

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



January 3, 2019

Advice Letter 5394

Ronald van der Leeden
Director, Regulatory Affairs
Southern California Gas Company
555 W. Fifth Street, GT14D6
Los Angeles, CA 90013-1011

SUBJECT: Revision of the Income Tax Component of Contributions and Advances for Construction (ITCCA) Pursuant to H.R. 1, Tax Cuts and Jobs Act of 2017.

Dear Mr. van der Leeden:

Advice Letter 5394 is effective as of January 1, 2019.

Sincerely,

A handwritten signature in cursive script that reads "Edward Randolph".

Edward Randolph
Director, Energy Division



Ronald van der Leeden
Director
Regulatory Affairs

555 W. Fifth Street, GT14D6
Los Angeles, CA 90013-1011
Tel: 213.244.2009
Fax: 213.244.4957

RvanderLeeden@semprautilities.com

December 7, 2018

Advice No. 5394
(U 904 G)

Public Utilities Commission of the State of California

Subject: Revision of the Income Tax Component of Contributions and Advances for Construction (ITCCA) Pursuant to H.R. 1, Tax Cuts and Jobs Act of 2017

Southern California Gas Company (SoCalGas) hereby submits revisions to its Preliminary Statement, Part IV, ITCCA for Construction to reflect legislation changing the tax factor used to compute the ITCCA, as shown on Attachment A.

Purpose

SoCalGas hereby notifies the California Public Utilities Commission (CPUC or Commission) that the ITCCA tax factor is revised to reflect legislation changing the tax factor used to compute the ITCCA to a constant 24% beginning January 1, 2019 and beyond due to H.R. 1, Tax Cuts and Jobs Act (Act).¹

Background

SoCalGas' Preliminary Statement, Part IV, provides that Contributions in Aid of Construction (CIAC) and Refundable Advances for Construction (Advances) shall consist of two components: 1) income tax component (ITC); and 2) the balance of the Contribution or Advance. The ITC shall be calculated by multiplying the Balance of Contribution or Advance by the tax factor. The tax factor is established by using "Method 5" in accordance with Ordering Paragraph 3.a of Commission Decision (D.) 87-09-026 as modified by D.87-12-028. D.87-09-026 directs the respondent utilities to file an Advice Letter to reflect any change in the tax factor, which would increase or decrease the rate by five percentage points or more.

Since February 2008, the Federal Government has enacted, on a temporary basis, a series of income tax revisions intended to stimulate investment in capital projects. The previous

¹ Section 13001, 21-Percent Corporate Tax Rate, of the Act is included on Attachment B.

income tax revisions were on December 18, 2015 when President Obama signed into law the Protecting Americans from Tax Hikes Act of 2015, which retroactively extended the Federal Depreciation Provisions of the Internal Revenue Code (IRC), beginning January 1, 2015 through December 31, 2019, with reduced tax incentives in 2018 and 2019. The extension of the Federal Depreciation Provisions of the IRC included in the following revisions to the ITCCA tax factors:

<u>Period</u>	<u>Tax Factor</u>
1/1/2015 through 12/31/2017	22%
1/1/2018 through 12/31/2018	24%
1/1/2019 through 12/31/2019	27%

On December 22, 2017, President Trump signed into law the Act, which superseded a portion of the Protecting Americans from Tax Hikes Act of 2015, and included the: 1) reduction of the Federal corporate income tax to 21% from 35% beginning January 1, 2018; and 2) elimination of the bonus depreciation deductions in the Modified Accelerated Cost Recovery System tax factor calculation for Utilities.² As a result, the tax factor used to compute the ITC associated with the CIAC and Advances will be 24%, as follows:

<u>Period</u>	<u>Tax Factor</u>
Beginning 1/1/2019, and thereafter	24%

To support the tax factor, SoCalGas includes, as Attachment C, the calculation set forth in "Method 5," as described in D.87-09-026 and D. 87-12-028.

Proposed Tariff Revisions

SoCalGas hereby revises Preliminary Statement, Part IV, to reflect the ITCCA shall be calculated by multiplying the balance of the CIAC or Advance by the tax factor of 24% beginning January 1, 2019, and thereafter.

This submittal will not increase any rate or charge, conflict with any schedules or rules, or cause the withdrawal of service.

Protest

Anyone may protest this Advice Letter to the California Public Utilities Commission. The protest must state the grounds upon which it is based, including such items as financial and service impact, and should be submitted expeditiously. The protest must be made in writing and received within 20 days of the date of this Advice Letter, which is December 27, 2018. The address for mailing or delivering a protest to the Commission is:

² Section 13201, Temporary 100-Percent Expensing for Certain Business Assets, and Section 13201(d)(9)(A), Exception for Certain Property, of the Act are included on Attachment B.

CPUC Energy Division
Attention: Tariff Unit
505 Van Ness Avenue
San Francisco, CA 94102

Copies of the protest should also be sent via e-mail to the attention of the Energy Division Tariff Unit (EDTariffUnit@cpuc.ca.gov). A copy of the protest shall also be sent via both e-mail and facsimile to the address shown below on the same date it is mailed or delivered to the Commission.

