

Section 179 and Bonus Depreciation – Election to Expense Certain Depreciable Business Assets

Pursuant to Internal Revenue Code Section 179 ("Sec. 179") and Section 168(k) ("Bonus Depreciation"), a taxpayer may elect to currently expense the cost of qualifying property instead of depreciating it.

Qualifying "Sec. 179 Property"

- Machinery and equipment used in an active trade or business
- Furniture and fixtures used in an active trade or business
- Certain depreciable off-the-shelf ("canned") computer software
- Modular casework
- Sec. 179 property may be purchased NEW or USED

Qualifying "Bonus Depreciation" Property

- Machinery and equipment used in an active trade or business
- Furniture and fixtures used in an active trade or business
- Certain depreciable off-the-shelf ("canned") computer software
- Modular casework
- Qualified leasehold improvements
- Bonus Depreciation property must be NEW

Maximum Amount of Deduction

A sole proprietor, partnership, corporation or LLC may expense up to **\$500,000** of Sec. 179 property purchased and "placed in service" on or after **January 1, 2010 and before December 31, 2011**. For tax years beginning in 2012, the maximum amount that can be expensed under Sec. 179 is reduced to \$125,000. For Bonus Depreciation, there is no maximum amount and the percentage of qualified property to be expensed is as follows:

<u>Placed in Service Date</u>	<u>Depreciation Bonus</u>
1/1/08-9/8/10	50 percent
9/9/10-12/31/11	100 percent
1/1/12-12/31/12	50 percent

Limitations

- **Investment Limitation:** The maximum Sec. 179 deduction is reduced dollar for dollar by the cost of qualified property placed in service during the tax year that exceeds the investment limitation. For tax years beginning on or after **January 1, 2010**, the investment limitation amount is **\$2,000,000**. For example, if eligible property purchased during 2010 equals \$2,200,000, then the Sec. 179 deduction is limited to $[\$500,000 - (2,200,000 - 2,000,000)] = \$300,000$. No Sec. 179 deduction is available for the **2010 or 2011** tax years if the total purchases of eligible property during a tax year exceeds **\$2,500,000**. For 2012, the reduction begins at 500,000 in investment property. For Bonus Depreciation, there is no limitation on the cost of qualified property eligible for bonus depreciation.
- **Taxable Income Limitation:** The Sec. 179 deduction for any tax year cannot exceed the total amount of taxable income derived from the active conduct of any trade or business during that tax year, including salaries and wages. Amount disallowed by this limitation may be carried forward. However, the total of any carry-forward amounts, plus the amount of Sec. 179 deduction calculated for the carryforward year, cannot exceed the maximum deduction amount, investment limitation, or taxable income limitation for the carryforward year.

Order of Allocation

A business may be eligible to claim both Sec. 179 expense and Bonus Depreciation. Under the bonus depreciation regulations, Sec. 179 expense allowance is claimed prior to the additional depreciation allowance.

Possible Advantages of Sec. 179 and Bonus Depreciation Deduction

- Lowers current year taxable income (and maybe state and local taxable incomes) even if the property is placed in service on the last day of the taxable year.
- May increase an individual's itemized deductions that are limited by a percentage of adjusted gross income (i.e. medical expenses, casualty and theft losses, miscellaneous itemized deductions).

Possible Disadvantages of Sec. 179 and Bonus Depreciation Deduction

- Foregoing the election results in the cost of qualifying property being depreciated over its useful life (generally 5 or 7 years for office equipment, furniture and fixtures). Despite the time value of money, a Sec. 179 or Bonus Depreciation election may NOT be economically advantageous if an individual taxpayer will be in a significantly higher tax bracket for tax years subsequent to that in which the qualifying property is purchased.
- Similarly, a Sec. 179 or Bonus Depreciation deduction is recaptured as ordinary income during the tax year in which the asset is disposed. Despite the time value of money, a Sec. 179 or Bonus Depreciation election may NOT be economically advantageous if an individual taxpayer sells or otherwise disposes of the asset during a tax year in which he is in a significantly higher tax bracket compared to that in which the qualifying property was purchased.

NOTE: This release provides general income tax information and should not be construed as financial guidance, legal advice or the rendering of professional tax return preparation assistance. Always consult your own tax advisor for assessment of any potential tax savings or tax law interpretations.

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