



## **Bonus depreciation rules and Qualified Improvement Property provisions under The Protecting Americans from Tax Hikes (PATH) ACT**

By: Mariana Moghadam, CPA

The Protecting Americans from Tax Hikes (PATH) ACT was passed by congress on December 18, 2015. PATH modifies, extends and makes permanent several depreciation related provisions.

- **Bonus Depreciation**

PATH extends bonus depreciation for property acquired and placed in service through 2019. The bonus depreciation percentage is 50 percent for property placed in service during 2015, 2016, and 2017, but then phases down to 40 percent in 2018 and 30 percent in 2019.

- **Qualified Leasehold Improvement Property(QLHI)**

For property placed in service before Jan. 1, 2016, bonus depreciation is available for qualified property that meets the following requirements:

- The improvement must be made to the interior portion of a building
- The improvement must be made under a lease with the lessee exclusively occupying that part of the building
- The landlord and tenant cannot be a related parties
- The improvement must be placed in service more than three years after the date the building was first placed in service.

Expenditures attributable to the following items are excluded:

- Building enlargements
- Elevators and escalators
- Structural components benefiting a common area
- Structural framework of a building.

The provision makes permanent the 15-year recovery period for qualified leasehold improvement property.

- **Qualified Improvement Property**

For property placed in service after Dec. 31, 2015, the act introduced **qualified improvement property** to the list of bonus-eligible properties. The definition of qualified improvement property is broader than the definition of qualified leasehold improvement property, so under the new rules, qualified leasehold improvement property is still eligible for bonus depreciation.

Qualified improvement property is:

- Improvement to an interior portion of a building that is nonresidential real property
- The improvement is placed in service after the date the building was first placed in service
- The improvements do not need to be made pursuant to a lease and do not need to be made three years after the building was first placed in service

Qualified improvement property excludes:

- Enlargements
- Elevators/escalators
- Internal structural framework

Bonus depreciation is available for qualified improvement property and it has a 39-year recovery period unless it also meets the definition of either qualified leasehold improvement property, qualified retail improvement property, or qualified restaurant property.

- **Qualified Restaurant Property**

Qualified restaurant property is any property that is a building (new building or existing structure) or an improvement to a building, if more than 50 percent of the building's square footage is devoted to the preparation of, and seating for on-premises consumption of prepared meals.

Qualified restaurant property placed in service before Jan. 1, 2016, are not eligible for bonus depreciation unless the improvements also satisfy the definition of qualified leasehold improvement property.

The PATH Act permanently extends the 15-year straight-line cost recovery period for qualified restaurant property.

- **Qualified Retail improvement**

Qualified retail improvement property is any improvement to an interior portion of a building which is nonresidential real property and placed in service more than three years after the date the building was first placed in service. Retail establishments that qualify include those open to the public and primarily in the business of the sale of goods (tangible personal property) to the general public and not services. Excluded from qualifying retail improvements are enlargements, elevators/escalators, common area work, and internal structural framework.

After Dec. 31, 2015, qualified retail improvements are, by definition, bonus-eligible because they are also qualified improvement property.

- **Section 179 Expensing Election**

Section 179 of the Internal Revenue Code allows businesses to elect to immediately deduct — or “expense” — the cost of certain tangible personal property acquired and placed in service during the tax year, instead of recovering the costs more slowly through depreciation deductions. This election is subject to annual dollar limits. For 2015 tax year, the maximum expensing amount was \$500,000, reduced dollar-for-dollar by the amount of Section 179 property placed in service during the tax year in excess of \$2,000,000

A taxpayer could also elect to treat "qualified real property" as Section 179 property. The aggregate amount of the cost of qualified real property that a taxpayer could elect to treat as an expense was subject to both an annual limit of \$250,000 and the \$500,000 annual per taxpayer overall limit on Section 179 expensing.

The PATH Act makes the annual limits permanent, indexing them for inflation. In 2015, businesses could expense up to \$500,000 in qualified new or used assets, subject to a dollar-for-dollar phase-out once the cost of all qualifying property placed in service during the tax year exceeded \$2 million. For 2016, the expensing limitation remains unchanged, but the phase-out amount rises to \$2,010,000.

The PATH Act also removed the annual \$250,000 limitation on the amount of qualified real property that can be treated as Section 179 property. For tax years beginning after Dec. 31, 2015, the maximum amount of qualifying real property improvements that can be expensed was increased \$500,000.

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Qualified real property includes:

- Qualified leasehold-improvement property
- Qualified restaurant improvement property
- Qualified retail-improvement property

Beginning in 2016, air conditioning and heating units are also eligible for Section 179 election.

Certain properties do not qualify for the section 179 deduction. These include:

- Land and land improvements, including: swimming pools, paved parking areas, wharves, docks, bridges, and fences.
- Certain property leased to others (if you are a non-corporate lessor).
- Certain property used predominantly to furnish lodging or in connection with the furnishing of lodging.
- Air conditioning or heating units placed in service in tax years beginning before 2016.
- Certain property used predominantly outside the United States
- Property used by certain tax-exempt organizations, except property used in connection with the production of income subject to the tax on unrelated trade or business income.
- Property used by governmental units or foreign persons or entities, except property used under a lease with a term of less than 6 months.