Attn: Ray B. Ortiz
Regulatory Tariff Manager - GT14D6
555 West Fifth Street
Los Angeles, CA 90013-1011
Facsimile No.: (213) 244-4957
E-mail: ROrtiz@semprautilities.com

Effective Date

SoCalGas believes this Advice Letter is subject to Energy Division disposition and should be classified as Tier 1 (effective pending disposition) pursuant to General Order (GO) 96-B. Therefore, SoCalGas requests that this submittal be effective on January 1, 2019, the date on which the tax factor is revised, as set forth in Section 13001 of the Act.

Notice

A copy of this Advice Letter is being sent to SoCalGas' GO 96-B service list. Address change requests to the GO 96-B service list should be directed by electronic mail to tariffs@socalgas.com or call 213-244-2837.

Ronald van der Leeden
Director – Regulatory Affairs

Attachments



ADVICE LETTER SUMMARY

ENERGY UTILITY



MUST BE COMPLETED BY UTILITY (Attach additional pages as needed)

Company name/CPUC Utility No.:

Utility type:

ELC GAS WATER
 PLC HEAT

Contact Person:

Phone #:
E-mail:
E-mail Disposition Notice to:

EXPLANATION OF UTILITY TYPE

ELC = Electric GAS = Gas WATER = Water
PLC = Pipeline HEAT = Heat

(Date Submitted / Received Stamp by CPUC)

Advice Letter (AL) #:

Tier Designation:

Subject of AL:

Keywords (choose from CPUC listing):

AL Type: Monthly Quarterly Annual One-Time Other:

If AL submitted in compliance with a Commission order, indicate relevant Decision/Resolution #:

Does AL replace a withdrawn or rejected AL? If so, identify the prior AL:

Summarize differences between the AL and the prior withdrawn or rejected AL:

Confidential treatment requested? Yes No

If yes, specification of confidential information:

Confidential information will be made available to appropriate parties who execute a nondisclosure agreement. Name and contact information to request nondisclosure agreement/ access to confidential information:

Resolution required? Yes No

Requested effective date:

No. of tariff sheets:

Estimated system annual revenue effect (%):

Estimated system average rate effect (%):

When rates are affected by AL, include attachment in AL showing average rate effects on customer classes (residential, small commercial, large C/I, agricultural, lighting).

Tariff schedules affected:

Service affected and changes proposed¹:

Pending advice letters that revise the same tariff sheets:

¹Discuss in AL if more space is needed.

Protests and all other correspondence regarding this AL are due no later than 20 days after the date of this submittal, unless otherwise authorized by the Commission, and shall be sent to:

CPUC, Energy Division
Attention: Tariff Unit
505 Van Ness Avenue
San Francisco, CA 94102
Email: EDTariffUnit@cpuc.ca.gov

Name:
Title:
Utility Name:
Address:
City:
State: Zip:
Telephone (xxx) xxx-xxxx:
Facsimile (xxx) xxx-xxxx:
Email:

Name:
Title:
Utility Name:
Address:
City:
State: Zip:
Telephone (xxx) xxx-xxxx:
Facsimile (xxx) xxx-xxxx:
Email:

ATTACHMENT A
Advice No. 5394

Cal. P.U.C. Sheet No.	Title of Sheet	Cancelling Cal. P.U.C. Sheet No.
Revised 55717-G	PRELIMINARY STATEMENT, PART IV, INCOME TAX COMPONENT OF CONTRIBUTIONS AND ADVANCES, Sheet 1	Revised 52273-G
Revised 55718-G	TABLE OF CONTENTS	Revised 55716-G

PRELIMINARY STATEMENT

Sheet 1

PART IV
INCOME TAX COMPONENT OF CONTRIBUTIONS AND ADVANCES

Contributions in Aid of Construction (CIAC) and Refundable Advances for Construction (Advances) shall include federal and state taxes applicable, but not limited, to cash, services, facilities, labor, and property provided by a person or agency to the Utility. The value of all contributions and advances shall consist of two components for the purpose of recording transactions as follows:

- (1) Income Tax Component of Contributions and Advances (ITCCA), and
- (2) The balance of the contribution or advance.

The ITCCA shall be calculated by multiplying the balance of the CIAC or Advance by the tax factor of 24% beginning January 1, 2019, and thereafter.

The Utility shall make advice letter filings to reflect any changes in the tax factor that would increase or decrease the tax factor by five percentage points or more.

The tax factor is established in accordance with Ordering Paragraph 3.a. of Decision 87-09-026, as modified by Decision 87-12-028.

State tax shall be collected in accordance with Ordering Paragraph 6 of Decision 87-09-026.

Pursuant to Assembly Bill 1757, California Corporate Franchise Tax shall be collected beginning January 1, 1992.

Utility shall recover through rates any penalties, interest or taxes incurred if the Internal Revenue Service (IRS) deems the method of tax collection authorized by Decision 87-09-026 a violation of the tax normalization rules and imposes additional taxes, penalties and interest.

A Public Benefit Exemption may apply on a CIAC or Advance made to the Utility by a government agency on the basis of either:

- (1) the CIAC or Advance is exempt from the ITCCA tax because it is made pursuant to actual condemnation or the threat thereof as recognized by Internal Revenue Code Section 1033; or,
- (2) the CIAC or Advance is exempt because it does not reasonably relate to the provision of service but rather to the benefit of the public at large.

