BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
[redacted]) DOCKET NO. 0-916-493-312
)
Petitioner.) DECISION
)

[redacted] (Petitioner) protested the Notice of Deficiency Determination (Notice) dated December 23, 2024, issued by the Income Tax Audit Bureau (Bureau). Petitioner disagreed with the Bureau's adjustments to the soft costs and asset class life, which changed the federal depreciation, Idaho bonus depreciation, and Idaho investment tax credit (ITC) claimed on its Idaho S-corporation income tax returns filed for tax years 2019 through 2021. The Tax Commission, having reviewed the matter and for the reasons stated below upholds the Notice. Since Petitioner is a flow-through entity, its shareholders are liable for any additional tax owed.

BACKGROUND

Petitioner is a Subchapter S-corporation operating several grocery stores in Idaho, Washington, and Montana. The Bureau reviewed Petitioner's 2019 through 2021 Idaho returns as a follow-up of a prior audit[1] they conducted for tax years 2017 and 2018. For tax years 2019 through 2021, Petitioner allocated their planning and development costs (indirect costs or soft costs) not just to the construction of a new store in [redacted] Idaho, but also to the equipment,

[1] The Bureau previously audited Petitioner for the tax years 2017 and 2018 and reallocated the soft costs incurred for their [redacted] store. The Tax Commission issued its decision for 2017 and 2018 (docket Number 1-707-259-904), upholding the Notice as modified for the substantiations provided during Appeals' review.

shelves, refrigerators, freezers, lightings, etc., collectively called "equipment" in this decision, purchased by [redacted] ([redacted][2] on behalf of Petitioner.

In response to the Bureau's request for substantiation of the soft costs related to the store construction, Petitioner's representative provided their cost segregation study along with the construction contract of the building structure and the invoices for the equipment purchases. The Bureau reviewed the information provided by the representative and determined that the soft costs were related only to the store construction. Therefore, the Bureau reallocated all soft costs to the store construction and none to the equipment purchased for the new store.[3] The Bureau also determined that Petitioner improperly classified some of the depreciable assets constructed or acquired for the new store and therefore they corrected the class lives of those assets. The Bureau's reallocation of the soft costs and reclassification of class life affected Petitioner's federal depreciation, Idaho bonus depreciation, and ITC. Additionally, the Bureau determined that ITC is not allowed for certain lighting fixtures, decorative lights, toilet accessories, and fireplace as they were building components, and landscape revisions as they were land improvements. The Bureau made all these adjustments and sent Petitioner a Notice.

Petitioner's representative protested the Notice, disagreeing with all the Bureau's adjustments. The representative argued that Petitioner's capitalization and allocation were accurate and fully compliant with the federal guidelines, including the Uniform Capitalization (UNICAP) rules, outlined in Internal Revenue Code (IRC) section 263A, and therefore Petitioner's federal

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[2] [redacted] ([redacted] managed the construction of the [redacted] store, including procurement of store equipment, shelving, refrigeration, and lighting, AutoCAD design, coordination of construction bids and permits, securing financing, identifying optimal real estate site locations, negotiating lease terms and conditions, and assisting retailers in identifying energy rebate opportunities.

[3] The Bureau did not disallow any of the soft costs. Petitioner allocated them to the store construction and the equipment purchases. However, the Bureau allocated them only to the store construction and did not allocate them to the equipment purchases.

depreciation, Idaho bonus depreciation, and ITC are also correct. The Bureau acknowledged Petitioner's protest and referred the matter to the Tax Commission's Appeals Unit (Appeals) for administrative review.

Appeals reviewed the case and sent Petitioner and the representative a letter explaining the options available for redetermining a Notice. The representative responded and requested an informal hearing, which was held on June 5, 2025. The Tax Commission, having reviewed the file, hereby issues its final decision.

ISSUE

The issues on appeal are the allocation of the soft costs, classification of asset life,[4] and ITC[5] related to the assets constructed or acquired for the new store and other existing stores. The Tax Commission reviews federal depreciation, Idaho bonus depreciation, and ITC in conjunction with the allocation of the soft costs and the classification of asset life.

