

AGRICULTURAL TAX PLANNING

Section 179 Expensing and 50% Bonus Depreciation

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In the February 2016 issue of The Florida Cattleman we reviewed the Protecting Americans from Tax Hikes Act of 2015 (PATH Act), commonly referred to as the “Tax Extenders Bill”. There are two significant provisions in the Act that provide tax planning opportunities related to the timing of the tax deduction for **property used in a business**. These two provisions are particularly important to small businesses that are **capital asset intensive** as most of us are in the agricultural business. The ability to **currently** deduct the cost of fixed assets purchases as opposed to depreciating those assets over a period of years **saves tax dollars**. These two provisions are the **Code Section 179 Expense Deduction (now permanent)** and the return of **First-Year Bonus Depreciation**. We will discuss each provision separately in this article.

Code Section 179 Expensing

The Section 179 Expense Deduction allows most ranchers, farmers and other businesses to deduct in the year placed in service, usually the year purchased, the cost of a qualified asset which would otherwise require capitalization and expensing for tax purposes (depreciation) over a number of years. Assets with a useful life of more than one year usually require capitalization. For Section 179 expensing, the term taxpayer does not include an estate, trust, or certain non-corporate lessors. To be eligible, the property must meet the definition of “qualified property” which may be new or used. Qualified property is normally tangible personal property purchased for use in a business with a useful life of more than one year. For example, single purpose agricultural, livestock or horticultural structures; machinery and equipment including tractors, combines etc.; as well as breeding and dairy livestock and fur-bearing animals are eligible for Section 179 expensing. Additional examples of qualifying (eligible) property are office furniture and fixtures; water wells; drainage facilities; milk tanks; automatic feeders and barn cleaners; vines, groves and orchards; grain bins; agricultural fences and controlled atmosphere storage facilities.

The PATH Act not only increased the limit for 2015 but also made Section 179 expensing **permanent**. Under current law (the PATH Act) the **yearly dollar limit is \$500,000** with a dollar for dollar phase-out beginning when the taxpayer’s fixed asset investment exceeds \$2,000,000 for the tax year. Thus, if the taxpayer’s fixed asset purchases exceed \$2,500,000 no Section 179 expensing is available for that tax year. Both the dollar limit and investment limit will be indexed for inflation beginning in 2016. Additionally, the amount eligible to be expensed in any one tax year cannot exceed the taxable income derived from the taxpayer’s active conduct of a trade or business. Section 179 deductions can offset a taxpayer’s income, but cannot be used to create a loss. However, amounts not allowed due to the taxable income limitation can be carried forward to succeeding tax years.

The Section 179 election also applies to “qualified real property” which includes qualified leasehold improvement property, qualified restaurant property and qualified retail improvement property. The \$250,000 cap on qualified real property has also been removed starting in 2016. Qualified leasehold improvement property is generally any

improvement to an interior portion of a building that is nonresidential real property, provided certain requirements are met.

Also made permanent is the rule allowing off-the-shelf computer software to be treated as Section 179 property and the ability of a taxpayer to revoke a Section 179 election without IRS consent.

In addition, there are special rules for trucks and SUV's. Full-sized pickups and SUV's with an unloaded gross vehicle weight rating (GVWR) of over 6,000 pounds but not more than 14,000 pounds are limited to a Section 179 deduction of \$25,000. However, there are three exclusions to this limitation that allow 100% expensing: (1) full-sized pickups and other vehicles meeting the weight requirement and having a cargo area of at least 6 feet in interior length that is not accessible from the passenger compartment; (2) any vehicle designed to have a seating capacity of more than nine persons behind the driver's seat; and (3) any vehicle which has an integral enclosure fully enclosing the driver compartment and load carrying device, no additional seating behind the driver's seat and has no body section protruding more than 30 inches ahead of the leading edge of the windshield (a cargo or repairman's van).

The Section 179 deduction is taken on tax Form 4562. The taxpayer may deduct all or a portion of the cost of the item as long as the limitations listed above are not exceeded. Just to be clear, the Section 179 deduction is an election, not a requirement so tax planning to maximize this tax benefit is required.

