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ECONOMIC STIMULUS ACT OF 2008
BUSINESS INCENTIVES

As you probably know, Congress recently passed an economic stimulus package (the Economic Stimulus Act of 2008) which is intended to jump-start our economy, in part through tax incentives aimed at encouraging businesses to increase their investments in new equipment by the end of 2008. Under the Act, small businesses will be able to write off up to \$250,000 of qualifying expenses in 2008. In addition, businesses will be able to deduct an additional 50% of the cost of certain investments in 2008. Here are the details.

Boosted section 179 expensing. Under pre-Act law, taxpayers can expense (i.e., deduct currently, as opposed to taking depreciation deductions over a period of years) up to \$128,000 for 2008. This annual expensing limit is reduced (but not below zero) by the amount by which the cost of qualifying property placed in service during 2008 exceeds \$510,000.

Under the Act, for tax years beginning in 2008, the \$128,000 expensing limit is increased to \$250,000, and the overall investment limit is increased from \$510,000 to \$800,000.

As a result of this incentive, most small businesses, and even some moderate-sized businesses with moderate capital equipment needs, will be able to obtain a full deduction for the cost of business machinery and equipment purchased in 2008, thereby reducing their effective cost for those assets. What's more, there is no alternative minimum tax (AMT)

adjustment with respect to property expensed under [Code Sec. 179](#).

Bonus depreciation makes a comeback. Bonus first year depreciation was first allowed following the terrorist attacks of 2001, but generally isn't available for property acquired after 2004.

The Act provides for bonus (accelerated) depreciation by allowing a bonus first-year depreciation deduction of 50% of the adjusted basis of qualified property placed in service after Dec. 31, 2007, and, generally, before Jan. 1, 2009. The amount of the additional first-year depreciation deduction is not affected by a short taxable year. The taxpayer may elect out of additional first-year depreciation for any class of property for any taxable year.

The interaction of the additional first-year depreciation allowance with the otherwise applicable depreciation allowance may be illustrated as follows. Assume that in 2008 a taxpayer purchases new depreciable property and places it in service. The property's cost is \$1,000 and it is 5-year property subject to the half-year convention. The amount of additional first-year depreciation allowed under the provision is \$500. The remaining \$500 of the cost of the property is deductible under the rules applicable to 5-year property. Thus, 20 percent, or \$100, is also allowed as a depreciation deduction in 2008. Accordingly, the total depreciation deduction with respect to the property for 2008 is \$600. The remaining \$400 cost of the property is recovered under otherwise applicable rules for computing depreciation.

Bonus depreciation is allowed for AMT purposes as well as for regular tax purposes. Original use of the property must begin with the taxpayer after Dec. 31, 2007. Thus, the bonus depreciation is not available on used equipment.

Depreciation of Trucks and Automobiles. The Internal Revenue Code imposes dollar limits on the depreciation deductions that can be claimed with respect to “passenger automobiles.” Prior to the 2008 Act the Internal Revenue Code provided that the dollar limit for the first tax year in the automobile's recovery period was \$2,960 as adjusted for inflation and for the second tax year \$4,100.

New Law. The 2008 Economic Stimulus provides that the first-year limit on depreciation for passenger automobiles is increased by \$8,000 [\(Code Sec. 168\(k\)\(2\)\(F\)\(i\) as amended by 2008 Economic Stimulus Act §103\(c\)\(4\)\)](#)

The \$8,000 increase isn't indexed for inflation.

The following examples show the impact in the change in trucks and automobiles:

A. On Oct. 15, 2008, T, a calendar year taxpayer, places a new car into service in his business. Assume that the car is “qualified property” (and an election-out doesn't apply to the car, see below). T is allowed first-year depreciation for 2008 of no more than \$10,960 (\$2,960 plus \$8,000).

B. The facts are the same as in illustration (1) except that the vehicle that T places into service is a van that is a “qualifying truck or van” (see above). T is allowed first-year depreciation for 2008 of no more than \$11,160 (\$3,160 plus \$8,000).

C. The facts are the same as in illustration (1), except that, in 2008, T uses the car 80% for business and 20% for personal activities. Because of the “non-business use rule” (above), T is allowed first-year depreciation for 2008 of no more than \$8,768 (80% × \$10,960).

Effect of election-out.

Congress said that the \$8,000 increase applies unless the taxpayer elects out of the increased deduction.

Effective: Property placed in service after Dec. 31, 2007 in tax years ending after Dec. 31, 2007 (2008 Economic Stimulus Act §103(d)) as long as the property is (1) acquired by the taxpayer during calendar year 2008 (but only if no written binding contract for the acquisition was in effect before Jan. 1, 2008), and (2) placed in service before Jan. 1, 2009).

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