LAW AND ANALYSIS

Allocation of indirect costs (soft costs)

Revenue Ruling 2000-7 states in part,

> [IRC] Section 263A generally requires taxpayers that are producing real or tangible personal property to capitalize direct material costs, direct labor costs, and indirect costs that are properly allocable to the produced property. Section 263A(g)(1) provides that, for purposes of § 263A, the term "produce" includes construct, build, install, manufacture, develop, or improve. Under § 1.263A-1(e)(3)(i), indirect costs are allocable to produced property under § 263A when the costs directly benefit or are incurred by reason of the performance of production activities.

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[4] The Bureau reclassified asset life of several assets, i.e., Lighting- security lighting, LED suspended tube lights for aisles, Heated air door, Elect/lighting-light bulbs/connections deli, Toilet bath/accessories, and Decorative manufactured fireplace, to 39-year property, and Lighting for produce/flagpole to 15-year property.

[5] The Bureau disallowed ITC Petitioner claimed for lighting fixtures, toilet accessories, fireplace, and landscape revision.

IRC section 263A, also known as the Uniform Capitalization (UNICAP) rules, dictates how a taxpayer must account for indirect costs. UNICAP rules require a taxpayer to capitalize certain indirect costs, instead of immediately deducting them as expenses.

In the present case, Petitioner hired [redacted] a third-party contractor,[6] and entered a contract for the construction of the store structure (construction contract). Petitioner also hired [redacted] for management of construction, procurement of store equipment,[7] AutoCAD design, coordination of construction bids and permits, securing financing, identifying optimal real estate site locations, negotiating lease terms and conditions, and assisting retailers in identifying energy rebate opportunities.

Petitioner's soft costs shown in their "Cost Segregation Study", i.e. construction coordination, construction documents, architectural design fees, engineering, etc., are essential to the store construction. Petitioner properly capitalized the soft costs and allocated them to the store construction. However, Petitioner also allocated the soft costs to the equipment they purchased based on their cost segregation study.

During the hearing, the representative cited *Peco Foods, Inc. v. Commissioner*, T.C. Memo 2012-18, which addresses the ability of a taxpayer to modify the asset allocations specified in a purchase agreement as the result of a subsequent cost segregation study. Peco Foods, Inc. followed IRC Section 1060 allocation[8] in the purchase agreement but later attempted to modify the

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[6] [redacted] located in [redacted] Washington.
[7] The equipment, shelves, refrigerators, freezers, lightings, etc., collectively called "equipment" in this decision.
[8] IRC section 1060 relates to the allocation of the purchase price in certain asset acquisitions and is particularly relevant when a business is sold through the sale of its assets. This is because the purchase receives a new tax basis (or "step-up") for the acquired assets, and this basis is determined by the consideration paid. IRC section 1060 requires that the total sales price in an applicable asset acquisition be allocated among several classes of assets using the "residual method", which allocates the consideration among asset classes in a specific order. Both the buyer and seller in an applicable asset acquisition must report the transaction to the IRS by filing Form 8594, which details the allocation of the purchase price among the different asset classes. The Tax Commission reviewed Petitioner's federal returns but did not find Form 8594, detailing the allocation of asset acquisitions for the new store.

allocation based on its cost segregation study. The Court found that the language used in the purchase agreement was clear and unambiguous regarding the allocations[9] and therefore the Court held that the original purchase agreement superseded the cost segregation study. The Tax Commission reviewed the court case and now analyzes Petitioner's construction contract to see if it allocates the soft costs to [redacted] equipment purchases.

In the present case, there is no question that the soft costs should be allocated to the store construction as they were directly tied to the materials and labor used by the contractor for fulfillment of the construction contract. However, it is questionable whether the soft costs should be allocated to the equipment purchases. The Tax Commission reviewed the construction contract and found it does not include [redacted] equipment purchases, nor does it refer to the cost segregation study.[10] The Tax Commission also reviewed the cost segregation study and the invoices issued by [redacted] and found that the equipment purchases were clearly isolated from the construction contract. All soft costs described in the cost segregation study are related only to the store construction[11] and have nothing to do with the equipment purchases. Therefore, the Tax Commission finds that the soft costs should not be allocated to the equipment and upholds the Bureau's reallocation of the soft costs.

