

### **Depreciation Related Provisions of the Economic Stimulus Act of 2008**

The Economic Stimulus Package Act of 2008 is designed to boost the U.S. economy by providing tax rebates to individuals and tax incentives for businesses. The following information details the business tax incentives from this new Act.

#### **Section 179:**

For **taxable years beginning in 2008**, the section 179 limit is increased to \$250,000 and the reduction in allowed section 179 expense is reduced by the amount by which the cost of section 179 property placed in service exceeds \$800,000. Section 179 property may be new or used.

#### **Bonus Depreciation:**

For **property acquired after December 31, 2007 and before January 1, 2009**, the depreciation deduction on qualifying property shall include an allowance equal to 50% of the adjusted basis of the qualifying property. The adjusted basis of the qualifying property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under section 168.

Bonus depreciation will be allowed for alternative minimum tax as well as for regular tax purposes and the bonus depreciation may be claimed whether the half-year or midquarter depreciation convention applies in the placed in service year, and may be claimed even if the property is placed in service on the last day of the taxpayer's tax year.

#### **Qualified property** means:

- (1) Tangible property with a recovery period not exceeding 20 years;
- (2) Purchased computer software;
- (3) Water utility property;
- (4) **Qualified leasehold improvement property** – any improvement to an interior portion of a building which is nonresidential property if the improvement is
  - A. Made under or pursuant to a lease by the lessee or lessor of such portion of the building.
  - B. The area improved is to be occupied exclusively by the lessee, and
  - C. The improvement is placed in service more than 3 years after the date the building was first placed in service.

The **original use** of the property must commence with the taxpayer after December 31, 2007 and before January 1, 2009. Property acquired by the taxpayer pursuant to a written binding contract which was entered into before January 1, 2008 is **not eligible** for bonus depreciation.

The placed in service date is extended through December 31, 2009 for property with a recovery period of 10 years or longer.

**Excluded** – enlargement of the building, any elevator or escalator, structural component benefiting a common area, and the internal structural framework of the building

**Lease** – A lease between related persons shall not be considered a lease. Related persons means an affiliated group under section 1504 and persons having a relationship under section 267 (except for section 267, 80% ownership shall apply instead of 50%).

The **luxury automobile limitation** is increased by \$8,000 for luxury automobiles placed in service after December 31, 2007 and before January 1, 2009.

The order of depreciation will be (1<sup>st</sup>) section 179, (2<sup>nd</sup>) bonus depreciation and lastly the regular depreciation on the residual basis.

**Example:**

ABC, Corp, a calendar year taxpayer, acquires \$600,000 of 5 year assets in 2008. The depreciation would be:

Section 179		\$250,000
Bonus depreciation	(50% of \$350,000)	175,000
Regular depreciation	(20% of \$175,000)	35,000
Total allowed depreciation in 2008		\$460,000

**Election to opt out** of bonus depreciation is permitted by “class” of property for any tax year.

Planning consideration:

1. You may want to opt out in a year when you have expiring net operation losses
2. You may want to opt out in years where the taxpayer anticipates being in a higher tax bracket in future years.