TaxNewsFlash

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Proposed regulations: Additional first year depreciation deduction under section 168 (text of regulations)

The U.S. Treasury Department and IRS today released for publication in the Federal Register proposed regulations (REG-104397-18) as guidance about the increased and expanded first year depreciation deduction for qualified property pursuant to measures added to the Code by the new tax law (Pub. L. No. 115-97, enacted December 22, 2017).

Read text of the **proposed regulations** [PDF 320 KB] (31 pages)

As noted in a related **Treasury release**, the increased first year depreciation will allow certain businesses to expense equipment purchases and make capital investments in their companies. The new tax law increased the first year depreciation deduction from 50% to 100% for qualified property acquired and placed in service after September 27, 2017. The first year allowance is 100%, and is then decreased by 20% annually for qualified property placed in service after December 31, 2022. The new tax law also expanded the definition of "qualified property" to include certain used depreciable property and certain film, television, or live theatrical productions. The proposed change also extends the placed-in-service date by "seven years from January 1, 2021, to January 1, 2027."

A related IRS release—**IR-2018-159**—directs taxpayers to the instructions for **Form 4562**, *Depreciation and Amortization (Including Information on Listed Property)*, for details on claiming or electing out of the deduction. Taxpayers who elect out of the 100% depreciation deduction must do so on a timely filed return. The IRS release explains that taxpayers that have already filed their 2017 return and either did not claim the mandatory deduction on qualifying property, or did not elect out but still wish to do so, will need to file an amended return.

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The purpose of this report is to provide text of the proposed regulations (that are scheduled to be published in the Federal Register on August 8, 2018). A report of initial impressions about these regulations will be provided in a future report by KPMG.

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