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Internal Revenue Code Section 168(k)(2)(E)(ii)

Accelerated cost recovery system

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(k) Special allowance for certain property.

(1) Additional allowance.

In the case of any qualified property-

(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to the applicable percentage of the adjusted basis of the qualified property, and

(B) the adjusted basis of the qualified property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

(2) Qualified property.

For purposes of this subsection -

(A) In general. The term "qualified property" means property-

(i)

(I) to which this section applies which has a recovery period of 20 years or less,

(II) which is computer software (as defined in section 167(f)(1)(B)) for which a deduction is allowable under section 167(a) without regard to this subsection ,

(III) which is water utility property, or

(IV) which is a qualified film or television production (as defined in subsection (d) of section 181) for which a deduction would have been allowable under section 181 without regard to subsections (a)(2) and (g) of such section or this subsection, or

(V) which is a qualified live theatrical production (as defined in subsection (e) of section 181) for which a deduction would have been allowable under section 181 without regard to subsections (a)(2) and (g) of such section or this subsection,

(ii) the original use of which begins with the taxpayer or the acquisition of which by the taxpayer meets the requirements of clause (ii) of subparagraph (E) , and

(iii) which is placed in service by the taxpayer before January 1, 2027.

(B) Certain property having longer production periods treated as qualified property.

(i) In general. The term "qualified property" includes any property if such property-

(I) meets the requirements of clauses (i) and (ii) of subparagraph (A) ,

(II) is placed in service by the taxpayer before January 1, 2028,

(III) is acquired by the taxpayer (or acquired pursuant to a written binding contract entered into) before January 1, 2027,

(IV) has a recovery period of at least 10 years or is transportation property,

(V) is subject to section 263A , and

(VI) meets the requirements of clause (iii) of section 263A(f)(1)(B) (determined as if such clause also applies to property which has a long useful life (within the meaning of section 263A(f))).

(ii) Only pre-January 1, 2027 basis eligible for additional allowance. In the case of property which is qualified property solely by reason of clause (i) , paragraph (1) shall apply only to the extent of the adjusted basis thereof attributable to manufacture, construction, or production before January 1, 2027.

(iii) Transportation property. For purposes of this subparagraph , the term "transportation property" means tangible personal property used in the trade or business of transporting persons or property.

(iv) Application of subparagraph. This subparagraph shall not apply to any property which is described in subparagraph (C) .

(C) Certain aircraft. The term "qualified property" includes property-

(i) which meets the requirements of subparagraph (A)(ii) and subclauses (II) and (III) of subparagraph (B)(i) ,

(ii) which is an aircraft which is not a transportation property (as defined in subparagraph (B)(iii)) other than for agricultural or firefighting purposes,

(iii) which is purchased and on which such purchaser, at the time of the contract for purchase, has made a nonrefundable deposit of the lesser of-

(I) 10 percent of the cost, or

(II) \$100,000, and

(iv) which has-

(I) an estimated production period exceeding 4 months, and

(II) a cost exceeding \$200,000.

(D) Exception for alternative depreciation property. The term "qualified property" shall not include any property to which the alternative depreciation system under subsection (g) applies, determined-

(i) without regard to paragraph (7) of subsection (g) (relating to election to have system apply), and

(ii) after application of section 280F(b) (relating to listed property with limited business use).

(E) Special rules.

(i) Self-constructed property. In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer's own use, the requirements of subclause (III) of subparagraph (B)(i) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property before January 1, 2027.

(ii) Acquisition requirements. An acquisition of property meets the requirements of this clause if-

(I) such property was not used by the taxpayer at any time prior to such acquisition, and

(II) the acquisition of such property meets the requirements of paragraphs (2)(A), (2)(B), (2)(C), and (3) of section 179(d).

(iii) Syndication. For purposes of subparagraph (A)(ii) , if-

(I) property is used by a lessor of such property and such use is the lessor's first use of such property,

(II) such property is sold by such lessor or any subsequent purchaser within 3 months after the date such property was originally placed in service (or, in the case of multiple units of property subject to the same lease, within 3 months after the date the final unit is placed in service, so long as the period between the time the first unit is placed in service and the time the last unit is placed in service does not exceed 12 months), and



(III) the user of such property after the last sale during such 3-month period remains the same as when such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date of such last sale.

(F) Coordination with section 280F . For purposes of section 280F -

(i) Automobiles. In the case of a passenger automobile (as defined in section 280F(d)(5)) which is qualified property, the Secretary shall increase the limitation under section 280F(a)(1)(A)(i) by \$8,000.

(ii) Listed property. The deduction allowable under paragraph (1) shall be taken into account in computing any recapture amount under section 280F(b)(2) .

(iii) Phase down. In the case of a passenger automobile acquired by the taxpayer before September 28, 2017, and placed in service by the taxpayer after September 27, 2017, clause (i) shall be applied by substituting for "\$8,000"-

(I) in the case of an automobile placed in service during 2018, \$6,400, and

(II) in the case of an automobile placed in service during 2019, \$4,800.

(G) Deduction allowed in computing minimum tax. For purposes of determining alternative minimum taxable income under section 55 , the deduction under section 167 for qualified property shall be determined without regard to any adjustment under section 56 .

(H) Production placed in service. For purposes of subparagraph (A) -

(i) a qualified film or television production shall be considered to be placed in service at the time of initial release or broadcast, and

(ii) a qualified live theatrical production shall be considered to be placed in service at the time of the initial live staged performance.

(3) Repealed

(4) Repealed

(5) Special rules for certain plants bearing fruits and nuts.

