

CORPORATION TAX BULLETIN 2017-02

Issued: December 22, 2017

Disallowance and Recovery of 100 Percent Depreciation Under IRC 168(k)

In accordance with section 401(3)1.(q) of the Tax Reform Code of 1971 ("TRC") any deduction for depreciation of qualified property under section 168(k) of the Internal Revenue Code of 1986 ("IRC") must be added back to Pennsylvania taxable income for corporate net income tax purposes.

Section 401(3)1.(r) of the TRC provides for the recovery of the disallowed depreciation of qualified property that was claimed and allowable under section 168(k) of the IRC by providing for an additional deduction in certain circumstances. The additional deduction is equal to three-sevenths of the remaining depreciation amount, not including the depreciation claimed under IRC 168(k). The additional deduction is permitted "if a deduction for depreciation of qualified property was included in taxable income in accordance with paragraph (q)."

In the case of 100% depreciation claimed for qualified property under IRC 168(k), this additional deduction is not applicable because there is no deduction for depreciation of qualified property included in taxable income in accordance with paragraph (q). Furthermore, if the additional deduction were allowed, the amount would be zero because there is no remaining depreciation amount after the 100% depreciation deduction.

As a result, Pennsylvania law requires the amount of a 100% deduction under IRC 168(k) to be added back to taxable income, and provides no additional mechanism for cost recovery with respect to the qualified property. Under Section 401(3)1.(s), the taxpayer may take an additional deduction when the qualified property is sold or otherwise disposed of during a taxable year to the extent the amount of depreciation claimed has not been fully recovered.

This change will be effective for property placed in service after September 27, 2017. The Department will continue to allow depreciation deductions under Corporation Tax Bulletin 2011-01 for property placed in service prior to this date.