

New rules and limitations for depreciation and expensing under the Tax Cuts and Jobs Act

Businesses can immediately expense more under the new law

A taxpayer may elect to expense the cost of any section 179 property and deduct it in the year the property is placed in service. The new law increased the maximum deduction from \$500,000 to \$1 million. It also increased the phase-out threshold from \$2 million to \$2.5 million.

The new law also expands the definition of section 179 property to allow the taxpayer to elect to include the following improvements made to nonresidential real property after the date when the property was first placed in service:

- Qualified improvement property, which means any improvement to a building's interior. Improvements do not qualify if they are attributable to: o the enlargement of the building, o any elevator or escalator or o the internal structural framework of the building.
- Roofs, HVAC, fire protection systems, alarm systems and security systems.

These changes apply to property placed in service in taxable years beginning after Dec. 31, 2017.

Temporary 100 percent expensing for certain business assets (first year bonus depreciation)

The new law increases the bonus depreciation percentage from 50 percent to 100 percent for qualified property acquired and placed in service after Sept. 27, 2017, and before Jan. 1, 2023. The bonus depreciation percentage for qualified property that a taxpayer acquired before Sept. 28, 2017, and placed in service before Jan 1, 2018, remains at 50 percent. Special rules apply for longer production period property and certain aircraft.

The definition of property eligible for 100 percent bonus depreciation was expanded to include used qualified property acquired and placed in service after Sept. 27, 2017, if all the following factors apply:

- The taxpayer didn't use the property at any time before acquiring it.
- The taxpayer didn't acquire the property from a related party,
- The taxpayer didn't acquire the property from a component member of a controlled group of corporations.
- The taxpayer's basis of the used property is not figured in whole or in part by reference to the adjusted basis of the property in the hands of the seller or transferor.
- The taxpayer's basis of the used property is not figured under the provision for deciding basis of property acquired from a decedent.

Also, the cost of the used qualified property eligible for bonus depreciation doesn't include any carryover basis of the property, for example in a like-kind exchange or involuntary conversion.

The new law added qualified film, television and live theatrical productions as types of qualified property that are eligible for 100 percent bonus depreciation. This provision applies to property acquired and placed in service after Sept. 27, 2017.

Under the new law, certain types of property are not eligible for bonus depreciation. One such exclusion from qualified property is for property primarily used in the trade or business of the furnishing or sale of:

- Electrical energy, water or sewage disposal services,
- Gas or steam through a local distribution system or
- Transportation of gas or steam by pipeline.

This exclusion applies if the rates for the furnishing or sale have to be approved by a federal, state or local government agency, a public service or public utility commission, or an electric cooperative.

The new law also adds an exclusion for any property used in a trade or business that has floor-plan financing. Floor-plan financing is secured by motor vehicle inventory that a business sells or leases to retail customers.

Changes to depreciation limitations on luxury automobiles and personal use property

The new law changed depreciation limits for passenger vehicles placed in service after Dec. 31, 2017. If the taxpayer doesn't claim bonus depreciation, the greatest allowable depreciation deduction is:

- \$10,000 for the first year,
- \$16,000 for the second year,
- \$9,600 for the third year, and
- \$5,760 for each later taxable year in the recovery period.

If a taxpayer claims 100 percent bonus depreciation, the greatest allowable depreciation deduction is:

- \$18,000 for the first year,
- \$16,000 for the second year,
- \$9,600 for the third year, and
- \$5,760 for each later taxable year in the recovery period.

The new law also removes computer or peripheral equipment from the definition of listed property. This change applies to property placed in service after Dec. 31, 2017.

Changes to treatment of certain farm property

The new law shortens the recovery period for machinery and equipment used in a farming business from seven to five years. This excludes grain bins, cotton ginning assets, fences or other land improvements. The original use of the property must occur after Dec. 31, 2017. This recovery period is effective for property placed in service after Dec. 31, 2017. Also, property used in a farming business and placed in service after Dec. 31, 2017, is not required to use the 150 percent declining balance method. However, if the property is 15-year or 20-year property, the taxpayer should continue to use the 150 percent declining balance method.

Applicable recovery period for real property

The new law keeps the general recovery periods of 39 years for nonresidential real property and 27.5 years for residential rental property. But, the new law changes the alternative depreciation system recovery period for residential rental property from 40 years to 30 years. Qualified leasehold improvement property, qualified restaurant property and qualified retail improvement property are no longer separately defined and given a special 15-year recovery period under the new law.

These changes affect property placed in service after Dec. 31, 2017.

Under the new law, a real property trade or business electing out of the interest deduction limit must use the alternative depreciation system to depreciate any of its nonresidential real property, residential rental property, and qualified improvement property. This change applies to taxable years beginning after Dec. 31, 2017.

Use of alternative depreciation system for farming businesses

Farming businesses that elect out of the interest deduction limit must use the alternative depreciation system to depreciate any property with a recovery period of 10 years or more, such as single purpose agricultural or horticultural structures, trees or vines bearing fruit or nuts, farm buildings and certain land improvements. This provision applies to taxable years beginning after Dec. 31, 2017.