(Continued)

(TO BE INSERTED BY UTILITY)
ADVICE LETTER NO. 5394
DECISION NO. 87-09-026, 87-12-028

ISSUED BY
Dan Skopec
Vice President
Regulatory Affairs

(TO BE INSERTED BY CAL. PUC)
SUBMITTED Dec 7, 2018
EFFECTIVE Jan 1, 2019
RESOLUTION NO. _____

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(TO BE INSERTED BY UTILITY)
 ADVICE LETTER NO. 5394
 DECISION NO. 87-09-026, 87-12-028

ISSUED BY
Dan Skopec
 Vice President
 Regulatory Affairs

(TO BE INSERTED BY CAL. PUC)
 SUBMITTED Dec 7, 2018
 EFFECTIVE Jan 1, 2019
 RESOLUTION NO. _____

ATTACHMENT B

Advice No. 5394

**Relevant Sections of H.R. 1,
Tax Cuts and Jobs Act of 2017**

One Hundred Fifteenth Congress of the United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Tuesday,
the third day of January, two thousand and seventeen*

An Act

To provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SECTION 11000. SHORT TITLE, ETC.

(a) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Individual Tax Reform

PART I—TAX RATE REFORM

SEC. 11001. MODIFICATION OF RATES.

(a) IN GENERAL.—Section 1 is amended by adding at the end the following new subsection:

“(j) MODIFICATIONS FOR TAXABLE YEARS 2018 THROUGH 2025.—

“(1) IN GENERAL.—In the case of a taxable year beginning after December 31, 2017, and before January 1, 2026—

“(A) subsection (i) shall not apply, and

“(B) this section (other than subsection (i)) shall be applied as provided in paragraphs (2) through (6).

“(2) RATE TABLES.—

“(A) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—The following table shall be applied in lieu of the table contained in subsection (a):

“If taxable income is:	The tax is:
Not over \$19,050	10% of taxable income.
Over \$19,050 but not over \$77,400	\$1,905, plus 12% of the excess over \$19,050.
Over \$77,400 but not over \$165,000	\$8,907, plus 22% of the excess over \$77,400.
Over \$165,000 but not over \$315,000	\$28,179, plus 24% of the excess over \$165,000.
Over \$315,000 but not over \$400,000	\$64,179, plus 32% of the excess over \$315,000.

are substituted under subparagraph (A) and adjusted under this subparagraph.”

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2017.

Subtitle C—Business-related Provisions

PART I—CORPORATE PROVISIONS

SEC. 13001. 21-PERCENT CORPORATE TAX RATE.

(a) IN GENERAL.—Subsection (b) of section 11 is amended to read as follows:

“(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) shall be 21 percent of taxable income.”

(b) CONFORMING AMENDMENTS.—

(1) The following sections are each amended by striking “section 11(b)(1)” and inserting “section 11(b)”:

(A) Section 280C(c)(3)(B)(ii)(II).

(B) Paragraphs (2)(B) and (6)(A)(ii) of section 860E(e).

(C) Section 7874(e)(1)(B).

(2)(A) Part I of subchapter P of chapter 1 is amended by striking section 1201 (and by striking the item relating to such section in the table of sections for such part).

(B) Section 12 is amended by striking paragraphs (4) and (6), and by redesignating paragraph (5) as paragraph (4).

(C) Section 453A(c)(3) is amended by striking “or 1201 (whichever is appropriate)”.

(D) Section 527(b) is amended—

(i) by striking paragraph (2), and

(ii) by striking all that precedes “is hereby imposed”

and inserting:

“(b) TAX IMPOSED.—A tax”.

(E) Sections 594(a) is amended by striking “taxes imposed by section 11 or 1201(a)” and inserting “tax imposed by section 11”.

(F) Section 691(c)(4) is amended by striking “1201.”

(G) Section 801(a) is amended—

(i) by striking paragraph (2), and

(ii) by striking all that precedes “is hereby imposed”

and inserting:

“(a) TAX IMPOSED.—A tax”.

(H) Section 831(e) is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(I) Sections 832(c)(5) and 834(b)(1)(D) are each amended by striking “sec. 1201 and following,”.

(J) Section 852(b)(3)(A) is amended by striking “section 1201(a)” and inserting “section 11(b)”.

(K) Section 857(b)(3) is amended—

(i) by striking subparagraph (A) and redesignating subparagraphs (B) through (F) as subparagraphs (A) through (E), respectively,

(ii) in subparagraph (C), as so redesignated—

(I) by striking “subparagraph (A)(ii)” in clause (i) thereof and inserting “paragraph (1)”,

PART III—COST RECOVERY AND ACCOUNTING METHODS

Subpart A—Cost Recovery

SEC. 13201. TEMPORARY 100-PERCENT EXPENSING FOR CERTAIN BUSINESS ASSETS.

(a) INCREASED EXPENSING.—

(1) IN GENERAL.—Section 168(k) is amended—

(A) in paragraph (1)(A), by striking “50 percent” and inserting “the applicable percentage”, and

(B) in paragraph (5)(A)(i), by striking “50 percent” and inserting “the applicable percentage”.

