



2008 ECONOMIC STIMULUS ACT

FREQUENTLY ASKED QUESTIONS



Thompson



What exactly does the Economic Stimulus Act (ESA) mean for my business?

By lowering your taxable income, the depreciation bonus and Sec. 179 can dramatically cut your 2008 tax bill, thereby freeing up cash in the near term.

That sounds too good to be true. What's the catch?

The more you depreciate now, the less you will be able to depreciate later. In other words, your tax bill in future years will be higher because you'll have less to deduct. But ask yourself this: Would you rather have the tax savings in your pocket now to invest in your company or would you rather have Uncle Sam hold onto your money for a couple additional years?

How does the depreciation bonus work?

Companies that buy new equipment in 2008 can depreciate 50 percent of the cost in the first year, plus the percentage of the remaining basis in the equipment that would ordinarily be depreciable under the Modified Accelerated Cost Recovery System (MACRS). For a \$100,000 piece of equipment with a five-year MACRS life, the first year depreciation under the ESA would be \$60,000: \$50,000 depreciation bonus, plus 20 percent of the remaining \$50,000 in basis.

What type of equipment is eligible?

To be eligible for the depreciation bonus, the following requirements must be met:

- The equipment must be depreciable under MACRS and have a depreciation recovery period of 20 years or less. The ESA also allows the use of the depreciation bonus for certain types of water utility property, software and leasehold improvements. Check with your tax professional.
- The original use of the equipment must commence with the taxpayer claiming the depreciation bonus after Dec. 31, 2007. The equipment must be purchased between Dec. 31, 2007 and Jan. 1, 2009. Equipment for which a binding purchase contract was in effect before Jan. 1, 2008 is not eligible.
- The equipment must be placed in service between Dec. 31, 2007 and Jan. 1, 2009. Certain equipment with a recovery period of 10 years or more and certain transportation property can be placed in service by Jan. 1, 2010 and still qualify for the depreciation bonus. Check with your tax professional.

Does the equipment have to be new?

Yes. To be eligible for bonus depreciation, the "original use" of the equipment must commence with the taxpayer claiming the depreciation bonus after Dec. 31, 2007.

If I'm leasing a piece of equipment and I decide to buy it, can I claim the depreciation bonus?

There is one very limited exception to the "new" requirement. If Company A is leasing a piece of equipment (e.g., from a distributor) and Company A is the first and only user of the equipment (i.e., it hasn't been rented or leased to any other customer) and Company A converts the lease to a purchase within three months of the start of the lease period, then Company A may claim the depreciation bonus on the equipment. Check with your tax professional for more details.

How long do I have to take advantage of the depreciation bonus?

The depreciation bonus is temporary. To qualify, the new equipment must be acquired and placed in service by the taxpayer claiming the depreciation bonus before Jan. 1, 2009.

Do I have to use the depreciation bonus?

No. The depreciation bonus is elective (meaning it's your choice whether to use it). Note that the depreciation bonus also applies for both regular and alternative minimum tax purposes.

How did the ESA change the Sec. 179 expensing law?

The ESA dramatically increased the expensing limits under Sec. 179 of the Internal Revenue Code for any taxable year beginning in 2008. For the 2008 tax year, companies can expense up to \$250,000 as long as total purchases do not exceed \$800,000. For each dollar over, the eligible expensing amount correspondingly drops by one dollar. Thus, companies that spend more than \$1,050,000 on tangible personal property cannot take advantage of Sec. 179. (But they can still use the depreciation bonus.)

To qualify for Sec. 179, does the equipment have to be new?

No. Unlike the depreciation bonus, Sec. 179 expensing can be applied to both new and used equipment. While the depreciation bonus applies during the 2008 calendar year, the Sec. 179 increases apply to any tax year beginning in 2008.

Can Sec. 179 and the depreciation bonus be combined?

Yes. Companies eligible for Sec. 179 can also combine it with the depreciation bonus for even bigger tax savings.

Do the ESA capital investment incentives apply only to construction equipment?

No. A broad range of tangible personal property (but not real estate) is eligible for special tax treatment this year.

Please consult your attorney or tax consultant for advice concerning your business.

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