

Favorable Bonus Depreciation Technical Correction for Qualified Improvement Property

Dear Client:

This letter is to alert you to a beneficial change in the tax rules for many improvements to interior parts of nonresidential buildings ("qualified improvement property" or "QIP"). You may recall that following the 2017 Tax Cuts and Jobs Act ("TCJA"), any QIP placed in service after Dec. 31, 2017 was not considered to be eligible for 100% bonus depreciation. Therefore, the cost of QIP had to be deducted over a 39-year period instead of entirely in the year the QIP was placed in service. That result was due to an inadvertent drafting error by Congress.

The 2020 Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") was signed into law on Mar. 27, 2020. The CARES Act corrects the TCJA drafting error for QIP. Thus, most businesses are now allowed to claim 100% bonus depreciation for QIP, as long as other general requirements are met. What also is helpful is that the correction is retroactive, and it reaches back to apply to any QIP placed in service after Dec. 31, 2017. Unfortunately, improvements related to the enlargement of a building, any elevator or escalator, or the internal structural framework continue to be outside of the definition of QIP.

In the current business climate you may not be in a position to undertake new capital expenditures, even if needed as a practical matter and even if the substitution of 100% bonus depreciation for a 39-year depreciation period significantly lowers the true cost of QIP. But it's good to know that when you *are* ready to undertake qualifying improvements the generous subsidy of 100% bonus depreciation will be available.

And, the retroactive effect of the CARES Act presents favorable opportunities for qualifying expenditures you've already made. We can revisit and add to documentation that you've already provided me to identify QIP expenditures.

For not-yet-filed returns we can simply reflect the favorable treatment for QIP on the return.

If you've filed returns that didn't claim 100% bonus depreciation for what may prove to be QIP, we can investigate based on available documentation as discussed above. If there is QIP that was in fact eligible for 100% bonus depreciation, note that IRS has, for past retroactive favorable depreciation changes, provided taxpayers with detailed guidance for how the benefit is claimed. That is, IRS clarified how much flexibility taxpayers have in choosing between a one-time downward adjustment to income on their current returns or as an amendment to the return for the year the QIP was placed in service. I will monitor what your options are as anticipated IRS guidance for the QIP correction is released.

If you have any questions about the news shared above, or about how you can take advantage of it, please do not hesitate to contact us.

Very truly yours,

Hardison, Englert, Rader & Co., PC