



The Tax Cuts and Jobs Act (TCJA) has effectively lowered the cost of acquiring capital assets by making substantial changes to the income tax rules for bonus depreciation and other "cost recovery." There's a lot to discuss, but please bear with us. One or more of these changes will almost surely change your tax bill.

Bonus depreciation: Before the TCJA, taxpayers were allowed to deduct in the year that an asset was placed in service 50% of the cost of most new tangible property other than buildings and, with the exception of qualified improvement property, building improvements. Most new computer software was also eligible for the 50% deduction. Because of the deduction in the year placed in service, there was adjustment of the regular depreciation allowed in that year and later years. The "50% bonus depreciation" was to be phased down to 40% for property placed in service in calendar year 2018, 40% in 2019 and 0% in 2020 and afterward. The phase down was to begin a year later for certain private aircraft and long-production period property.

For property placed in service and acquired after Sept. 27, 2017 (with no written binding contract for acquisition in effect on Sept. 27, 2017), the TCJA has raised the 50% rate to 100%. (Appropriately, 100% bonus depreciation is also called "full expensing" or "100% expensing".)

Additionally, under the TCJA the post-Sept. 27, 2017 property eligible for bonus depreciation can be new *or used*. Also, certain film, television and live theatrical productions are now eligible. On the other hand, the TCJA excluded from bonus depreciation public utility property and property owned by certain vehicle dealerships.

The 2018/2019/2020 phase down (above) doesn't apply to post-Sept. 27, 2017 property. Instead, 100% depreciation is decreased to 80% for property placed in service in calendar year 2023, 60% in 2024, 40% in 2025, 20% in 2026 and 0% in 2027 and afterward (with phase down beginning a year later for certain private aircraft and long-production period property).



Code Sec. 179 expensing: Before the TCJA, most smaller taxpayers could elect, on an asset-by-asset basis, to immediately deduct the entire cost of section 179 property up to an annual limit of \$500,000 adjusted for inflation. For assets placed in service in tax years that begin in 2018, the scheduled adjusted limit was \$520,000. The annual limit was reduced by one dollar for every dollar that the cost of all section 179 property placed in service by the taxpayer during the tax year exceeded a \$2 million inflation-adjusted threshold. For assets placed in service in tax years that begin in 2018, the scheduled threshold was \$2,070,000.

The TCJA substitutes as the annual dollar limit \$1 million (inflation-adjusted for tax years beginning *after* 2018) and \$2.5 million as the phase down threshold (similarly inflation adjusted).

Before the TCJA, section 179 property included tangible personal property as well as non-customized computer software. The only buildings or other non-production-process land improvements that qualified did so because the taxpayer elected to treat "qualified real property" as section 179 property, for purposes of both the dollar limit and the phase down threshold. Qualified real property included restaurant buildings and certain improvements to leased space, retail space and restaurant space.

For tax years beginning after 2017, those buildings and improvements are eliminated as types of qualified real property and there is substituted a far broader group of improvements made to any building other than a residential rental building: (1) any building improvement other than elevators, escalators, building enlargements or changes to internal structural framework, and (2) building components that are roofs; heating, ventilation and air conditioning property; fire protection and alarm systems; or security systems.

Also, for tax years beginning after 2017, items (for example, non-affixed appliances) used in connection with residential buildings (but not the buildings or improvements to them) are section 179 property.

Other rules for real property depreciation: If placed in service after 2017, qualified improvement property, in addition to being eligible for bonus depreciation and being newly eligible as section 179 property, has a 15 year depreciation period (rather than the usual 39 year period for non-residential buildings).



Apartment buildings and other residential rental buildings placed in service after 2017 generally continue to be depreciated over a 27.5 period, but should the alternative depreciation system (ADS) apply to a building either under an election or because the building is subject to one of the conditions (for example, tax-exempt financing) that make ADS mandatory, the ADS depreciation period is 30 years instead of the pre-TCJA 40 years.

For tax years beginning after 2017, if a taxpayer in a real property trade or business "elects out" of the TCJA's limits on business interest deductions, the taxpayer must depreciate all buildings and qualified improvement property under the ADS.

Vehicles: The TCJA triples the annual dollar caps on depreciation (and Code Sec. 179 expensing) of passenger automobiles and small vans and trucks. Also, because of the extension of bonus depreciation, the increase, for vehicles allowed bonus depreciation, of \$8,000 in the otherwise-applicable first year cap is extended through 2026 (with no phase-down).

Computers and peripheral equipment: Under the TCJA, computer or peripheral equipment placed in service after 2017 isn't treated as "listed property" whether or not used in a business establishment (or home office) and whether or not, in the case of an employee, the use is for employer convenience. So an item no longer has to pass a more-than-50%-qualified-business-use test to be eligible for Code Sec. 179 expensing and to avoid mandatory use of the ADS.

Farm property: For items placed in service after 2017, the TCJA shortens the depreciation period for most farming equipment and machinery from seven years to five and allows many types of farm property to be depreciated under the 200% (instead of 150%) declining balance method.

For tax years beginning after 2017, if a taxpayer elects to not subject a farming business to the TCJA's limits on business interest deductions, the taxpayer must depreciate under the ADS the business's buildings and other assets that have a depreciation period of 10 years or more.

Elective rules that sometimes make it easier for fruit-or-nut-bearing plants to qualify for bonus depreciation continue to apply.



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Alternative minimum tax: Property eligible for bonus depreciation continues to be exempt from the unfavorable depreciation adjustments that apply under the AMT. However, the corporate AMT has been repealed; accordingly the election that corporations could make to give up bonus and other accelerated depreciation for bonus-depreciation-eligible property in exchange for a refund of otherwise-deferred AMT credits was eliminated.

Please call us at your convenience to talk about the above changes and the other changes made by the TCJA that almost surely change planning for your business and personal affairs.



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