

# Bonus Depreciation

100%

Bonus Depreciation  
for property **acquired  
and placed in service  
after 9/27/2017** and  
before 2023

Expanded to **used  
property** purchases

(provided not acquired from a related party or in a carryover basis transaction).

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Expanded to include certain **qualified film and television productions**, as well as certain **qualified theatrical productions**.

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Excludes from qualified property, property which is **primarily used for:**

- (1) Electrical energy, water, or sewage disposal services;
- (2) Gas or Steam through a local distribution system, or
- (3) Transportation of gas or steam by a pipeline if rates are established by government.

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Excludes from qualified property, property used in a trade or business that has **a floor plan indebtedness\*** unless:

- (1) Not a tax shelter prohibited from using cash method; and,
- (2) Exempt from interest limit due to small business gross receipts test.

**\*Defined in paragraph (9) of Section 163(j)**

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Repeals the election to accelerate **AMT credits** in lieu of bonus depreciation.

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### Effective Date

- Property **acquired and placed in service** after September 27, 2017, as well as specified plants planted or grafted after that date.
- Not treated as acquired after the date on which a written binding contract is entered into for its acquisition.
- **Transition Rule.** Can elect to utilize **50% bonus** depreciation, instead of 100%, for qualified property placed in service **during the first tax year ending after September 27, 2017.**

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## Property Acquired Before 9/28/2017 and Placed in Service After

Placed in Service Year <sup>500</sup>	Bonus Depreciation Percentage	
	Qualified Property in General/Specified Plants	Longer Production Period Property and Certain Aircraft
<b>Portion of Basis of Qualified Property</b>		
<b>Acquired before Sept. 28, 2017</b>		
Sept. 28, 2017 – Dec. 31, 2017	50 percent	50 percent
2018	40 percent	50 percent
2019	30 percent	40 percent
2020	None	30 percent <sup>501</sup>
2021 and thereafter	None	None

## Property Acquired On or After 9/28/2017

Placed in Service Year <sup>500</sup>	Bonus Depreciation Percentage	
	Qualified Property in General/Specified Plants	Longer Production Period Property and Certain Aircraft
<b>Portion of Basis of Qualified Property</b>		
<b>Acquired after Sept. 27, 2017</b>		
Sept. 28, 2017 – Dec. 31, 2022	100 percent	100 percent
2023	80 percent	100 percent
2024	60 percent	80 percent
2025	40 percent	60 percent
2026	20 percent	40 percent
2027	None	20 percent <sup>502</sup>
2028 and thereafter	None	None

**Observation:** Consider the new limit on “excess losses” (sec. 461(I)) and sec. 199A when estimating the benefit of bonus depreciation and sec. 179

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## Luxury Car Limits

## New Sec. 280F Limits

	New Law	2017
Year 1	\$10,000	\$3,160
Year 2	\$16,000	\$5,100
Year 3	\$9,600	\$3,050
Year 4 and later	\$5,760	\$1,875

**Effective Date:** Property placed in service after Dec. 31, 2017

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## Porsche 918 Spyder (Hybrid)

0 to 60 in 2.6 Secs.



Price Starts at \$847,975

144 Yrs.

Computer or peripheral  
equipment is no longer  
listed property.

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## Farm Property Depreciation



MACRS life is shortened to 5 (from 7) for any new (original use) machinery or equipment used in farming.

- Not for grain bin, cotton ginning asset, fence or other land improvement.

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- Eliminates the requirement that property used in farming with **a recovery period of 10 years or less** must use 150% declining balance
- So farmers can now **use 200% DDB** unless 15-year or 20-year property or 150% by election).
- **Effective Date:** Property placed in service after Dec. 31, 2017 in tax years ending after such date.

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- If farming T or B elects out of interest deduction limit, then must use ADS depreciation for farm property with a recovery period of 10 years or more (such as single purpose agricultural or horticultural structures, trees or vines bearing fruit or nuts, farm buildings, and certain land improvements.)
- Effective for TYBA Dec. 31, 2017 (applies to property already in service).

