BUSINESS Tax Provisions

Permanent: Research & Development Credit

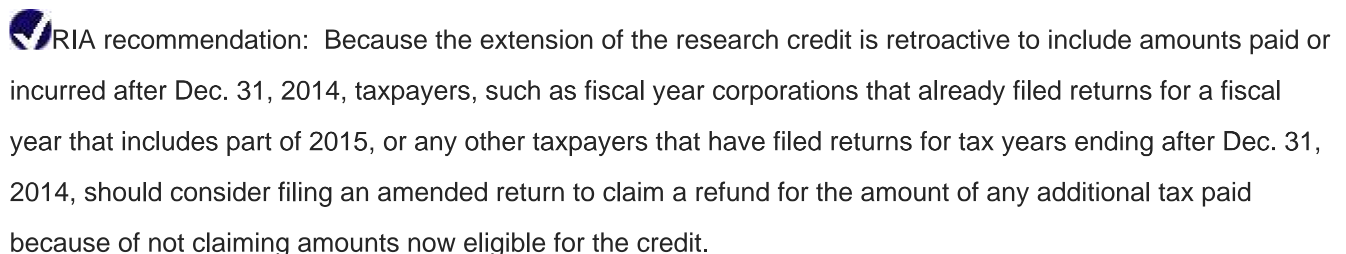
The research credit equals the sum of: (1) 20% of the excess (if any) of the qualified research expenses for the tax year over a base amount (unless the taxpayer elected an alternative simplified research credit); (2) the university basic research credit (i.e., 20% of the basic research payments); (3) 20% of the taxpayer's expenditures on qualified energy research undertaken by an energy research consortium.

The base amount is a fixed-base percentage of the taxpayer's average annual gross receipts from a U.S. trade or business, net of returns and allowances, for the 4 tax years before the credit year, and can't be less than 50% of the year's qualified research expenses. The fixed base percentage for a non-startup company is the percentage (not exceeding 16%) that taxpayer's total qualified research expenses are of total gross receipts for tax years beginning after '83 and before '89. A 3% fixed-base percentage applies for each of the first 5 tax years in which a "startup company" (one with fewer than 3 tax years with both gross receipts and qualified research expenses) has qualified research expenses.

A taxpayer can elect an alternative simplified research credit equal to 14% of the excess of the qualified research expenses for the tax year over 50% of the average qualified research expenses for the three tax years preceding the tax year for which the credit is being determined. If a taxpayer has no qualified research expenses in any one of the three preceding tax years, the alternative simplified research credit is 6% of the qualified research expenses for the tax year for which the credit is being determined.

Under pre-Act law, the research credit didn't apply for amounts paid or accrued after Dec. 31, 2014.

New law. The Act retroactively and permanently extends the research credit. (Code Sec. 41(h) , as amended by Act Sec. 121(a)(1))


RIA recommendation: Because the extension of the research credit is retroactive to include amounts paid or incurred after Dec. 31, 2014, taxpayers, such as fiscal year corporations that already filed returns for a fiscal year that includes part of 2015, or any other taxpayers that have filed returns for tax years ending after Dec. 31, 2014, should consider filing an amended return to claim a refund for the amount of any additional tax paid because of not claiming amounts now eligible for the credit.

In addition, for tax years that begin after Dec. 31, 2015, eligible small businesses ($50 million or less of gross

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receipts) may claim the credit against their alternative minimum tax (AMT) liability. (Code Sec. 38(c)(4)(B)(ii) , as amended by Act Sec. 121(b)). And, for tax years that begin after Dec. 31, 2015, small (less than $5 million of gross receipts) startup businesses may claim up to $250,000 per year of the credit against their employer FICA tax liability. (Code Sec. 41(h) and Code Sec. 3111(f), as amended by Act Sec. 121(c))

Permanent: Enhanced Deduction for Food Inventory

A taxpayer engaged in a trade or business is eligible to claim an enhanced deduction for donations of food inventory. A C corporation's deduction equals the lesser of (a) basis plus half of the property's appreciation, or (b) twice the property's basis, for contributions of food inventory that was apparently wholesome food-i.e., meant for human consumption and meeting certain quality and labeling standards. For a taxpayer other than a C corporation, the aggregate amount of contributions of apparently wholesome food that may be taken into account for the tax year can't exceed 10% of the taxpayer's aggregate net income for that tax year from all trades or businesses from which those contributions were made for that tax year.

Under pre-Act law, this enhanced charitable deduction didn't apply for contributions after Dec. 31, 2014.