The reallocation of the soft costs changed the basis of the assets constructed or acquired for the store construction, which affected Petitioner's federal depreciation, Idaho bonus

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[9] In the Peco Foods case, the IRS argued that the original purchase agreements were binding under the Danielson rule, which generally prevents taxpayers from challenging the tax consequences of their own written agreement. The Tax Court agreed with the IRS, stating that the clear and unambiguous language in the purchase agreements, which allocated the purchase price for tax purposes, superseded the findings of the cost segregation study.
[10] Petitioner's cost segregation study describes the soft costs as for construction coordination, construction documents, architectural design fees, engineering, etc.
[11] The descriptions of [redacted] invoices are construction documents, project management & design fee, architectural design & documents, structural engineering services & documents, etc.

depreciation, and ITC. Before reviewing the Bureau's recalculations, the Tax Commission must review the class life for the assets adjusted by the Bureau as it would also affect Petitioner's federal depreciation, Idaho bonus depreciation, and ITC.

Class life of assets

During the hearing, the representative argued that Petitioner's classification of the assets was correct. However, other than that statement, they provided nothing evidentiary to support their position.

In terms of federal depreciation, "class life" means the number of years over which the Internal Revenue Service (IRS) allows a taxpayer to depreciate an asset. The IRS assigns a specific class life for each type of asset based on its estimated average useful life. Generally, assets are either section 1245 property with a short cost recovery period between 5 or 7 years, or section 1250 property with a long cost recovery period between 15, 31.5 or 39 years.

In the present case, Petitioner classified certain assets as 5-year property in their cost segregation study,[12] and the Bureau reclassified them to 39-year property or 15-year property. The assets in question are the "Electricals and lightings",[13] "Heated air door", "Toilet bath/accessories", "Decorative manufactured fireplace", and part of "Lighting for produce/flagpole". The Tax Commission reviews these assets as follows.

Electrical and lighting

[12] A cost segregation study is the process of allocating costs to assets and determining the asset class, which is known as a tax planning strategy that helps property owners accelerate their depreciation deductions by segregating a building's costs into specific classifications and depreciation periods for income tax purposes.

[13] i.e., "Lighting–security lighting", "LED suspended tube lights for aisles", and "Elect/lighting–light bulbs/connection deli".

During the hearing, the representative cited *Hospital Corporation of America v. Commissioner*, 109 T.C. 27 (1997)[14] and argued that Petitioner's electricals and lightings are 5-year property. Hospital Corp of America (HCA) constructed several hospitals for tax years 1985 through 1988 and treated several assets as 5-year property while the IRS determined they were 39-year property. HCA treated the "overbed lights and related electrical connections" as 5-year property and claimed ITC; however, the IRS determined that the overbed lights are not qualified for ITC as they are structural components. HCA argued that the overbed lights were not intended or designed to be used for basic patient room illumination, but they were used solely by doctors, nurses, and staff in examining patients and providing health care services, and they were accessory to the operation of their businesses. HCA further argued that the overbed lights fit the description of special lighting delineated in the Senate Report 95-1263[15] and therefore the overbed lights were section 1245 class property and qualified for ITC. In the Senate Report 95-1263, Congress recognized that "special lighting" is personal property if it has no more than an incidental relationship to the operation or maintenance of a building. The Court described the overbed lights in the HCA case as standard four-tube fluorescent light fixtures placed in the ceilings of the hospital buildings and they had more than an incidental relationship to the operation or maintenance of HCA's buildings. There was no indication in the records that HCA intended the overbed lights to be temporary. In the HCA case, when determining whether the asset should be characterized as section 1250 property (building and building component, depreciable over 39-