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## Certain Citrus Replanting Costs

- For citrus plants lost or damaged due to casualty, the provision makes replanting costs deductible by a person other than the taxpayer if the taxpayer has an equity interest of at least 50% in the replanted citrus plants; **OR**
- The other person must acquire all the taxpayer's equity interest in the land on which the plants were located when damaged and replant on such land.

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# Real Property Depreciation

- **ADS recovery** period for residential rental property is reduced to 30 years (from 40 years).
- Replaces qualified leasehold improvement, qualified restaurant, and qualified retail improvement property with **qualified improvement property (QIP)**.
- QIP gets a general 15-year SL recovery (20 for ADS) says conf. rpt. (but not in statute—technical correction needed).

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### QIP:

- Nonresidential real prop. **building improvement**.
- **Interior** portion (not currently required for restaurant property)
- Place in service **after the building is first placed in service**.
- Not a building enlargement.
- Not an elevator or escalator.
- Not an **internal structural framework**.

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- A **restaurant building** placed in service after 2017 that is not QIP is depreciated over 25 years as nonresidential real property, straight-line and mid-month convention.
- A conforming change to section 179 so that only **QIP meets section 179**.

**Bad news:** A restaurant building placed in service after 2017 **cannot get sec. 179**.

- **Effective:** Property Placed in service after 2017

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- A “real property trade or business” (defined by sec. 469(c)(7)(C) electing out of the interest expense limit must use **ADS** to depreciate any:
  - **Nonresidential property**
  - **Residential rental property**
  - **QIP**
- **Effective** for tax years beginning after 2017 (applies to property already in service).

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# Section 179

- Maximum deduction \$1 mil. (up from \$500,000)
- Phase-out begins at \$2.5 mil. (up from 2 mil.)
- The \$25K sec. 179 limit on **heavy SUVs** is inflation indexed.
  - **But bonus depreciation** for such vehicles, **new or used**, acquired and placed in service after 9/27/2017 and before 2023, **is 100%**.



**Gross Vehicle Weight 6,100 to 7,050  
SUV if truck bed interior length is under 6 ft.**



**2014 Jeep Grand Cherokee**



**Section 179 property is expanded** "to include certain tangible personal property used predominantly to furnish lodging or in connection with furnishing lodging (Conf. Rpt.):"

**"beds and other furniture, refrigerators, ranges, and other equipment used in the living quarters of a lodging facility such as an apartment house, dormitory, or any other facility (or part of a facility) where sleeping accommodations are provided and let."** See Treas. Reg. sec. 1.48-1(h). **Conf. Rpt. Footnote 620**



- Same restriction for buyers who are **noncorporate lessors**:
  - Term of lease less than 50% of class life; and
  - For first 12 months, sec. 162 deductions “exceeds 15% of the rental income produced by such property.”

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- **“Qualified Real Property” (QRP)** is now **“qualified improvement property” (QIP)**.
  - Recall, **QIP** is also eligible for bonus depreciation.
- **QRP** also now includes the following improvements to **nonresidential** real prop. placed in service after the property was first placed in service: **(A) Roofs; (B) HVAC property; (C) Fire protection and alarm systems; (D) Security systems.**
  - Recall: **Sec. 179** is not subject to **sec. 263A**<sup>34</sup>

Effective Date:  
Property placed in  
service in **tax years**  
**beginning after**  
**Dec. 31, 2017.**

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What is  
Nonresidential  
Real Property?

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## Nonresidential:

“The term ‘nonresidential real property’ means section 1250 property which is not residential rental property, ....

(Section 168(e)(2)(B))

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## Residential Rental:

“The term ‘residential rental property’ means any building or structure if 80 percent or more of the gross rental income from such building or structure for the taxable year is rental income from dwelling units.”

(Section 168(e)(2)(A)(i))

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## Dwelling Unit:

“The term ‘dwelling unit’ means a house or apartment used to provide living accommodations in a building or structure, but does not include a unit in a hotel, motel ...used on a transient basis....”  
(Section 168(e)(2)(A)(ii)(I))

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# Like Kind Exchanges

- Like-kind exchanges are limited to real property.
- **Effective** for exchanges completed after December 31, 2017.

A **transition rule** where taxpayer has either disposed of the relinquished property or acquired replacement property on or before December 31, 2017.

- This provision does not sunset.

