

9/19/2018

IRS Issues Updated Guidance on New Bonus Depreciation Rules

The IRS has released proposed regulations that clarify the requirements for businesses to claim bonus depreciation deductions under the Tax Cuts and Jobs Act. While not yet finalized, the IRS will allow taxpayers to rely on these regulations for tax years ending on or after September 28, 2017 for any property placed into service after September 27, 2017.

General Deduction Requirements

The TCJA expands the ability of businesses to claim a first-year bonus depreciation deduction, increasing the limit from 50% to 100% of qualifying assets placed in service. This temporary increase is valid for assets placed in service between September 28, 2017 and December 31, 2022. After that, the bonus depreciation percentage will begin to phase out, starting in 2023. It will drop 20% each year for four years, and is set to expire at the end of 2026.

Qualified Property

In order to qualify, the property must meet several requirements, such as falling within the definition of qualified property. This includes:

- Property depreciated under the Modified Accelerated Cost Recovery System (MACRS) that has a recovery period of 20 years or less (generally, tangible personal property¹)
- Certain computer software
- Water utility property
- Qualified film or television productions
- Qualified live theatrical productions
- Specified plants

Additionally, the property must be placed in service between September 28, 2017 and December 31, 2022. It must have been acquired by the taxpayer after September 27, 2017. The date of acquisition is defined as the date the contract is entered into; a letter of intent, for example, is not considered binding.

¹ Congress intended for the bonus depreciation to also apply to Qualified Improvement Property. However, there was an error in drafting the legislation, and real property was not included in the definition of qualified property for purposes of the new bonus depreciation. This error will need to be addressed in future technical corrections.

Acquiring Used Property

Used property is eligible for bonus depreciation if the property wasn't used by the taxpayer or a predecessor at any time prior to acquisition. If the taxpayer had a depreciable interest in the property before the acquisition, whether claimed or not, then the property is treated as used before acquisition.

Businesses that lease property, therefore, can acquire that property at the end of the lease and qualify for bonus depreciation. If a business has a depreciable interest in improvements made to lease property and subsequently acquires the property, the unadjusted depreciable basis attributable to the improvements is excluded.

Deduction Amount

The amount of the first-year depreciation deduction equals the applicable percentage of the property's unadjusted depreciable basis. The unadjusted depreciable basis generally is limited to the property's basis attributable to manufacture, construction or production before January 1, 2027.

Next Steps

Your Seiler tax advisor is prepared to help you navigate these new changes surrounding bonus depreciation. Reach out with a phone call or email to determine how you could potentially benefit from the latest federal regulations. We'll also be in touch with more coverage as any additional guidance is issued from the IRS.