

Bonus Depreciation for Acquired Assets

Public and private companies engage Marshall & Stevens to value and categorize acquired assets (machinery, equipment and improvements) in order to claim Bonus Depreciation, for federal tax reporting. The analyses require an application of the IRS's Modified Accelerated Depreciation System ("MACRS"), the Tax Cuts and Jobs Act of 2018 ("TCJA") and most recently, the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act").

ELIGIBILITY FOR BONUS DEPRECIATION

The regulations identify **qualified depreciable property** as property that meets the following requirements:

1. The property must be of a **specified type**.
2. The **original use** of the property must commence with the taxpayer or used depreciable property must meet the acquisition requirements of section 16(k)(2)(E)(ii).
3. The property must be **placed in service** by the taxpayer within a specified time or must be planted or grafted by the taxpayer before a specified date.
4. The property must be **acquired by the taxpayer after September 27, 2017**.

The following is a brief description of each of the requirements.

Property of a Specific Type

Property eligible for bonus depreciation includes:

- Tangible property with a MACRS general depreciation system ("GDS") recovery period of 20-years or less.
- Computer software depreciable under IRC Section 167(f)(1).
- Water utility property.
- Specified fruit and nut plants.
- Qualified film, television, and live theatrical production property.
- Qualified Improvement Property placed into service after September 27, 2017.

Qualified Improvement Property (QIP) includes certain interior building improvements of most commercial spaces, such as Retail Stores and Restaurants, and *excluded* QIP placed in service after January 1, 2018 under the TCJA, in what is widely accepted to have been an original drafting error.

As a result, QIP acquired after September 27, 2017, and placed in service after December 31, 2017 had to be recovered over 39 years and, accordingly, was not eligible for bonus depreciation. (However, QIP acquired after September 27, 2017, and placed in service on or before December 31, 2017, was eligible for bonus depreciation.)

The **CARES Act** included an amendment to IRC Section 168(e)(3)(E) to retroactively include the QIP inadvertently classified as 39-year property under the TCJA as property to which a 15-year recovery period applies and for which bonus depreciation may be claimed.

Because of the technical amendments provided in CARES, taxpayers that make or have made improvements to their facilities may now take appropriate steps to claim the missed 100% bonus depreciation, dating back to January 1, 2018.

Original Use – Eligible Used Property

The regulation expanded the explanations of eligible **used property**. Stating that used property is eligible for bonus depreciation if:

1. The property was not used by the taxpayer or a predecessor at any time prior to acquisition;
2. The acquisition of the property meets the related party and carryover basis requirement, and
3. The property is IRC Section 179 eligible.

This could mean that equipment acquired as part of a 336(e) and 338(h)(10) election would be eligible for bonus depreciation as well as property acquired at the end of a lease, in some instances.

Placed In Service / Acquisition Date Clarification

The regulation defines the **acquisition date** as the date a “written binding contract” is entered. This includes contracts that are enforceable under state law against a taxpayer. Therefore, a letter of intent for an acquisition, supply contract or any other non-binding statements of understand do not qualify as a binding contract. For self-manufactured property, which does not have an acquisition date, the date of construction/production is considered. The date of acquisition still must be after September 27, 2017 to be considered eligible.

Contact us today for more information on how a machinery & equipment appraisal or a cost segregation might benefit your business.



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