

## Internal Revenue Code Section 168(k)(5)

### Accelerated cost recovery system

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(k) Special allowance for certain property acquired after December 31, 2007, and before January 1, 2020.

(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 50 percent 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 qualified improvement property,

(ii) the original use of which commences with the taxpayer, and

(iii) which is placed in service by the taxpayer before January 1, 2020.

(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, 2021,

(III) is acquired by the taxpayer (or acquired pursuant to a written contract entered into) before January 1, 2020,

(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, 2020 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, 2020.

(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, 2020.

(ii) Sale-leasebacks. For purposes of clause (iii) and subparagraph (A)(ii), if property is-

(I) originally placed in service by a person, and

(II) sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in subclause (II) .

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

(I) property is originally placed in service by the lessor 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 placed in service by the taxpayer after December 31, 2016, 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 .

(3) Qualified improvement property.

For purposes of this subsection -

(A) In general. The term "qualified improvement property" means any improvement to an interior portion of a building which is nonresidential real property if such improvement is placed in service after the date such building was first placed in service.

(B) Certain improvements not included. Such term shall not include any improvement for which the expenditure is attributable to-

(i) the enlargement of the building,

(ii) any elevator or escalator, or

(iii) the internal structural framework of the building.

(4) Election to accelerate AMT credits in lieu of bonus depreciation.

(A) In general. If a corporation elects to have this paragraph apply for any taxable year-

(i) paragraphs (1) and (2)(F) shall not apply to any qualified property placed in service during such taxable year,

(ii) the applicable depreciation method used under this section with respect to such property shall be the straight line method, and

(iii) the limitation imposed by section 53(c) for such taxable year shall be increased by the bonus depreciation amount which is determined for such taxable year under subparagraph (B) .

(B) Bonus depreciation amount. For purposes of this paragraph -

(i) In general. The bonus depreciation amount for any taxable year is an amount equal to 20 percent of the excess (if any) of-

(I) the aggregate amount of depreciation which would be allowed under this section for qualified property placed in service by the taxpayer during such taxable year if paragraph (1) applied to all such property (and, in the case of any such property which is a passenger automobile (as defined in section 280F(d)(5) ), if paragraph (2)(F) applied to such automobile), over

(II) the aggregate amount of depreciation which would be allowed under this section for qualified property placed in service by the taxpayer during such taxable year if paragraphs (1) and (2)(F) did not apply to any such property.

The aggregate amounts determined under subclauses (I) and (II) shall be determined without regard to any election made under subparagraph (A) or subsection (b)(2)(D) , (b)(3)(D) , or (g)(7) .

(ii) Limitation. The bonus depreciation amount for any taxable year shall not exceed the lesser of-

(I) 50 percent of the minimum tax credit under section 53(b) for the first taxable year ending after December 31, 2015, or

(II) the minimum tax credit under section 53(b) for such taxable year determined by taking into account only the adjusted net minimum tax for taxable years ending before January 1, 2016 (determined by treating credits as allowed on a first-in, first-out basis).

(iii) Aggregation rule. All corporations which are treated as a single employer under section 52(a) shall be treated-

(I) as 1 taxpayer for purposes of this paragraph , and

(II) as having elected the application of this paragraph if any such corporation so elects.

(C) Credit refundable. For purposes of section 6401(b) , the aggregate increase in the credits allowable under part IV of subchapter A for any taxable year resulting from the application of this paragraph shall be treated as allowed under subpart C of such part (and not any other subpart).

(D) Other rules.

(i) Election. Any election under this paragraph may be revoked only with the consent of the Secretary.

(ii) Partnerships with electing partners. In the case of a corporation which is a partner in a partnership and which makes an election under

subparagraph (A) for the taxable year, for purposes of determining such corporation's distributive share of partnership items under section 702 for such taxable year-

(I) paragraphs (1) and (2)(F) shall not apply to any qualified property placed in service during such taxable year, and

(I) the applicable depreciation method used under this section with respect to such property shall be the straight line method.

(iii) Certain partnerships. In the case of a partnership in which more than 50 percent of the capital and profits interests are owned (directly or indirectly) at all times during the taxable year by 1 corporation (or by corporations treated as 1 taxpayer under subparagraph (B)(iii) ), each partner shall compute its bonus depreciation amount under clause (i) of subparagraph (B) by taking into account its distributive share of the amounts determined by the partnership under subclauses (I) and (II) of such clause for the taxable year of the partnership ending with or within the taxable year of the partner.



(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, 2020, 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 50 percent 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 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 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) Phase down. In the case of a specified plant which is planted after December 31, 2017 (or is grafted to a plant that has already been planted before such date), subparagraph (A)(i) shall be applied by substituting for "50 percent"-

(i) in the case of a plant which is planted (or so grafted) in 2018, "40 percent", and

(ii) in the case of a plant which is planted (or so grafted) during 2019, "30 percent".

(6) Phase down.

In the case of qualified property placed in service by the taxpayer after December 31, 2017, paragraph (1)(A) shall be applied by substituting for "50 percent"-

(A) in the case of property placed in service in 2018 (or in the case of property placed in service in 2019 and described in paragraph (2)(B) or (C) (determined by substituting "2019" for "2020" in paragraphs (2)(B)(i)(III) and (ii) and paragraph (2)(E)(i) ), "40 percent",

(B) in the case of property placed in service in 2019 (or in the case of property placed in service in 2020 and described in paragraph (2)(B) or (C) , "30 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.

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