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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