

SEPTEMBER 8, 2008

ALERT: Property in 24 Kansas counties placed in service on or after May 5, 2007 could be eligible for two major tax incentives

Owners of property in specific Kansas counties identified as affected by disaster may be eligible to benefit from two separate tax incentives that can be used in combination. Both of these incentives provide even more tax relief than the Economic Stimulus Act passed earlier this year.

Kansas counties identified are: Barton, Clay, Cloud, Comanche, Dickinson, Edwards, Ellsworth, Kiowa, Leavenworth, Lyon, McPherson, Osage, Osborne, Ottawa, Phillips, Pottawatomie, Pratt, Reno, Rice, Riley, Saline, Shawnee, Smith and Stafford.

Section 179: Expensing vs. depreciation

The Stimulus Act increased the amount businesses can immediately deduct as an expense rather than depreciating over a set period (typically from 3 up to 20 years for expensing purposes and up to 39 for depreciation). **The additional Section 179 incentive increases that amount again – up to \$225,000 of qualified new or used capital assets (other than buildings) in disaster-affected counties may be expensed immediately for tax years beginning in 2007, and up to \$350,000 for tax years beginning in 2008.** These limits are \$100,000 higher each year than the standard Section 179 expensing limits.

The investment benefit limit is raised as well for both years, with the benefit starting to phase out at \$1.1 million (vs. a standard \$500,000) for tax years beginning in 2007 and \$1.4 million (vs. a standard \$800,000) for tax years beginning in 2008. Past the limit, the benefit is reduced one dollar for every dollar above it.

Section 179 benefits can be combined with new bonus depreciation to increase the maximum tax reduction.

Bonus depreciation

Economic Stimulus Act incentives for businesses to buy and place capital assets into service applied only to new personal property acquired in 2008 – not to real property (except for qualified leasehold improvement property) or property acquired as used.

Now, **both real and personal property and both new and used property placed into service in specified counties on or after May 5, 2007 and before Dec. 31, 2008 may be eligible for 50% first-year depreciation. This benefit can potentially be used for 2006, 2007, 2008 and 2009 fiscal tax years.** (The “placed into service” deadline for qualified nonresidential real property and residential rental property is extended by a year to Dec. 31, 2009.)

Eligibility: Additional requirements, which must ALL be met for qualifying property, include:

- Use of property is in the counties listed above in “conduct of a trade of business.”
- No written binding contract was in place on or before May 4, 2007.

Factors which may disqualify a property from the 50% first-year depreciation include:

- The property already qualifies for the 50% first-year depreciation for new capital assets outlined in the Economic Stimulus Act of 2008.
- Any portion of the property is purchased with tax-exempt financing.
- The property is a qualified revitalization building.
- The property is both placed in service and disposed of within the same taxable year.
- The property is converted from business or income-producing use to personal use within the same taxable year in which it's placed in service.

Taxpayers may choose NOT to claim the additional 50% depreciation. However, the decision not to use the bonus depreciation would apply to all Recovery Assistance property in the same class of property – the decision cannot be made individually for each piece of property.

For more information about the Kansas bonus depreciation requirements, please contact your AGH tax advisor at (316) 267-7231.

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