[14] During tax years 1985 through 1988, Hospital Corporation of America (HCA) constructed several hospital facilities. The case involves the classification of certain items in hospital facilities as either tangible personal property or structural components for the purposes of depreciation under the Accelerated Cost Recovery System (ACRS) and Modified Accelerated Cost Recovery System (MACRS). The Tax Court held that the tests developed under the investment tax credit (ITC) prior to the 1981 adoption of the cost recovery system are applicable in determining whether an item is a structural component for ACRS and MACRS purposes.
[15] The special lighting delineated in the Senate Report 95-1263, supra at 117, 1978-3 C.B. (Vol. 1) at 415.

year recovery period) or section 1245 property (tangible personal property, depreciable over 5-year recovery period) under Treasury Regulation section 1.48-1(c), the Court employed the factors[16] set forth in *Whiteco Industries, Inc. v. Commissioner*, 65 T.C. 664 (1975) to ascertain whether the items were inherently permanent and thus not tangible personal property within the meaning of Treasury Regulation section 1.48-1(c). The Court found in the HCA case that removal of the light fixtures would affect the integrity of the building[17] and therefore the Court held that the overbed lights were structural components of the buildings which constituted section 1250 class property, and that, consequently, they were depreciable over 39 years, the same recovery periods as the buildings to which they related. Later, the IRS issued an internal legal memorandum regarding the HCA case, the IRS Chief Counsel Advice (CCA) 199921045,[18] provided guidance on the classification of assets for depreciation purposes, emphasizing the factual nature of the determination and the importance of accurate cost segregation studies. The IRS CCA 199921045 states in part,

> … the determination of whether an asset is a structural component or tangible personal property is a facts and circumstances assessment. … In view of the factual nature of the inquiry, no bright line test exists.

The IRS CCA 199921045 further states, "As a practical matter, it should be noted that the use of cost segregation studies must be specifically applied by the taxpayer.", and "cost segregation studies should be closely scrutinized by the field."

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[16] The IRS CCA 1992104 states, "these factors include: 1) Capability of being moved: Whether the property can be moved and has been moved, 2) Design for permanency: Whether the property is designed or constructed to remain permanently in place, 3) Circumstances indicating permanency: Whether there are circumstances showing the property may need to be moved, 4) Substantiality of removal: How substantial a job is removal of the property and how time-consuming it is, 5) Damage upon removal: How much damage will the property sustain upon removal, and 6) Manner of affixation: The manner in which the property is affixed to the land. HCA, 109 T.C. at 57 (citing Whiteco, 65 T.C. at 672. The presence of one factor is not the sole determinant of what is tangible personal property. Id."
[17] *Whiteco Industries, Inc. v. Commissioner*, 65 T.C. 664 (1975)
[18] The IRS CCA 199921045 is dated April 1st, 1999.

The Tax Commission reviewed the photographs of the electricals and lighting, i.e., "LED suspended tube lights for aisles (Lighting–suspended)", and "Elect/lighting-light bulbs/connection deli (Electrical and lighting–secondary lighting)" and found that these electricals are for the lightings to illuminate general shopping and eatery areas in the store; therefore, these lightings are not "special lighting". The electrical and lighting in the deli area are placed in the ceiling and a removal of the lightings would significantly deteriorate the ceiling above the deli area. Therefore, these electricals and lighting are structural components.

The IRS Cost Segregation Guide (guide) provides industry specific guidance,[19] including a nonexclusive matrix of possible properties and their recovery periods (recovery period = class life). The Tax Commission reviewed the IRS guide specific to the retail industry and found that the guide categorizes interior light fixtures as section 1250 property (building or building component) and states that the interior light fixture,

> Includes lighting such as recessed and lay-in lighting, night lighting, and exit lighting, as well as decorative lighting fixtures that provide substantially all the artificial illumination in the building or along building walkways.