(2) APPLICABLE PERCENTAGE.—Paragraph (6) of section 168(k) is amended to read as follows:

“(6) APPLICABLE PERCENTAGE.—For purposes of this subsection—

“(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term ‘applicable percentage’ means—

“(i) in the case of property placed in service after September 27, 2017, and before January 1, 2023, 100 percent,

“(ii) in the case of property placed in service after December 31, 2022, and before January 1, 2024, 80 percent,

“(iii) in the case of property placed in service after December 31, 2023, and before January 1, 2025, 60 percent,

“(iv) in the case of property placed in service after December 31, 2024, and before January 1, 2026, 40 percent, and

“(v) in the case of property placed in service after December 31, 2025, and before January 1, 2027, 20 percent.

“(B) RULE FOR PROPERTY WITH LONGER PRODUCTION PERIODS.—In the case of property described in subparagraph (B) or (C) of paragraph (2), the term ‘applicable percentage’ means—

“(i) in the case of property placed in service after September 27, 2017, and before January 1, 2024, 100 percent,

“(ii) in the case of property placed in service after December 31, 2023, and before January 1, 2025, 80 percent,

“(iii) in the case of property placed in service after December 31, 2024, and before January 1, 2026, 60 percent,

“(iv) in the case of property placed in service after December 31, 2025, and before January 1, 2027, 40 percent, and

“(v) in the case of property placed in service after December 31, 2026, and before January 1, 2028, 20 percent.

“(C) RULE FOR PLANTS BEARING FRUITS AND NUTS.—In the case of a specified plant described in paragraph (5), the term ‘applicable percentage’ means—

“(i) in the case of a plant which is planted or grafted after September 27, 2017, and before January 1, 2023, 100 percent,

“(ii) in the case of a plant which is planted or grafted after December 31, 2022, and before January 1, 2024, 80 percent,

“(iii) in the case of a plant which is planted or grafted after December 31, 2023, and before January 1, 2025, 60 percent,

“(iv) in the case of a plant which is planted or grafted after December 31, 2024, and before January 1, 2026, 40 percent, and

“(v) in the case of a plant which is planted or grafted after December 31, 2025, and before January 1, 2027, 20 percent.”.

(3) CONFORMING AMENDMENT.—

(A) Paragraph (5) of section 168(k) is amended by striking subparagraph (F).

(B) Section 168(k) is amended by adding at the end the following new paragraph:

“(8) PHASE DOWN.—In the case of qualified property acquired by the taxpayer before September 28, 2017, and placed in service by the taxpayer after September 27, 2017, paragraph (6) shall be applied by substituting for each percentage therein—

“(A) ‘50 percent’ in the case of—

“(i) property placed in service before January 1, 2018, and

“(ii) property described in subparagraph (B) or (C) of paragraph (2) which is placed in service in 2018,

“(B) ‘40 percent’ in the case of—

“(i) property placed in service in 2018 (other than property described in subparagraph (B) or (C) of paragraph (2)), and

“(ii) property described in subparagraph (B) or (C) of paragraph (2) which is placed in service in 2019,

“(C) ‘30 percent’ in the case of—

“(i) property placed in service in 2019 (other than property described in subparagraph (B) or (C) of paragraph (2)), and

“(ii) property described in subparagraph (B) or (C) of paragraph (2) which is placed in service in 2020, and

“(D) ‘0 percent’ in the case of—

“(i) property placed in service after 2019 (other than property described in subparagraph (B) or (C) of paragraph (2)), and

“(ii) property described in subparagraph (B) or (C) of paragraph (2) which is placed in service after 2020.”.

(b) EXTENSION.—

(1) IN GENERAL.—Section 168(k) is amended—

(A) in paragraph (2)—

(i) in subparagraph (A)(iii), clauses (i)(III) and (ii) of subparagraph (B), and subparagraph (E)(i), by striking “January 1, 2020” each place it appears and inserting “January 1, 2027”, and

(ii) in subparagraph (B)—

(I) in clause (i)(II), by striking “January 1, 2021” and inserting “January 1, 2028”, and

(II) in the heading of clause (ii), by striking “PRE-JANUARY 1, 2020” and inserting “PRE-JANUARY 1, 2027”, and

(B) in paragraph (5)(A), by striking “January 1, 2020” and inserting “January 1, 2027”.

(2) CONFORMING AMENDMENTS.—

(A) Clause (ii) of section 460(c)(6)(B) is amended by striking “January 1, 2020 (January 1, 2021” and inserting “January 1, 2027 (January 1, 2028”.

(B) The heading of section 168(k) is amended by striking “ACQUIRED AFTER DECEMBER 31, 2007, AND BEFORE JANUARY 1, 2020”.

(c) APPLICATION TO USED PROPERTY.—

(1) IN GENERAL.—Section 168(k)(2)(A)(ii) is amended to read as follows:

“(ii) the original use of which begins with the taxpayer or the acquisition of which by the taxpayer meets the requirements of clause (ii) of subparagraph (E), and”.

(2) ACQUISITION REQUIREMENTS.—Section 168(k)(2)(E)(ii) is amended to read as follows:

“(ii) ACQUISITION REQUIREMENTS.—An acquisition of property meets the requirements of this clause if—

“(I) such property was not used by the taxpayer at any time prior to such acquisition, and

“(II) the acquisition of such property meets the requirements of paragraphs (2)(A), (2)(B), (2)(C), and (3) of section 179(d).”.