# End of New Law

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*Rev. Proc. 2017-33*  
(04/20/2017)

IRS Guidance on Path Act  
Changes to Sections 179  
and 168

## Sec. 179 For 2017:

- \$510,000
- \$2,030,000

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## Rev. Proc. 2017-33

Taxpayers can “**make, revoke, or modify**” the section 179 election on an amended return.

The PATH Act (12/18/2015) made this permanent.

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# Section 179 Qualified Real Property (QRP)

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## “Qualified Real Property” for Property Placed in Service Before 1/1/2018

- 1) Qualified Leasehold Improvement Property
- 2) Qualified Retail Improvement Property
- 3) Qualified Restaurant Property

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~~“Qualified Real Property” for  
Property Placed in Service  
Before 1/1/2018~~

- ~~1) Qualified Leasehold Improvement Property~~
- ~~2) Qualified Retail Improvement Property~~
- ~~3) Qualified Restaurant Property~~

Replaced with QIP for property  
placed in service after 2017

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- For tax years beginning on or after 2016, the \$250,000 cap attributable to “qualified real property” is removed.
- Therefore:
  - \$510K cap in 2017 and
  - \$1 mil. cap in 2018 for QIP, etc.

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## Depreciation of Qualified Real Property in 2017

15 yrs. Straight-line  
Instead of 39 yrs.

(Recall: For 2018, QIP is also 15  
years S/L)

(Section 168(e)(3)(E)(iv), (v), and (ix))

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## Rev Proc 2017-33 Example (1)

- In 2010, **A** places in service a new office building.
- In February 2016, **A** sells to **B**.
- **B** uses the office building in its trade or business.
- In March 2016, **B** begins to construct improvements to the interior portion of the office building and places the improvements in service in December 2016.

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Because the office building was first placed in service in 2010, by A, the improvements made by B are [QIP].

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### *Example (2)*

- In 2015, C, a corporation and manufacturer, enters into a written contract with X for X to construct a new building for use by C in its trade or business.
- The building will house a manufacturing operation and office space.
- The initial construction plans did not include a private restroom for the owner of C.

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- During the construction of the building, C enters into a written contract with Y to construct a private restroom in the new building for the owner of C.
- On **May 27, 2016**, C places in service the building, **except for the private restroom.**
- On **May 28, 2016**, the **private restroom** in the building for the owner of C **is placed in service.**

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**“Because the building is first placed in service on May 27, 2016, and the private restroom is placed in service on May 28, 2016, the assets in the private restroom ... [may qualify as QIP].”**

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### *Example (3)*

- Same facts as Example (2) except the **private restroom is constructed by the original contractor X** pursuant to “an amendment to the existing written contract.”
- Same answer as Example (2).

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### *Example (4)*

- D is engaged in the commercial building rental business.
- In March 2015, D enters into a written contract with Z to construct a multi-story building.
- Pursuant to this contract, Z constructs a **completely finished exterior of the building and a minimally finished interior of the building with only elevators, heating, ventilation, and air conditioning systems, plumbing, restrooms, and concrete floors.**

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- In December 2015, D and E entered into a lease agreement providing that E will lease one floor of the new building and E will install on that floor drop ceilings, lighting, interior walls, electrical outlets, carpeting, and trade fixtures necessary for the operation of E's trade or business (collectively referred to as a build-out).
- On February 8, 2016, D places in service the new building.
- On June 4, 2016, E places in service the build-out.

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Because the building is first placed in service on February 8, 2016, and the build-out is placed in service after that date, the assets of the build-out that are § 1250 property are [QIP]....

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### *Example (5)*

- In 2016, F constructs and places in service an improvement to a restaurant building [interior] and that improvement meets the definitions of both qualified restaurant property under §168(e)(7) and qualified improvement property under §168(k)(3).
- Accordingly, the improvement is [QIP].

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### *Example (6)*

- In 2016, G constructs and places in service a new restaurant building and that building meets the definition of qualified restaurant property under §168(e)(7).
- However, that building is not qualified improvement property under §168(k)(3).
- Accordingly, the building is not eligible for [Bonus depreciation].

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But, in 2017, is eligible for:

- 15 year straight-line deprec.
- Section 179.