KBKG TAX INSIGHT: FINAL REGULATIONS AND NEW PROPOSED REGULATIONS FOR ADDITIONAL FIRST-YEAR DEPRECIATION DEDUCTION

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On September 13, 2019, the IRS and Treasury finalized first-year bonus regulations ([REG-104397-18](REG-104397-18)). In tandem, they issued additional proposed regs ([REG-106808-19](REG-106808-19)) for bonus nuances. Here are a few highlights:

Final Regulations:

- Qualified Improvement Property (QIP) – 2018 and beyond: The IRS and Treasury denied 15-year treatment with the

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- Research & Development
- Cost Segregation
- Repair vs. Capitalization Review
- Fixed Asset Review
- 45L Credits for Energy Efficient Residential Developments
- 179D Incentive for Energy Efficient Commercial Buildings
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explanation which stated that, in order to make this change we would need a "legislative change." That was expected. There is no timetable for this updated legislation.

- Depreciable interest look back rule related to used property: A five-year look back period is provided for determining whether a taxpayer or predecessor held a depreciable interest in property. This is a departure from proposed regulations. The IRS remarks that "this bright-line test will be easy for both taxpayers and the IRS to administer."
- The final regulations state that the acquisition date of property acquired pursuant to a written binding contract is the later of:
    - the date on which the contract is entered into;
    - the date on which the contract is enforceable under State law;
    - if the contract has one or more cancellation periods, the date on which all cancellation periods end; or
    - if the contract has one or more contingency clauses, the date on which all conditions subject to such clauses are satisfied

Proposed Regulations:

- Special Election Necessary to Claim 100% Bonus: Written Binding Contracts on new construction projects where contracts were signed before 9/27/2017 and placed in service in 2018 may get 100% bonus on certain assets. In most cases taxpayers were advised to take bonus under the PATH Act rules at a rate of 40%. The election similar to the one provided in section 3.02(2)(b) of Rev. Proc. 2011-26 can be made for components acquired or self-constructed after September 27, 2017, of a larger self-constructed property where construction started before this date.
- Floor Plan Financing rules clarify that taxpayers leasing property to a trade or business with floor plan financing indebtedness or a rate-regulated utility may claim bonus depreciation. Not a huge departure from what was expected but certainly good news for dealerships.

The final regulations adopt proposed regulations published in the Federal Register (REG-104397-18) with certain modifications. These regulations now provide taxpayers with only some clarity, but they delay clarification on key issues impacting taxpayers in the current tax year and beyond. The Proposed Regulations (REG-106808-19) will continue to tackle issues the IRS is not ready to finalize. KBKG will publish a detailed analysis of the final and proposed regulations soon.

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To find out more on how the Final Additional First-Year Depreciation Deduction rules impact you, please contact us today.