(3) ANTI-ABUSE RULES.—Section 168(k)(2)(E) is further amended by amending clause (iii)(I) to read as follows:

“(I) property is used by a lessor of such property and such use is the lessor’s first use of such property.”.

(d) EXCEPTION FOR CERTAIN PROPERTY.—Section 168(k), as amended by this section, is amended by adding at the end the following new paragraph:

“(9) EXCEPTION FOR CERTAIN PROPERTY.—The term ‘qualified property’ shall not include—

“(A) any property which is primarily used in a trade or business described in clause (iv) of section 163(j)(7)(A), or

“(B) any property used in a trade or business that has had floor plan financing indebtedness (as defined in paragraph (9) of section 163(j)), if the floor plan financing interest related to such indebtedness was taken into account under paragraph (1)(C) of such section.”.

(e) SPECIAL RULE.—Section 168(k), as amended by this section, is amended by adding at the end the following new paragraph:

“(10) SPECIAL RULE FOR PROPERTY PLACED IN SERVICE DURING CERTAIN PERIODS.—

“(A) IN GENERAL.—In the case of qualified property placed in service by the taxpayer during the first taxable year ending after September 27, 2017, if the taxpayer elects to have this paragraph apply for such taxable year,

paragraphs (1)(A) and (5)(A)(i) shall be applied by substituting ‘50 percent’ for ‘the applicable percentage’.

“(B) FORM OF ELECTION.—Any election under this paragraph shall be made at such time and in such form and manner as the Secretary may prescribe.”

(f) COORDINATION WITH SECTION 280F.—Clause (iii) of section 168(k)(2)(F) is amended by striking “placed in service by the taxpayer after December 31, 2017” and inserting “acquired by the taxpayer before September 28, 2017, and placed in service by the taxpayer after September 27, 2017”.

(g) QUALIFIED FILM AND TELEVISION AND LIVE THEATRICAL PRODUCTIONS.—

(1) IN GENERAL.—Clause (i) of section 168(k)(2)(A), as amended by section 13204, is amended—

(A) in subclause (II), by striking “or”,

(B) in subclause (III), by adding “or” after the comma, and

(C) by adding at the end the following:

“(IV) which is a qualified film or television production (as defined in subsection (d) of section 181) for which a deduction would have been allowable under section 181 without regard to subsections (a)(2) and (g) of such section or this subsection, or

“(V) which is a qualified live theatrical production (as defined in subsection (e) of section 181) for which a deduction would have been allowable under section 181 without regard to subsections (a)(2) and (g) of such section or this subsection.”

(2) PRODUCTION PLACED IN SERVICE.—Paragraph (2) of section 168(k) is amended by adding at the end the following:

“(H) PRODUCTION PLACED IN SERVICE.—For purposes of subparagraph (A)—

“(i) a qualified film or television production shall be considered to be placed in service at the time of initial release or broadcast, and

“(ii) a qualified live theatrical production shall be considered to be placed in service at the time of the initial live staged performance.”

(h) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall apply to property which—

(A) is acquired after September 27, 2017, and

(B) is placed in service after such date.

For purposes of the preceding sentence, property shall not be treated as acquired after the date on which a written binding contract is entered into for such acquisition.

(2) SPECIFIED PLANTS.—The amendments made by this section shall apply to specified plants planted or grafted after September 27, 2017.

SEC. 13202. MODIFICATIONS TO DEPRECIATION LIMITATIONS ON LUXURY AUTOMOBILES AND PERSONAL USE PROPERTY.

(a) LUXURY AUTOMOBILES.—

(1) IN GENERAL.—280F(a)(1)(A) is amended—

(A) in clause (i), by striking “\$2,560” and inserting “\$10,000”,

(B) was prohibited under the Internal Revenue Code of 1986 prior to such amendments and is permitted under such Code after such amendments.

(e) SPECIAL RULES FOR ORIGINAL ISSUE DISCOUNT.—Notwithstanding subsection (c), in the case of income from a debt instrument having original issue discount—

(1) the amendments made by this section shall apply to taxable years beginning after December 31, 2018, and

(2) the period for taking into account any adjustments under section 481 by reason of a qualified change in method of accounting (as defined in subsection (d)) shall be 6 years.

PART IV—BUSINESS-RELATED EXCLUSIONS AND DEDUCTIONS

SEC. 13301. LIMITATION ON DEDUCTION FOR INTEREST.

(a) IN GENERAL.—Section 163(j) is amended to read as follows:

“(j) LIMITATION ON BUSINESS INTEREST.—

“(1) IN GENERAL.—The amount allowed as a deduction under this chapter for any taxable year for business interest shall not exceed the sum of—

“(A) the business interest income of such taxpayer for such taxable year,

“(B) 30 percent of the adjusted taxable income of such taxpayer for such taxable year, plus

“(C) the floor plan financing interest of such taxpayer for such taxable year.

The amount determined under subparagraph (B) shall not be less than zero.

