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# Tax Cuts and Jobs Act opportunities for real estate owners - by Jeff Hiatt and David Fabian

June 28, 2019 - Retail

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We have now all navigated through the first busy season with the Tax Cuts and Jobs Act (TCJA). As we work on our 2018 extended returns, and enter the planning stages for 2019 and beyond, there are still many questions and required clarifications. There are also many more opportunities.

The TCJA allows for several provisions to immediately expense different asset expenditures. These include enhanced 100% bonus depreciation, expanded Section 179 expensing, and de minimis opportunities. Qualified Improvement Property (QIP) may produce benefits for real estate owners.

Bonus Depreciation

For the first time ever bonus depreciation is now allowed on used assets, and is set at 100%. This applies to asset placed in service for 2018 through and including 2022, and percentage will decrease after that. Eligible assets must have a depreciable life of 20 years or less. For real estate owners, this means that building acquisitions have potential for bonus eligible assets.

As in the prior law, if a taxpayer constructs or renovates a building, any assets classified with a shorter depreciable life are still bonus eligible. A taxpayer who acquires an already existing building did not receive this benefit prior to TCJA but as mentioned above, they do now.

An example will illustrate this benefit. In June 2019, a taxpayer purchases an office building for $5 million, net of land. If $500,000 of the total cost is identified as personal property, items such as removable flooring, cabinetry, electrical and more, they can be depreciated with an IRS depreciable life of 7 years.  If $750,000 of the total cost is identified as land improvements, such as paving, landscaping, sewers and more, they can be depreciated with an IRS depreciable life of 15 years. The taxpayer can choose to write-off 100% of these assets for a total deduction of $1.25 million or 25% of the acquisition cost. If the taxpayer elects out of bonus, the first year expense is $40,000 under the IRS depreciation rules.

Section 179

The TCJA expanded the Section 179 deduction, including generous rules for real estate. For qualifying assets placed in service in 2018 and after, the maximum Section 179 deduction has been increased to $1 million. This amount will be adjusted every year for inflation, with the 2019 amount being set at $1.02 million. The Section 179 threshold limitation has also been increased under the new law, with the phase out starting at $2.5 million, and then a dollar for dollar phase out. This is also inflation indexed, with the 2019 amount set at $2.55 million.

Real estate owners take note – The TCJA also expanded the categories of eligible assets to include qualified improvement property, roofs, HVAC equipment, fire protection equipment, and alarm and security systems for non-residential real property. Qualification limitations include: the building must be nonresidential; previously placed in service; and meet the standard 179 qualifications.

The TCJA also allows, for the first time ever, Section 179 availability for personal property used to furnish lodging. Examples include apartments, hotels, motels, rental houses, and more.

Qualified Improvement Property

Qualified Improvement Property (QIP) has been defined as an interior improvement to an existing building. Structural components, enlargements, elevators and escalators do not qualify. Some examples of eligible build-out units of property include drywall, acoustic ceiling tile, interior electric and plumbing and more.

It is widely believed the intent of the TCJA was for this eligible QIP property to be depreciated with a 15 year life, and therefore bonus eligible. However, this provision was not included in the final law as written. Therefore QIP property is currently depreciated over 39 years, without bonus depreciation. If this oversight is corrected, real estate owners will be able to enjoy 100% bonus on QIP.

A thorough cost segregation study will identify all of the QIP, then upon correction of the tax law, assets can be properly depreciated. Whether or not the correction gets made, a cost segregation study will also provide the benefit of identifying bonus eligible components.

Opportunities

If you have already filed your 2018 return, there is still time to take advantage of some of these opportunities via a cost segregation study. A Form 3115 Change in Accounting Method allows changes to assets previously placed in service, adjusting the life and applying bonus depreciation where applicable.

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