

## The Final “Repair Regulations” – Potential Considerations for Manufacturers



The recently finalized “repair regulations” contain a number of special standards and safe harbors that may be of particular interest for manufacturers. Given the capital intensive nature of the manufacturing sector, manufacturers should pay particularly close attention to these important tax law changes, affecting nearly all costs incurred in connection with a company’s tangible property, from acquisition, throughout its operational life, and even at the time of disposition.

Taxpayers must comply with the final regulations beginning with their 2014 tax year, but could have chosen to do so as early as 2012. Because the potential benefits – and potential compliance risks – arising from the new regulations depend largely upon the taxpayer’s unique facts, manufacturers should consider consulting with their tax advisor to help determine whether and how these complex new rules can affect their tax position.

While the final regulations incorporate many elements of prior law, they also include new standards that manufacturers should carefully consider, including:

- A simplified “de minimis” safe harbor, permitting a tax deduction for expenditures of up to \$5000 per item, so long as the taxpayer consistently applies a written policy under which such amounts are expensed for book purposes as well. This written policy must be in place as of the first day of the tax year. The regulations simplify the deductibility of bulk purchases, as well as the treatment of transaction costs, such as delivery and installation fees. The \$5000 per item limit is only a safe harbor, and does not

preclude deductions for larger amounts either under an agreement with the taxpayer’s IRS examination team, or if the taxpayer can show that deducting larger amounts is otherwise permissible.

- A new “book conformity” capitalization safe harbor, allowing taxpayers to capitalize for tax purposes all repair and maintenance costs capitalized for book purposes. Taxpayers, including those making this election, however, should review their repair and maintenance costs expensed for book purposes, because those costs will be ineligible for the safe harbor.
- A special definition of “unit of property” for plant property, such as manufacturing, warehousing, and distribution equipment. Many manufacturers find that properly applying this fact-intensive standard is one of the most critical – and time consuming – steps in implementing the new regulations.
- A “routine maintenance safe harbor” that may significantly expand a manufacturer’s ability to currently deduct many of the more common (and expensive) cyclical maintenance costs.
- A narrowing of the election to capitalize and depreciate materials and supplies. Under the final regulations, that option is available only for rotatable, temporary, or emergency stand-by spares – all others not treated as “de minimis” costs must be accounted for when used (if “non-incidental”) or when purchased, subject to capitalization if expected to be used in an improvement activity.

- Proposed changes to the treatment of partial dispositions of tangible property, in contrast to the treatment under the temporary regulations. While the use of general asset accounts (GAAs) may still be beneficial in some situations, taxpayers now generally can achieve the desired flexibility regarding the treatment of partial dispositions without the need to make so-called GAA elections.

In addition to these new standards and safe harbors, the final regulations provide numerous additional or revised examples demonstrating the rules for identifying the taxpayer’s units of property and major components, and for distinguishing deductible repairs from capital improvements. Correctly applying these complex and fact-intensive standards is critical in determining that the taxpayer complies with and fully benefits from these important new regulations.

KPMG has a seasoned team of specialists with broad experience in applying the repair regulations in the manufacturing sector. Our team of Accounting Methods and Credits Services fixed asset specialists and Washington National Tax professionals (including former government officials with particular knowledge of these rules) has worked closely with a number of manufacturers to help implement the new rules. We have assisted manufacturers with projects ranging from confirming and documenting current compliance with the new rules to completely overhauling large and complex fixed asset systems and accounting policies in order to more fully realize the potential benefits of the new regulations.

### Contact a KPMG Fixed Asset Services Specialist:

#### Midwest Leader

**Peter A. Baltmanis**  
pbaltmanis@kpmg.com  
214-840-6756

#### West Leader

**Conrad Kreutzer**  
ckreutzer@kpmg.com  
858-750-7180

#### East Leader

**Darrin Holley**  
dholley@kpmg.com  
202-533-6466

#### Washington National Tax

**James Atkinson**  
jlatkinson@kpmg.com  
202-533-4950

#### Southwest Leader

**Paul Mundwiller**  
pmundwiller@kpmg.com  
713-319-2959

#### Northeast Leader

**Lynn Afeman**  
lafeman@kpmg.com  
202-533-4092

#### Eric Lucas

ejlucas@kpmg.com  
202-533-3023

[kpmg.com](http://kpmg.com)

The information contained herein is general in nature and based on authorities that are subject to change. Applicability to specific situations is to be determined through consultation with your tax adviser.

© 2013 KPMG LLP, a Delaware limited liability partnership and the U.S. member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative (“KPMG International”), a Swiss entity. All rights reserved. The KPMG name, logo and “cutting through complexity” are registered trademarks or trademarks of KPMG International. NDPPS 223369