“(2) CARRYFORWARD OF DISALLOWED BUSINESS INTEREST.—

The amount of any business interest not allowed as a deduction for any taxable year by reason of paragraph (1) shall be treated as business interest paid or accrued in the succeeding taxable year.

“(3) EXEMPTION FOR CERTAIN SMALL BUSINESSES.—In the case of any taxpayer (other than a tax shelter prohibited from using the cash receipts and disbursements method of accounting under section 448(a)(3)) which meets the gross receipts test of section 448(c) for any taxable year, paragraph (1) shall not apply to such taxpayer for such taxable year. In the case of any taxpayer which is not a corporation or a partnership, the gross receipts test of section 448(c) shall be applied in the same manner as if such taxpayer were a corporation or partnership.

“(4) APPLICATION TO PARTNERSHIPS, ETC.—

“(A) IN GENERAL.—In the case of any partnership—

“(i) this subsection shall be applied at the partnership level and any deduction for business interest shall be taken into account in determining the non-separately stated taxable income or loss of the partnership, and

“(ii) the adjusted taxable income of each partner of such partnership—

“(I) shall be determined without regard to such partner’s distributive share of any items of income, gain, deduction, or loss of such partnership, and

“(II) shall be increased by such partner’s distributive share of such partnership’s excess taxable income.

For purposes of clause (ii)(II), a partner’s distributive share of partnership excess taxable income shall be determined in the same manner as the partner’s distributive share of nonseparately stated taxable income or loss of the partnership.

“(B) SPECIAL RULES FOR CARRYFORWARDS.—

“(i) IN GENERAL.—The amount of any business interest not allowed as a deduction to a partnership for any taxable year by reason of paragraph (1) for any taxable year—

“(I) shall not be treated under paragraph (2) as business interest paid or accrued by the partnership in the succeeding taxable year, and

“(II) shall, subject to clause (ii), be treated as excess business interest which is allocated to each partner in the same manner as the nonseparately stated taxable income or loss of the partnership.

“(ii) TREATMENT OF EXCESS BUSINESS INTEREST ALLOCATED TO PARTNERS.—If a partner is allocated any excess business interest from a partnership under clause (i) for any taxable year—

“(I) such excess business interest shall be treated as business interest paid or accrued by the partner in the next succeeding taxable year in which the partner is allocated excess taxable income from such partnership, but only to the extent of such excess taxable income, and

“(II) any portion of such excess business interest remaining after the application of subclause (I) shall, subject to the limitations of subclause (I), be treated as business interest paid or accrued in succeeding taxable years.

For purposes of applying this paragraph, excess taxable income allocated to a partner from a partnership for any taxable year shall not be taken into account under paragraph (1)(A) with respect to any business interest other than excess business interest from the partnership until all such excess business interest for such taxable year and all preceding taxable years has been treated as paid or accrued under clause (ii).

“(iii) BASIS ADJUSTMENTS.—

“(I) IN GENERAL.—The adjusted basis of a partner in a partnership interest shall be reduced (but not below zero) by the amount of excess business interest allocated to the partner under clause (i)(II).

“(II) SPECIAL RULE FOR DISPOSITIONS.—If a partner disposes of a partnership interest, the adjusted basis of the partner in the partnership interest shall be increased immediately before the disposition by the amount of the excess (if any) of the amount of the basis reduction under subclause (I) over the portion of any excess business

interest allocated to the partner under clause (i)(II) which has previously been treated under clause (ii) as business interest paid or accrued by the partner. The preceding sentence shall also apply to transfers of the partnership interest (including by reason of death) in a transaction in which gain is not recognized in whole or in part. No deduction shall be allowed to the transferor or transferee under this chapter for any excess business interest resulting in a basis increase under this subclause.

“(C) EXCESS TAXABLE INCOME.—The term ‘excess taxable income’ means, with respect to any partnership, the amount which bears the same ratio to the partnership’s adjusted taxable income as—

“(i) the excess (if any) of—

“(I) the amount determined for the partnership under paragraph (1)(B), over

“(II) the amount (if any) by which the business interest of the partnership, reduced by the floor plan financing interest, exceeds the business interest income of the partnership, bears to

“(ii) the amount determined for the partnership under paragraph (1)(B).

“(D) APPLICATION TO S CORPORATIONS.—Rules similar to the rules of subparagraphs (A) and (C) shall apply with respect to any S corporation and its shareholders.

“(5) BUSINESS INTEREST.—For purposes of this subsection, the term ‘business interest’ means any interest paid or accrued on indebtedness properly allocable to a trade or business. Such term shall not include investment interest (within the meaning of subsection (d)).

“(6) BUSINESS INTEREST INCOME.—For purposes of this subsection, the term ‘business interest income’ means the amount of interest includible in the gross income of the taxpayer for the taxable year which is properly allocable to a trade or business. Such term shall not include investment income (within the meaning of subsection (d)).

“(7) TRADE OR BUSINESS.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘trade or business’ shall not include—

“(i) the trade or business of performing services as an employee,

“(ii) any electing real property trade or business,

“(iii) any electing farming business, or

“(iv) the trade or business of the furnishing or sale of—

“(I) electrical energy, water, or sewage disposal services,

“(II) gas or steam through a local distribution system, or

“(III) transportation of gas or steam by pipeline,

if the rates for such furnishing or sale, as the case may be, have been established or approved by a State or political subdivision thereof, by any agency or instrumentality of the United States, by a public service or public utility commission or other similar

body of any State or political subdivision thereof, or by the governing or ratemaking body of an electric cooperative.

