



# TaxNewsFlash

## United States

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### **IRS nonacquiescence, retail stores' placed-in-service date**

The IRS announced its nonacquiescence to a 2015 decision of the U.S. District Court for the Western District of Louisiana, holding that buildings built to operate as retail stores are placed in service for depreciation purposes when substantially completed to house and secure racks, shelving, and merchandise.

Read text of Action on Decision 2017–02 that appears in the April 10, 2017 edition of the [Internal Revenue Bulletin 2017-15](#) [PDF 1.1 MB].

#### **Background**

The taxpayer was a retail operation that, among other things, sold home building material and supplies. In its 2008 tax returns, the taxpayer took the "GO Zone" allowance which was a 50% depreciation of two buildings constructed in Louisiana. The accelerated depreciation deduction created a loss for 2008 that allowed the taxpayer to carry back those losses for the 2003, 2004, and 2005 tax years. Thus, after filing the appropriate forms, the taxpayer received a refund for the 2003, 2004, and 2005 tax years.

The IRS disallowed the taxpayer's GO Zone depreciation deduction and assessed the taxpayer with taxes owed for the tax years 2003 through 2008.

The taxpayer filed a claim for refund of its corporate income taxes that the taxpayer alleged the IRS erroneously collected for tax years 2003 through 2008, plus interest on the refund (plus attorney fees, costs, and other sums). When the IRS denied the refund claim, the taxpayer filed a refund action in federal district court which found that the buildings built to operate as retail stores were placed in service for depreciation purposes when substantially completed to house and secure racks, shelving, and merchandise.

The case is: *Stine, LLC v. United States*, No. 13–03224, 2015 WL 403146 (W.D. La. Jan. 27, 2015). Read the federal district court's [decision](#) [PDF 1.1 MB]

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