As for the electricals, the IRS guide provides descriptions for "special electrical connections" and categorized them as section 1245 property (5-year property). The photographs provided by the representative do not indicate that the electricals are special electric connections necessary for specific machinery. Rather, the electricals are for the interior lighting fixtures to provide general illumination in the store. The guide categorizes the general electrical as section 1250 property and provides that the electrical,

> Includes all components of the building electrical system used in the operation or maintenance of the building or necessary to provide general building services such

[19] The IRS Cost Segregation Guide VII. Chapter 7, A. Introduction, B. Retail Industries, C. Restaurants, D. Pharmaceutical and Biotechnology, D. Casinos and Gaming Industry, F. Auto Dealership Industry, G. Auto Manufacturing Industry, and H. Residential Retail Property.

> as electrical outlets of general applicability and accessibility, lighting, heating, ventilation, air conditioning, and electrical wiring.

In addition to the interior light fixtures mentioned above, the Tax Commission reviewed the photograph of "Lighting-security lighting (Lighting–exterior security lighting)", which shows this exterior lighting provided basic exterior illumination. The Tax Commission reviewed the IRS guide[20] specific to the retail industry and found that the guide categorizes exterior light fixtures as section 1250 property (building or building component) and states,

> Exterior lighting **whether decorative or not** is considered § 1250 property to the extent that the lighting relates to the maintenance of operation of the building. This category includes building mounted lighting to illuminate walkways, entrances, parking, etc. (emphasis added)

In the photograph, this light may look like it's for general illumination, but it could be truly for security purposes as its description says. The Tax Commission reviewed the IRS guide and found that it categorizes "security lighting" and "perimeter building motion detector" as section 1250 property as part of "security system."

The Tax Commission found that these electricals and lightings are section 1250 property (structural components), depreciable over 39-year recovery periods, and therefore upholds the Bureau's reclassification of the class life for these electricals and lightings.

<u>Heated air door</u>

The representative did not provide a photograph for the "heated air door"; therefore, it is not clear whether this asset is a specific type of heater used above a door or a door with a built-in heater. The Tax Commission reviewed the IRS guide for the retail industry. The IRS guide

[20] The IRS Cost Segregation Guide VII. Chapter 7

categorizes doors as section 1250 property (building or building component), and describes the "doors" as,

> Interior and exterior doors, regardless of decoration, including but not limited to, double opening doors, overhead doors, revolving door, mall entrance security gates, roll-up or sliding wire mesh or steel grill gates, and door hardware (such as doorknobs, closes, kick plates, hinges, locks, automatic openers, etc.)

The IRS guide also categorizes heating, ventilating & air conditioning (HVAC), as section 1250 property (building or building component), and states that HVAC,

> Includes all component of a central heating, ventilating and air conditioning system not specifically identified elsewhere. HVAC systems that are installed not only to meet the temperature and humidity requirements of machinery, but are also installed for additional significant purposes, such as customer comfort and ventilation, are building components.

Although the IRS guide does not provide a description of a "heated air door" in the retail industry, the Tax Commission found "doors–air curtains" in the restaurants, and that categorizes it as section 1250 property and describes,

> Air doors or curtains are air systems located above doors and windows that circulate air to stabilize environments and save energy by minimizing the heated/air conditioned air loss through open doorways and windows. They also effectively repel flying insects, dust, and pollutants.

The Tax Commission found that the "heated air door", either as a heater or a door, is a section 1250 property (building or building component), depreciable over 39-year recovery periods, and therefore, the Tax Commission upholds the Bureau's reclassification of class life for the "heated air door".

<u>Toilet bath/accessories</u>

In the HCA case, the Court concluded that the bathroom accessories are structural components of the buildings. The Court pointed out, "Although capable of being removed and reused, there is no evidence that at the time they were installed petitioners ever intended to remove and reused the bathroom accessories.", and therefore the Court was "persuaded that the bathroom accessories are and were intended to be a permanent part of the buildings. The bathroom accessories also service a function that is more than incidental to the operation of the building."

