

DID THE IRS DETERMINE THAT RENTAL CARPET ONLY LASTS 5 YEARS – OR WHERE DOES THE 5-YR TAX DEPRECIATION OF CARPETS RULE COME FROM?

Issue: The IRS allows depreciation under the Modified Accelerated Cost Recovery System (MACRS) for carpeting in a rental apartment over a 5-year period. See IRS Publication 527¹; IRS Announcement 99-82.² Where does this number come from?

Analysis: As more fully set out in 26 U.S.C. sec 168³, MACRS is the standard depreciation rule for a large variety of items, including items in residential rental units. The statute prescribes absolute depreciation periods for many items (called “property” in the statute).

Specifically, paragraph (e) of that statute states

(e) Classification of property For purposes of this section— (1) **In general**
Except as otherwise provided in this subsection, property shall be classified under the following table:

| Property shall be treated as: | If such property has a class life (in years) of: |
|--|---|
| 3-year property | 4 or less |
| 5-year property | More than 4 but less than 10 |
| 7-year property | 10 or more but less than 16 |
| 10-year property | 16 or more but less than 20 |
| 15-year property | 20 or more but less than 25 |
| 20-year property | 25 or more. |

Thus, if the class life of carpet, e.g., is more than 4 but less than 10 years, the landlord depreciates carpet over 5 years because it is “5-year property”.

But what is “class life”? 26 U.S.C. sec 168(i) states:

(i) Definitions and special rules For purposes of this section— (1) **Class life**
Except as provided in this section, the term “class life” means the class life (if any) which would be applicable with respect to any property as of January 1,

¹ Available at <http://www.irs.gov/pub/irs-pdf/p527.pdf>

² Available at <http://www.irs.gov/pub/irs-irbs/irb99-32.pdf>

³ Available at <https://www.law.cornell.edu/uscode/text/26/168>

1986, under subsection (m) of section 167 (determined without regard to paragraph (4) and as if the taxpayer had made an election under such subsection). The Secretary, through an office established in the Treasury, shall monitor and analyze actual experience with respect to all depreciable assets. The reference in this paragraph to subsection (m) of section 167 shall be treated as a reference to such subsection as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990. [emphasis added]

What did subsection (m) of IRC section 167⁴ state on the day before the date of the enactment of the Revenue Reconciliation Act of 1990? It stated this:

In general. In the case of a taxpayer who has made an election under this subsection for the taxable year, the term "reasonable allowance" as used in subsection (a) means (with respect to property which is placed in service during the taxable year and which is included in any class for which a class life has been prescribed) only an allowance based on the class life prescribed by the Secretary [of the Treasury] which reasonably reflects the anticipated useful life of that class of property to the industry or other group. The allowance so prescribed may (under regulations prescribed by the Secretary) permit a variance from any class life by not more than 20 percent (rounded to the nearest half year) of such life. [emphasis added]

So, carpet is depreciable over 5 years on the landlord's tax return because the Secretary of the Treasury (in the real world meaning IRS staff reporting to the Secretary) did a study and determined that carpets used by residential landlords have an anticipated useful life of more than 4 but less than 10 years, that is 5-9 years.

Thus, the IRS does not think that all residential rental carpets only lasts five years, but the IRS does think that most such carpets last between five and nine years based on a study of carpets by the IRS.

4 Available in West's USCA or a similar source at a law library or via an online service. Available on the Internet at https://books.google.com/books?id=oFMri5-wuZYC&pg=PA948&lpg=PA948&dq=%22the+class+life+prescribed+by+the+Secretary+which+reasonably+reflects+the+anticipated+useful+life+of+that+class+of+property+to+the+industry+or+other+group%22&source=bl&ots=eE2lQmqI9U&sig=111fGFSiaTJHU-7XnEWmS2vmlec&hl=en&sa=X&ei=1ydOVddFx_qwBaazgMgB&ved=0CB4Q6AEwAA#v=onepage&q=%22the%20class%20life%20prescribed%20by%20the%20Secretary%20which%20reasonably%20reflects%20the%20anticipated%20useful%20life%20of%20that%20class%20of%20property%20to%20the%20industry%20or%20other%20group%22&f=false