



# TaxNewsFlash

## United States

No. 2016-382  
August 26, 2016

### **Rev. Proc. 2016-48: Retroactive section 179 expensing, 50% bonus depreciation, election to forgo bonus depreciation**

The IRS today released an advance version of Rev. Proc. 2016-48 that provides guidance to taxpayers with a tax year beginning in 2014 and ending in 2015 and that had filed their 2014 federal income tax returns prior to enactment of the Protecting Americans From Tax Hikes Act of 2016 (PATH Act) on how to adopt these measures on their 2014 returns:

- The permanent extension of the rule under section 179 allowing taxpayers to expense an amount of certain depreciable property
- The five-year extension (from 2015 through 2019) of the 50% “bonus depreciation” deduction
- The five-year extension of an election allowing a corporation to forgo bonus depreciation—and to use straight-line depreciation—on its qualified property, and instead to accelerate the ability to use additional alternative minimum tax (AMT) credits, through 2019 (through 2020, if a taxpayer has qualified long-production period property in that year)

Read [Rev. Proc. 2016-48](#) [PDF 179 KB]

#### **Section 179 expensing**

The PATH Act made permanent the \$500,000 limitation on the amount of depreciable property that may be expensed under section 179 in the year placed in service. This dollar limitation had generally been in effect since 2010 by means of various extensions, but had been reduced to \$25,000 for tax years beginning after 2014.

The \$500,000 limitation is reduced when the taxpayer’s total investment in eligible property for the year exceeds \$2 million. This is effective for property placed in service

in tax years beginning on or after January 1, 2015; the dollar amounts are indexed for inflation in tax years beginning after 2015. Rules allowing a section 179 election for computer software and for up to \$250,000 of qualified leasehold improvement property, qualified retail improvements, and qualified restaurant property were also made permanent, and the \$250,000 limitation was removed for tax years beginning after 2015. A long-standing exclusion for air conditioning and heating units was repealed for tax years beginning after 2015.

Prior to the extensions in the PATH Act, certain amounts for which an election was made for a year beginning before 2014, and which the taxpayer was not able to deduct before 2015, were essentially converted from a section 179 carryover deduction to depreciable property newly placed in service at the beginning of the last tax year beginning in 2014. The PATH Act extensions eliminated the need for this conversion, allowing the unused carryover amounts to be expensed in 2014 (if the taxpayer is able to use the deduction).

Rev. Proc. 2016-48 provides procedures allowing a taxpayer to either continue treating the carryover amount as properly converted to depreciable property or to amend its tax return for its last tax year beginning in 2014, to treat the carryover as a section 179 deduction in that tax year or as a carryover to a subsequent tax year. The ability to amend the 2015 return is subject to certain limitations detailed in the revenue procedure.

### **50% additional first year depreciation deduction**

The PATH Act extended for five years (from 2015 through 2019) the 50% “bonus depreciation” deduction. The deduction percentage is reduced to 40% for property placed in service in 2018, and to 30% for 2019.

Many taxpayers with tax years beginning in 2014 and ending in 2015 (2014 fiscal tax year) or with short tax years beginning and ending in 2015 (2015 short tax year) filed their tax returns prior to enactment of the PATH Act and, consequently, did not claim bonus depreciation for qualified property placed in service in 2015 or affirmatively elect out of bonus depreciation for such property.

Rev. Proc. 2016-48 provides guidance to these taxpayers. A taxpayer that made an affirmative election out of bonus depreciation on its timely filed return for a 2014 fiscal tax year or a 2015 short tax year will have that election respected for the elected classes of property, unless it revokes that election under section 4.03 of the revenue procedure. To do so, the taxpayer must file an amended return for its 2014 fiscal tax year or its 2015 short tax year by the later of November 11, 2016, or the time it timely files the return for its 2014 fiscal tax year or its 2015 short tax year.

A taxpayer that did not affirmatively elect out of bonus depreciation on its timely filed 2014 fiscal tax year return or its 2015 short tax year return but did not claim the bonus depreciation may claim the bonus depreciation to which it is entitled by either:

- Amending its 2014 fiscal tax year return or 2015 short tax year return by the time it timely files the tax return for the immediately succeeding tax year; or
- Filing Form 3115, *Application for Change in Accounting Method*, under section 6.01 of Rev. Proc. 2016-29, for the taxpayer's first or second tax year following its 2014 fiscal tax year or 2015 short tax year.

### **Election not to claim additional first year depreciation deduction**

The election allowing a corporation to forgo bonus depreciation (and to use straight-line depreciation) on its qualified property, and instead to accelerate the ability to use additional alternative minimum tax (AMT) credits, also continues through 2019 was extended as part of the PATH Act.

The additional credits continue to be refundable. For qualified property placed in service in 2015, the amount of accelerated AMT credits are, as in the past, based in part on the amount of AMT credits generated before 2006 that are available in the first tax year ending after March 31, 2008 (also limited by reference to the amount of foregone bonus depreciation that will be foregone, and in all cases limited to \$30 million). For tax years ending after 2015, the annual limitation is 50% of the AMT credits generated in tax years ending before January 1, 2016, but not more than the total amount of such pre-2016 credit that has not been previously used as a credit (and also limited by reference to the amount of foregone bonus depreciation). A corporation that owns more than 50% of the capital and profits interests of a partnership can apply the provision to its distributive share of the partnership's qualified property.

Rev. Proc. 2016-48 includes guidance regarding the time and manner for making this election.

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