“(B) ELECTING REAL PROPERTY TRADE OR BUSINESS.—For purposes of this paragraph, the term ‘electing real property trade or business’ means any trade or business which is described in section 469(c)(7)(C) and which makes an election under this subparagraph. Any such election shall be made at such time and in such manner as the Secretary shall prescribe, and, once made, shall be irrevocable.

“(C) ELECTING FARMING BUSINESS.—For purposes of this paragraph, the term ‘electing farming business’ means—

“(i) a farming business (as defined in section 263A(e)(4)) which makes an election under this subparagraph, or

“(ii) any trade or business of a specified agricultural or horticultural cooperative (as defined in section 199A(g)(2)) with respect to which the cooperative makes an election under this subparagraph.

Any such election shall be made at such time and in such manner as the Secretary shall prescribe, and, once made, shall be irrevocable.

“(8) ADJUSTED TAXABLE INCOME.—For purposes of this subsection, the term ‘adjusted taxable income’ means the taxable income of the taxpayer—

“(A) computed without regard to—

“(i) any item of income, gain, deduction, or loss which is not properly allocable to a trade or business,

“(ii) any business interest or business interest income,

“(iii) the amount of any net operating loss deduction under section 172,

“(iv) the amount of any deduction allowed under section 199A, and

“(v) in the case of taxable years beginning before January 1, 2022, any deduction allowable for depreciation, amortization, or depletion, and

“(B) computed with such other adjustments as provided by the Secretary.

“(9) FLOOR PLAN FINANCING INTEREST DEFINED.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘floor plan financing interest’ means interest paid or accrued on floor plan financing indebtedness.

“(B) FLOOR PLAN FINANCING INDEBTEDNESS.—The term ‘floor plan financing indebtedness’ means indebtedness—

“(i) used to finance the acquisition of motor vehicles held for sale or lease, and

“(ii) secured by the inventory so acquired.

“(C) MOTOR VEHICLE.—The term ‘motor vehicle’ means a motor vehicle that is any of the following:

“(i) Any self-propelled vehicle designed for transporting persons or property on a public street, highway, or road.

“(ii) A boat.

“(iii) Farm machinery or equipment.

“(10) CROSS REFERENCES.—

“(A) For requirement that an electing real property trade or business use the alternative depreciation system, see section 168(g)(1)(F).

“(B) For requirement that an electing farming business use the alternative depreciation system, see section 168(g)(1)(G).”

(b) TREATMENT OF CARRYFORWARD OF DISALLOWED BUSINESS INTEREST IN CERTAIN CORPORATE ACQUISITIONS.—

(1) IN GENERAL.—Section 381(c) is amended by inserting after paragraph (19) the following new paragraph:

“(20) CARRYFORWARD OF DISALLOWED BUSINESS INTEREST.—The carryover of disallowed business interest described in section 163(j)(2) to taxable years ending after the date of distribution or transfer.”

(2) APPLICATION OF LIMITATION.—Section 382(d) is amended by adding at the end the following new paragraph:

“(3) APPLICATION TO CARRYFORWARD OF DISALLOWED INTEREST.—The term ‘pre-change loss’ shall include any carryover of disallowed interest described in section 163(j)(2) under rules similar to the rules of paragraph (1).”

(3) CONFORMING AMENDMENT.—Section 382(k)(1) is amended by inserting after the first sentence the following: “Such term shall include any corporation entitled to use a carryforward of disallowed interest described in section 381(c)(20).”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2017.

SEC. 13302. MODIFICATION OF NET OPERATING LOSS DEDUCTION.

(a) LIMITATION ON DEDUCTION.—

(1) IN GENERAL.—Section 172(a) is amended to read as follows:

“(a) DEDUCTION ALLOWED.—There shall be allowed as a deduction for the taxable year an amount equal to the lesser of—

“(1) the aggregate of the net operating loss carryovers to such year, plus the net operating loss carrybacks to such year, or

“(2) 80 percent of taxable income computed without regard to the deduction allowable under this section.

For purposes of this subtitle, the term ‘net operating loss deduction’ means the deduction allowed by this subsection.”

(2) COORDINATION OF LIMITATION WITH CARRYBACKS AND CARRYOVERS.—Section 172(b)(2) is amended by striking “shall be computed—” and all that follows and inserting “shall—

“(A) be computed with the modifications specified in subsection (d) other than paragraphs (1), (4), and (5) thereof, and by determining the amount of the net operating loss deduction without regard to the net operating loss for the loss year or for any taxable year thereafter,

“(B) not be considered to be less than zero, and

“(C) not exceed the amount determined under subsection (a)(2) for such prior taxable year.”