The Tax Commission reviewed the IRS guide and found that the guide categorizes "restroom accessories" as section 1250 property (building or building component), and states that the restroom accessories,

> Includes paper towel dispensers, electric hand dryers, towel racks or holders, cup dispensers, purse shelves, toilet paper holders, soap dispensers or holders, lotion dispensers, sanitary napkin dispensers and waste receptacles, coat hooks, handrails, grab bars, mirrors, shelves, vanity cabinets, counters, ashtrays, baby changing stations, and other items generally found in public restrooms that are built into or mounted on walls or partitions.

The Tax Commission found that the "toilet/bath accessories" are section 1250 property (building or building component), depreciable over 39-year recovery periods, and therefore, the Tax Commission upholds the Bureau's reclassification of class life for the toilet/bath accessories.

Decorative manufactured fireplace

The photograph provided by the representative shows that the decorative fireplace is built in a wall in the eatery area of the store. It is not clear whether the fireplace is a solid fuel burning fireplace, such as wood and pellet or electric fireplace, or gas alternatives, such as propane or natural gas. However, the determination of class life depends more on whether the fireplace is inherently permanent. The IRS guide does not provide any description of a fireplace in the retail industries; however, it does in the restaurants. The IRS guide categorizes fireplaces as section 1250 property (building or building component) and states the fireplaces "[i]ncludes masonry and gas fireplaces, flues, chimneys, and other components of build-in fireplaces".

The Tax Commission found that the "decorative manufactured fireplace" is section 1250 property (building or building component), depreciable over 39-year recovery periods, and therefore, the Tax Commission upholds the Bureau's reclassification of class life for the decorative fireplace.

<u>Part of "Lighting for produce/flagpole"</u>

This asset apparently consisted of two parts, one is the lighting for produce, and the other is the flagpole. The Bureau reclassified the "flagpole" as a land improvement, 15-year property and left the "lighting for produce" as 5-year property. Since the 5-year property is not in dispute, the Tax Commission reviews the flagpole and whether it's a 15-year property. The IRS guide, in the retail industry, categorizes poles and pylons as land improvements and defines them as "light poles for parking areas and other poles poured in concreate footings or bolt-mounted for signage, flags, etc…"

The Tax Commission found that the "flagpole" is a land improvement, depreciable over 15-year recovery periods, and therefore, the Tax Commission upholds the Bureau's reclassification of class life for the flagpole.

All the assets discussed above are part of the building[21] and a land improvement.[22] The Tax Commission found that the Bureau's determinations of class life regarding these assets are all in line with the IRS guide and therefore upholds the Bureau's reclassification.

ITC

Idaho Code section 63-3029B provides a credit for capital investment, commonly called the Idaho investment tax credit (ITC). The ITC is available on qualified investments acquired, constructed, reconstructed, erected, or placed into service after December 31, 1981, that have a

[21] The assets determined to be part of the building component are, "Lighting–security lighting", "LED suspended tube lights for aisles", "Heated air door", "Electrical–secondary/decorative pendant lights", "Elect/lighting–light bulbs/connection deli", "Toilet bath/accessories", and "Decorative manufactured fireplace".

[22] The asset determined to be a land improvement is, "Lighting for produce/flagpole".

situs in Idaho. Qualified investments are defined in IRC sections 46(c), 46(f), and 48 as they existed in the IRC of 1986 prior to November 5, 1990 (pre-1990 regulations). Included in the definition is tangible personal property used in a trade or business, property used in manufacturing, and depreciable property. Qualified investments do not include buildings, their structural components and land improvements.

In the present case, Petitioner claimed ITC for the assets that the Bureau reclassified from 5-year property to 39-year property (structural components)[23] and 15-year property (land improvement).[24] These assets the Bureau reclassified as 39-year property and 15-year property do not qualify for ITC. Therefore, the Tax Commission upholds the Bureau's disallowance of ITC claimed on these assets. Petitioner also claimed ITC for the decorative lightings which the Bureau accepted as 5-year property. However, the Bureau disallowed ITC claimed for the decorative lightings as they are structural components.[25] During the hearing, the representative specifically asked the Tax Commission to review these decorative lights and determine whether they qualify for ITC.