(A) In general. In the case of any specified plant which is planted before January 1, 2027, or is grafted before such date to a plant that has already been planted, by the taxpayer in the ordinary course of the taxpayer's farming business (as defined in section 263A(e)(4)) during a taxable year for which the taxpayer has elected the application of this paragraph-

(i) a depreciation deduction equal to the applicable percentage of the adjusted basis of such specified plant shall be allowed under section 167(a) for the taxable year in which such specified plant is so planted or grafted, and

(ii) the adjusted basis of such specified plant shall be reduced by the amount of such deduction.

(B) Specified plant. For purposes of this paragraph , the term "specified plant" means-

(i) any tree or vine which bears fruits or nuts, and

(ii) any other plant which will have more than one crop or yield of fruits or nuts and which generally has a pre-productive period of more than 2 years from the time of planting or grafting to the time at which such plant begins bearing a marketable crop or yield of fruits or nuts.

Such term shall not include any property which is planted or grafted outside of the United States.

(C) Election revocable only with consent. An election under this paragraph may be revoked only with the consent of the Secretary.

(D) Additional depreciation may be claimed only once. If this paragraph applies to any specified plant, such specified plant shall not be treated as qualified property in the taxable year in which placed in service.

(E) Deduction allowed in computing minimum tax. Rules similar to the rules of paragraph (2)(G) shall apply for purposes of this paragraph.

(F) Repealed.

(6) Applicable percentage.

For purposes of this subsection-

(A) In general. Except as otherwise provided in this paragraph, the term 'applicable percentage' means-

(i) in the case of property placed in service after September 27, 2017, and before January 1, 2023, 100 percent,

(ii) in the case of property placed in service after December 31, 2022, and before January 1, 2024, 80 percent,

(iii) in the case of property placed in service after December 31, 2023, and before January 1, 2025, 60 percent,

(iv) in the case of property placed in service after December 31, 2024, and before January 1, 2026, 40 percent, and

(v) in the case of property placed in service after December 31, 2025, and before January 1, 2027, 20 percent.

(B) Rule for property with longer 20 production periods. In the case of property described in subparagraph (B) or (C) of paragraph (2) , the term 'applicable percentage' means-

(i) in the case of property placed in service after September 27, 2017, and before January 1, 2024, 100 percent,

(ii) in the case of property placed in service after December 31, 2023, and before January 1, 2025, 80 percent,

(iii) in the case of property placed in service after December 31, 2024, and before January 1, 2026, 60 percent,

(iv) in the case of property placed in service after December 31, 2025, and before January 1, 2027, 40 percent, and

(v) in the case of property placed in service after December 31, 2026, and before January 1, 2028, 20 percent.

(C) Rule for plants bearing fruits and nuts. In the case of a specified plant described in paragraph (5) , the term 'applicable percentage means-

(i) in the case of a plant which is planted or grafted after September 27, 2017, and before January 1, 2023, 100 percent,

(ii) in the case of a plant which is planted or grafted after December 31, 2022, and before January 1, 2024, 80 percent,

(iii) in the case of a plant which is planted or grafted after December 31, 2023, and before January 1, 2025, 60 percent,

(iv) in the case of a plant which is planted or grafted after December 31, 2024, and before January 1, 2026, 40 percent, and

(v) in the case of a plant which is planted or grafted after December 31, 2025, and before January 1, 2027, 20 percent.

(7) Election out.

If a taxpayer makes an election under this paragraph with respect to any class of property for any taxable year, paragraphs (1) and (2)(F) shall not apply to any qualified property in such class placed in service during such taxable year. An election under this paragraph may be revoked only with the consent of the Secretary.

(8) Phase down.

In the case of qualified property acquired by the taxpayer before September 28, 2017, and placed in service by the taxpayer after September 27, 2017, paragraph (6) shall be applied by substituting for each percentage therein-

(A) "50 percent" in the case of-

(i) property placed in service before January 1, 2018, and

(ii) property described in subparagraph (B) or (C) of paragraph (2) which is placed in service in 2018,

(B) "40 percent" in the case of-

(i) property placed in service in 2018 (other than property described in subparagraph (B) or (C) of paragraph (2)), and

(ii) property described in subparagraph (B) or (C) of paragraph (2) which is placed in service in 2019,

(C) '30 percent' in the case of-

(i) property placed in service in 2019 (other than property described in subparagraph (B) or (C) of paragraph (2)), and

(ii) property described in subparagraph (B) or (C) of paragraph (2) which is placed in service in 2020, and

(D) "0 percent" in the case of-

(i) property placed in service after 2019 (other than property described in subparagraph (B) or (C) of paragraph (2)), and

(ii) property described in subparagraph (B) or (C) of paragraph (2) which is placed in service after 2020.

(9) Exception for certain property.

The term "qualified property" shall not include-

(A) any property which is primarily used in a trade or business described in clause (iv) of section 163(j)(7)(A), or

(B) any property used in a trade or business that has had floor plan financing indebtedness (as defined in paragraph (9) of section 163(j)), if the floor plan financing interest related to such indebtedness was taken into account under paragraph (1)(C) of such section .

(10) Special rule for property placed in service during certain periods.

(A) In general. In the case of qualified property placed in service by the taxpayer during the first taxable year ending after September 27, 2017, if the taxpayer elects to have this paragraph apply for such taxable year, paragraphs (1)(A) and (5)(A)(i) shall be applied by substituting "50 percent" for "the applicable percentage".

(B) Form of election. Any election under this paragraph shall be made at such time and in such form and manner as the Secretary may prescribe.

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