LexisNexis Tax Advisor -- Federal Topical



**Part 1. Computing Federal Income Tax**

**Vol. 1D Deductions**

**Chapter 1D:28 IRC Section 179 Election to Expense Certain Depreciable Business Assets**[1]

LexisNexis Tax Advisor -- Federal Topical § 1D:28.08

## § 1D:28.08 Coordination of IRC Section 179 With Other Provisions of the Internal Revenue Code

Tax consequences under provisions of the Internal Revenue Code, other than IRC Section 179, may be affected if a taxpayer elects to expense all or a portion of the cost of section 179 property. On the other hand, the restrictions under IRC Section 280F for claiming depreciation with respect to listed property may reduce the amount of the IRC Section 179 expense allowable to the taxpayer.

### [1] Investment Tax Credit—IRC Section 38

A taxpayer may not claim any tax credit under IRC Section 38 for any portion of the cost of section 179 property for which an IRC Section 179 election has been made. Thus, for example, a taxpayer may not claim the rehabilitation credit or the energy investment credit for the portion of the cost of section 179 property for which an election has been made. A lessee of property may not claim an investment tax credit for the portion of the leased property for which the lessor claims an investment tax credit.

A partnership or S corporation may not claim an investment tax credit for the portion of the cost of section 179 property for which an IRC Section 179 expense deduction has been claimed. As explained earlier, a trust or estate may not make an IRC Section 179 election. If a trust or estate is a partner or S corporation shareholder, the partnership or S corporation may claim an investment tax credit with respect to any depreciable basis resulting from the inability of the trust or estate to claim its allocable portion of the entity's IRC Section 179 expense.

### [2] Effect of the IRC Section 179 Expense Deduction on Depreciation Deductions—IRC Section 168

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#### a] Special Allowance for Certain Property Acquired During 2008 and 2009

An additional first-year depreciation deduction is allowed for qualified property acquired after December 31, 2007, and before January 1, 2010. The additional first-year depreciation deduction is equal to 50 percent of the adjusted basis of qualified property. In general, the property must satisfy the following conditions to qualify for the additional first-year depreciation deduction:

- (1) the property must be property to which MACRS applies with an applicable recovery period of 20 years or less, water utility property, computer software other than IRC § 197 computer software, or qualified leasehold improvement property;
- (2) the original use of the property must commence with the taxpayer after December 31, 2007;
- (3) the taxpayer must purchase the property within the applicable time period which in general is after December 31, 2007, and before January 1, 2010, but only if no binding written contract for the acquisition is in effect before January 1, 2008, or pursuant to a binding written contract which was entered into after December 31, 2007, and before January 1, 2010;
- (4) the property must be placed in service after December 31, 2007, and before January 1, 2010 (January 1, 2011 for certain property with a recovery period of 10 years or longer, certain transportation property, and certain aircraft).

Moreover, property does not qualify for the additional first-year depreciation deduction when the user of the property (or a related party) would not have been eligible for the additional first-year depreciation deduction if the user (or a related party) were treated as the owner.

The qualified property's basis and the depreciation deductions in the year the property is placed in service and in subsequent years are adjusted to reflect the additional first-year depreciation deduction. A taxpayer may elect out of the additional first-year depreciation for any class of property for any taxable year. The following example illustrates how the additional first-year depreciation deduction works with the otherwise applicable depreciation deduction.