(3) CONFORMING AMENDMENT.—Section 172(d)(6) is amended by striking “and” at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and

ATTACHMENT C

Advice No. 5394

Tax Factor Calculations Using Method 5

Adopted by D.87-09-026 and D.87-12-028

CIAC GROSS-UP COMPUTATION INCLUDING CALIFORNIA TAXES
Including 50% Bonus Depreciation

(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)	(J)	(K)	(L)	(M)	(N)	(O)
YEAR	TAX PMT/(BEN) REFLECTING CIAC	TAX BASIS	CALIFORNIA DEPRECIATION RATES	CALIFORNIA RATES	STATE TAX BENEFIT	MODIFIED MACRS RATES	FEDERAL TAX RATE	FEDERAL TAX BENEFIT	REMAINING CIAC PAYABLE	WTD. AVG. UNRECOVERED TAX PMT.	RATE OF RETURN	REVENUE REQUIREMENT ON REMAINING INVESTMENT	DISCOUNT FACTOR 0.12	DISCOUNTED REVENUE REQUIREMENT ON REMAINING INVESTMENT
1	298	1,000	3.334%	8.840%	2.9473	3.750%	21.00%	7.8750	287.5777	292.9889	17.000%	49.8081	0.8929	44.4737
2	(19)		6.445%		5.6974	7.219%		14.5410	248.7754	268.1766	17.000%	45.5900	0.7972	36.3441
3			6.016%		5.3181	6.677%		12.8253	230.6319	239.7036	17.000%	40.7496	0.7118	29.0048
4			5.615%		4.9637	6.177%		11.8549	213.8134	222.2226	17.000%	37.7778	0.6355	24.0085
5			5.241%		4.6330	5.713%		10.9549	198.2254	206.0194	17.000%	35.0233	0.5674	19.8732
6			4.892%		4.3245	5.285%		10.1256	183.7753	191.0004	17.000%	32.4701	0.5066	16.4504
7			4.566%		4.0363	4.888%		9.3566	170.3823	177.0788	17.000%	30.1034	0.4523	13.6172
8			4.261%		3.7667	4.522%		8.6486	157.9670	164.1747	17.000%	27.9097	0.4039	11.2723
9			3.977%		3.5157	4.462%		8.5792	145.8722	151.9196	17.000%	25.8263	0.3606	9.3132
10			3.712%		3.2814	4.462%		8.6319	133.9588	139.9155	17.000%	23.7856	0.3220	7.6583
11			3.465%		3.0631	4.462%		8.6811	122.2147	128.0868	17.000%	21.7747	0.2875	6.2597
12			3.234%		2.8589	4.462%		8.7270	110.6288	116.4218	17.000%	19.7917	0.2567	5.0800
13			3.018%		2.6679	4.462%		8.7698	99.1911	104.9100	17.000%	17.8347	0.2292	4.0873
14			2.817%		2.4902	4.462%		8.8099	87.8910	93.5411	17.000%	15.9020	0.2046	3.2539
15			2.630%		2.3249	4.462%		8.8473	76.7188	82.3049	17.000%	13.9918	0.1827	2.5562
16			2.455%		2.1702	4.462%		8.8820	65.6665	71.1927	17.000%	12.1028	0.1631	1.9742
17			2.367%		2.0924	4.462%		8.9145	54.6596	60.1631	17.000%	10.2277	0.1456	1.4896
18			2.367%		2.0924	4.462%		8.9308	43.6364	49.1480	17.000%	8.3552	0.1300	1.0865
19			2.367%		2.0924	4.462%		8.9308	32.6132	38.1248	17.000%	6.4812	0.1161	0.7525
20			2.367%		2.0924	4.462%		8.9308	21.5899	27.1016	17.000%	4.6073	0.1037	0.4776
21			2.367%		2.0924	2.231%		4.2457	15.2518	18.4209	17.000%	3.1315	0.0926	0.2899
22			2.367%		2.0924			(0.4394)	13.5988	14.4253	17.000%	2.4523	0.0826	0.2027
23			2.367%		2.0924			(0.4394)	11.9458	12.7723	17.000%	2.1713	0.0738	0.1602
24			2.367%		2.0924			(0.4394)	10.2927	11.1192	17.000%	1.8903	0.0659	0.1245
25			2.367%		2.0924			(0.4394)	8.6397	9.4662	17.000%	1.6093	0.0588	0.0947
26			2.367%		2.0924			(0.4394)	6.9867	7.8132	17.000%	1.3282	0.0525	0.0698
27			2.367%		2.0924			(0.4394)	5.3336	6.1602	17.000%	1.0472	0.0469	0.0491
28			2.367%		2.0924			(0.4394)	3.6806	4.5071	17.000%	0.7662	0.0419	0.0321
29			2.367%		2.0924			(0.4394)	2.0276	2.8541	17.000%	0.4852	0.0374	0.0181
30			2.367%		2.0924			(0.4394)	0.3746	1.2011	17.000%	0.2042	0.0334	0.0068
31			1.184%		1.0467			(0.4394)	(0.2327)	0.0709	17.000%	0.0121	0.0298	0.0004
32					0.0000			(0.2198)	(0.0129)	(0.1228)	17.000%	(0.0209)	0.0266	-0.0006
			<u>100.000%</u>		<u>88.4000</u>	<u>100.0%</u>		<u>191.4489</u>				<u>495.1899</u>		<u>240.0808</u>
	<u>279.836</u>							<u>279.8489</u>				240.0808	/ 1000	<u>24.0100%</u>
												Tax Gross up Factor		<u>24.0000%</u>