016)” after  
3 “168”, and

4 (B) in paragraph (2)(A), by striking  
5 “168(e)(2)” and inserting “169(i)(5)”.

6 (32) Section 4052(e) is amended by striking  
7 “168(i)(3)(A)” and inserting “50(b)(5)(A)”.

8 (33) Section 6050V(d)(3)(B) is amended by  
9 striking “168(h)(2)(A)(iv)” and inserting  
10 “470(f)(2)(A)(iv)”.

11 (34) Section 7701(e)(4)(A) is amended by  
12 striking “168(h)” in the last sentence thereof and  
13 inserting “470(f)”.

14 (35) Section 7871(f)(3)(B) is amended by strik-  
15 ing “168(j)(6)” and inserting “179F(d)”.

16 (36) The table of sections for part VI of sub-  
17 chapter B of chapter 1 is amended by striking the  
18 item relating to section 168 and inserting the fol-  
19 lowing:

“Sec. 168. Depreciation for tangible property.”.

20 (d) EFFECTIVE DATE.—

21 (1) IN GENERAL.—Except as provided in para-  
22 graph (2), the amendments made by this section  
23 shall apply to taxable years beginning after Decem-  
24 ber 31, 2016.

1           (2) AUTHORITY TO MODIFY CLASS LIVES.—The  
2           provisions of section 168(c)(3) of the Internal Rev-  
3           enue Code of 1986, as amended by subsection (a),  
4           shall take effect on the date of the enactment of this  
5           Act.