Additional First-Year Depreciation (Bonus Depreciation)

The PATH Act restored Bonus Depreciation but with a twist. Accelerated First-Year Depreciation (Bonus Depreciation) was not available in 2015 until the PATH Act was signed into law late in December. The new law allows Bonus Depreciation for 5 years, 2015 through 2019. However, only the first 3 years allow 50% first-year depreciation. The percentage is reduced to 40% in 2018 and 30% in 2019. The year the property is placed in service determines the first-year Bonus Depreciation rate.

Bonus Depreciation generally applies to property subject to the MACRS rules and a recovery period of 20 years or less. Thus, most ranch and farm machinery and equipment and other depreciable property qualify for Bonus Depreciation. Unlike Section 179 expensing, Bonus Depreciation applies only to **new** property. Its original use must commence with the taxpayer claiming the Bonus Depreciation.

For passenger autos, Bonus Depreciation is increased by \$8,000, unadjusted for inflation in computing the first-year depreciation.

Under the old law, fruit-bearing and nut-bearing plants were deemed "placed in service" when they reached an income-producing stage. The PATH Act relaxes that rule so that Bonus Depreciation can be taken on fruit-bearing or nut-bearing plants when planted or grafted, after December 31, 2015 and before January 1, 2020. Thus, growers can claim Bonus Depreciation when certain trees, vines and plants bearing fruit or nuts are planted or grafted rather than waiting until the plant reaches an income-producing stage. However, if Bonus Depreciation is taken in the year of planting or grafting, no additional Bonus Depreciation can be claimed when the plants are placed in service.

A plant that qualifies is a plant, grafted or planted in the United States, that is: any tree, vine, or plant that bears fruit or nuts; or any other plant that will have more than one yield of fruits or nuts and generally has a pre-productive period of more than two years from the time of planting or grafting to the time that the plant bears fruit or nuts.

Bonus Depreciation is also reported on tax Form 4562. The basis of the property and the depreciation taken in the year of purchase and later years are appropriately adjusted to reflect the Bonus Depreciation deduction. Taxpayers may opt out of Bonus Depreciation for any class of property, as opposed to an individual item, for any tax year, which results in another tax planning opportunity.

De minimis Safe Harbor Election Limit

As a reminder, the De minimis Safe Harbor Election limit under the new Tangible Property Regulations has been increased from \$500 to \$2,500 for years beginning on or after January 1, 2016 for taxpayers without an Applicable Financial Statement (AFS). The IRS also stated that taxpayers without AFS could use the \$2,500 limit for years before 2016 if all other requirements of the election are met. The limit for taxpayers with AFS is \$5,000. This increase alone gives taxpayers without AFS the ability to currently deduct a large variety of items costing \$2,500 or less that would otherwise require capitalization. The De minimis Safe Harbor Election must be made each year with the tax return filing **and a consistent accounting policy or procedure must be in place** before the beginning of the tax year to make the election. It is not required that the policy or procedure be in writing. Taxpayers should review the documentation or support of their accounting policy with their tax advisor before the start of the tax year to maximize their potential tax benefit under the De minimis Safe Harbor Election.

Summary

The above provisions of the PATH Act coupled with the \$2,500 limit of the De minimis Safe Harbor Election have given small and medium size businesses a significant federal tax reduction benefit. The permanence of the Section 179 expensing and the five year Bonus Depreciation allows tax planning opportunities that were not previously available to taxpayers and their advisors. All business owners should take advantage of this opportunity. If you are considering large capital purchases in the near future you should consider making those purchases in 2016 or 2017 if possible, to take advantage of the 50% Bonus Depreciation. There are no limits on the total amount of Bonus Depreciation that may be taken in any one tax year as there is with the Section 179 expensing. Make the most of these benefits while they are available. Please contact me or your tax advisor to maximize the benefit of these tax provisions as they relate to your particular business.

For information on this topic and other tax planning for ranching and farming, please contact me at (863) 640-2008 or Tom@beasleybryantcpa.com and /or Ryan Beasley at (863) 646-1373 or Ryan@beasleybryantcpa.com. Please visit our website at www.beasleybryantcpa.com for information on other relevant topics.

We at Beasley, Bryant & Company, CPA's, P. A. are experienced in agricultural business problems, tax issues or concerns, and are here to help you.

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