

Bonus Depreciation - Small Businesses' Silver Lining?
By Alberto Jose Delgado, Esq.

Bonus depreciation allows a higher tax deduction in the first year on purchases of certain new property, thus providing an immediate tax incentive to small businesses that wish to invest in capital assets. The 2010 Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010 (the "Act") includes a provision increasing the 50% bonus depreciation to 100% for qualified investments made after September 8, 2010 and before January 1, 2012 (before January 1, 2013 for certain longer-lived and transportation property). The American Recovery and Reinvestment Act of 2009 included a bonus depreciation initiative that extended previous bonus depreciation rules through 2010. Thus, small business owners who bought qualifying property after September 8, 2010 but before December 17, 2010 should also anticipate benefiting from the newly enacted 100% bonus depreciation provision.

Ordinarily, a small business owner who purchases tangible property cannot depreciate the asset's capital cost in an accelerated fashion. Instead, under normal circumstances, a small business owner must use the Modified Accelerated Cost Recovery System ("MACRS") to depreciate the cost of the tangible property over a period of time.

To help small businesses and increase demand for capital assets, Congress in 2008 amended the Internal Revenue Code ("IRC") to allow an immediate deduction of 50% of the cost of eligible property acquired before January 1, 2010. Subsequently, Congress extended those provisions and, in certain circumstances, allowed the bonus depreciation incentive to be applicable to tangible property placed in service during 2010. Afterward, the Act increases the 50% deduction to 100% and extends the definition of qualified property.

Qualified property includes new tangible personal property that has a recovery period of 20 years or less, computer software, water utility property, machinery, land improvements, farm

buildings, and certain leasehold improvements. Property is considered placed in service in the year the small business owner places the property in service for use in its trade or business or for the production of income. An example of qualified property is a new automobile or light truck that is used at least 50% of the time for business purposes. Importantly, the 100% bonus depreciation provision is not extended into 2012. But the Act does provide for 50% bonus depreciation for qualified property placed in service after December 31, 2011 and before January 1, 2013.

Small businesses that may be struggling to compete or that are trying to grow their cash flow in these very difficult market conditions may benefit from these bonus depreciation provisions.

This article is slated for publication in a forthcoming edition of the Lansing State Journal.

Alberto Jose Delgado is an Attorney and former small business co-owner. This Alberto Jose Delgado publication should not be construed as legal advice or legal opinion on any specific facts or circumstances. The contents are intended for general informational purposes only, and you are urged to consult a lawyer on any specific legal questions you may have concerning your situation.