<u>Decorative lightings</u>

Petitioner's cost segregation study indicated that several of the lightings are decorative, i.e., "GE suspended track light/secondary/decorative (GE suspended track lighting)", "Elect/lighting produce-secondary track light (Electrical/lighting track light)", and "Electrical–

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[23] The assets the Bureau reclassified as 39-year property, and Petitioner claimed ITC for, are, "Lighting -security lighting (Lighting–exterior security lighting)", "LED suspended tube lights for aisles (Lighting–suspended)", "Heated air door", "Elect/lighting-light bulbs/connection deli (Electrical and lighting–secondary lighting)", "Toilet bath/accessories", and "Decorative manufactured fireplace".

[24] The asset the Bureau reclassified as 15-year property, and Petitioner claimed ITC for, is, "Lighting for produce/flagpole (Lighting-flagpole/display)".

[25] The assets the Bureau did not reclassify as 39-year property, but disallowed ITC Petitioner claimed for, are, "GE suspended track light/secondary/decorative (GE suspended track lighting)", "Elect/lighting produce-secondary track light (Electrical/lighting track light)", and "Electrical–secondary/decorative pendant lights (Electrical-decorative lighting)".

secondary/decorative pendant lights (Electrical-decorative lighting)". The IRS guide[26] for the retail industry categorizes decorative light fixtures as section 1245 property. The guide further states in the retail industry description,

> Decorative light fixtures, such as neon lights or track lighting, which are decorative in nature and not necessary for the operation of the building. In other words, if the decorative lighting were turned off, the other sources of lighting would provide sufficient light for operation of the building. **If the decorative light is the primary source of lighting, then it is § 1250 property.** (emphasis added)

The Tax Commission reviewed the photographs of the decorative pendant lights and found that they are the only source of lighting in the store sections where these decorative pendant lights were placed. As for the track lightings, they are not the primary source of lighting but illuminate substantial areas of the sections where they are placed. The IRS guide provides in part,

> … cost segregation methodologies previously used to allocate the cost of a building between ITC property and structural components likewise can be used for segregating § 1245 property from § 1250 property. However, this does not necessarily mean that an asset is exclusively either § 1245 property or § 1250 property; certain assets can contain characteristics of both code sections.

The Tax Commission found that these decorative lights are an integral and inseparable part of the store's overall structure and function under the pre-1990 regulations. Therefore, the Tax Commission upholds the Bureau's disallowance of ITC Petitioner claimed for the decorative lights.

In addition to these assets acquired for the new store, Petitioner claimed ITC for the assets acquired for other stores[27] they owned. Those assets acquired for other stores include, "LED Track Lighting", "East Side Soffit", and "Hot Water Heater", which are structural components (39-year property) and "Landscape revision", which is a land improvement (15-year property). Therefore,

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[26] The IRS Cost Segregation Guide VII. Chapter 7.
[27] The other stores owned by Petitioner are in [redacted] and [redacted]

the Tax Commission upholds the Bureau's disallowance of ITC claimed on assets acquired for other stores.

CONCLUSION

The Tax Commission found that the Bureau's reallocation of the soft costs and reclassification of class life are appropriate and in line with the IRS guidelines. The Bureau's reallocation and reclassification changed Petitioner's asset basis for federal depreciation, Idaho bonus depreciation, and ITC. The Tax Commission found that the Bureau appropriately recalculated federal depreciation and Idaho bonus depreciation and properly disallowed the ITC Petitioner claimed on certain assets.

THEREFORE, the Tax Commission AFFIRMS the Notice dated December 23, 2024, directed to Petitioner. Since Petitioner is a flow-through entity, the additional tax owed flows through to its shareholders. Therefore, no demand or order for payment is necessary.

An explanation of Petitioner's right to appeal this decision is enclosed.

DATED this ________ day of ___________________ 2025.

IDAHO STATE TAX COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on this ________ day of ________________________________ 2024, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

Receipt No.

[redacted]

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COPY SENT TO:

[redacted]