



CARES ACT 2020 HOW TO IMPLEMENT CHANGES FOR QIP

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The Tax Cuts and Jobs Act (hereinafter “TCJA”) was supposed to provide for a 15-year GDS recovery period (20-yr ADS recovery period) for Qualified Improvement Property (hereinafter “QIP”). However, that specific recovery period was not included in the statutory text of the TCJA. Therefore, under the TCJA, QIP retained the 39-year GDS recovery period for nonresidential rental property (40 years for ADS). Additionally, because the TCJA removed the specific reference to QIP under §168(k)(2), QIP became ineligible for bonus depreciation for property placed in service after 12/31/17.

Fortunately, the CARES Act has provided a technical correction to the TCJA, and now specifically designates QIP placed in service after 12/31/17 as 15-year property (20-year property for ADS). See §168(e)(3)(E)(vii) & (g)(3)(B). Additionally, this change makes QIP that is also acquired after 9/27/17 eligible for 100% bonus depreciation (see Treas. Reg. §1.168(k)-2(b)(5)). For QIP acquired before 9/28/17, the applicable bonus depreciation percentage is the one in effect for the in-service year under pre-TCJA law (50% bonus depreciation if placed in service in 2017, 40% if placed in service in 2018, and 30% if placed in service in 2019).

These CARES Act changes for QIP were made retroactive for assets placed in service after 12/31/17, and are not elective (i.e., the statute doesn’t say you may classify QIP as 15-yr property; it states that QIP is 15-yr property). Therefore, as odd as it may seem to a taxpayer who was following the law as in effect at the time, they are now using an impermissible method of accounting by grouping QIP assets with other nonresidential real property. Recently, we have received questions regarding the proper procedures for implementing a change to the depreciation treatment for QIP assets originally capitalized as 39-year nonresidential real property.

2019 QIP assets not expensed under §179(e)(1) as Qualified Real Property are straight-forward; if the original return capitalized the QIP as nonresidential real property, the taxpayer can file an amended/superseding return to correct the classification before filing for 2020. See Rev. Proc. 2020-25, §3.02(3)(a). Unless there is a specific reason to, taxpayers shouldn’t wait to file an accounting method change under Rev. Proc. 2020-25, §3.02(3)(b) (discussed next) on their 2020 return if an NOL can be generated for 2019 and they had taxable income in any of the five previous taxable years. See our whitepaper Net Operating Loss Changes Under the CARES Act for further information.

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For 2018 assets, in addition to filing an amended return for 2018 (if filed prior to the filing of the 2019 return), a taxpayer can file for an accounting method change under Rev. Proc. 2019-43 (as amended by Rev. Proc. 2020-25), §6.19 (Change # 244; impermissible to permissible method of accounting for depreciation of any item of QIP) on their 2019 return (either an original or amended return filed before the extended due date). See also Rev. Proc. 2020-25, §6.03.

For 2018 or 2019 QIP assets that were expensed under §179(e) as qualified real property, the change in method of accounting under Rev. Proc. 2019-43, §6.19 is not available. See Rev. Proc. 2019-43, §6.19(1)(c)(ii). Instead, a taxpayer that wants to revoke a §179 election or specification for QIP assets and/or make a late election or specification for other assets may do so on an amended return for the taxable year in which the taxpayer placed the §179 property into service. See Rev. Proc. 2017-33, §3.02.

As a reminder, QIP is any improvement made by the taxpayer 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. QIP does not include any improvement for which the expenditure is attributable to the following:

The enlargement of the building: Meaning the total volume of the building is increased. An increase in floor space resulting from interior remodeling is not considered an enlargement.

Any elevator or escalator: The basis of an elevator or escalator does not include the cost of any structural alterations to the building, such as the cost of constructing a shaft or of making alterations to the floor, walls, or ceiling, even though such alterations may be necessary in order to install or modernize the elevator or escalator. If these improvements are not essential to the stability of the building, they would qualify as QIP.

The internal structural framework of the building: Meaning all load-bearing internal walls and any other internal structural supports, including the columns, girders, beams, trusses, spandrels, and all other members that are essential to the stability of the building.

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