New law. The Act retroactively and permanently extends the apparently wholesome food contribution rules. (Code Sec. 170(e)(3)(C)(iv) , as amended by Act Sec. 113(a))

In addition, for tax years beginning after Dec. 31, 2015,

. . . The Act increases the limitation on deductible contributions of food inventory from 10% to 15% of the taxpayer's aggregate net taxable income from all trades or businesses from which such contributions were made (15% of taxable income in the case of a C corporation) per year. (Code Sec. 170(e)(3)(C)(ii) , as amended by Act Sec. 113(b));

. . . The fair market value (FMV) of apparently wholesome food that cannot or will not be sold solely by reason of internal standards of the taxpayer, lack of market, or similar circumstances is determined without regard to such internal standards, etc.; FMV is determined by taking into account the price at which the same or substantially the same food items-as to both type and quality-are sold by the taxpayer at the time of the contribution. (Code Sec. 170(e)(3)(C)(v), as amended by Act Sec. 113(b)); and

. . . Taxpayers who do not account for inventories using full absorption costing and who are not required to capitalize indirect costs under the Code Sec. 263A UNICAP rules may elect to treat the basis of any

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apparently wholesome food as being equal to 25% of the market value of the food, in determining the amount of the charitable contribution deduction. (Code Sec. 170(e)(3)(C)(iv) , as amended by Act Sec. 113(b))

Permanent: Expanded Differential Wage Payment Credit for Employers

Eligible small business employers that pay differential wages-payments to employees for periods that they are called to active duty with the U.S. uniformed services (for more than 30 days) that represent all or part of the wages that they would have otherwise received from the employer-can claim a credit. This differential wage payment credit is equal to 20% of up to $20,000 of differential pay made to an employee during the tax year. An eligible small business employer is one that: (1) employed on average less than 50 employees on business days during the tax year; and (2) under a written plan, provides eligible differential wage payments to each of its qualified employees. A qualified employee is one who has been an employee for the 91-day period immediately preceding the period for which any differential wage payment is made.

Under pre-Act law, the credit was not available for differential wages paid after Dec. 31, 2014.

New law. The Act retroactively and permanently extends the credit. (Code Sec. 45P(f) , as amended by Act Sec. 122(a)) And, for tax years beginning after Dec. 31, 2015, the Act provides that the credit applies to employers of any size (i.e., the less than 50 employee average no longer applies). (Code Sec. 45P(a) , as amended by Act Sec. 122(b))

Extended Thru 2019: Expanded Work Opportunity Tax Credit

The work opportunity tax credit (WOTC) allows employers who hire members of certain targeted groups to get a credit against income tax of a percentage of first-year wages up to $6,000 per employee ($3,000 for qualified summer youth employees). Where the employee is a long-term family assistance (LTFA) recipient, the WOTC is a percentage of first and second year wages, up to $10,000 per employee. Generally, the percentage of qualifying wages is 40% of first-year wages; it's 25% for employees who have completed at least 120 hours, but less than 400 hours of service for the employer. For LTFA recipients, it includes an additional 50% of qualified second-year wages.

The maximum WOTC for hiring a qualifying veteran generally is $6,000. However, it can be as high as $12,000, $14,000, or $24,000, depending on factors such as whether the veteran has a service-connected disability, the period of his or her unemployment before being hired, and when that period of unemployment occurred relative to the WOTC-eligible hiring date.

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Under pre-Act law, wages for purposes of the WOTC didn't include any amount paid or incurred to: veterans or non-veterans who began work after Dec. 31, 2014.

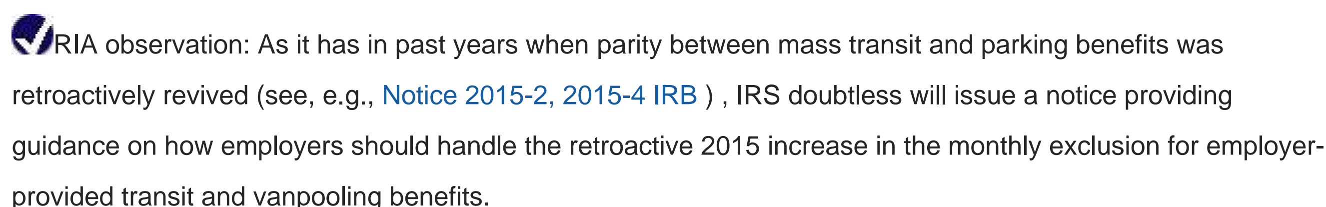
New law. The Act retroactively extends the WOTC so that it applies to eligible veterans and non-veterans who begin work for the employer before Jan. 1, 2019. (Code Sec. 51(c)(4)(B), as amended by Act Sec. 142(a))

With respect to individuals who begin work for an employer after Dec. 31, 2015, the credit also applies to employers who hire qualified long-term unemployed individuals (i.e., those who have been unemployed for 27 weeks or more). The credit with respect to such long-term unemployed individuals is 40% of the first $6,000 of wages. (Code Sec. 51(d)(1)(J) and Code Sec. 51(d)(15), as amended by Act Sec. 142(b)).

Permanent: Excluded Employer-Provided Mass Transit and Parking Benefits Increased

For 2015, an employee could exclude from gross income up to: (1) $250 per month for qualified parking, and (2) $130 a month for transit passes and commuter transportation in a commuter highway vehicle (including van pools). However, notwithstanding the applicable statutory limits on the exclusion of qualified transportation fringes (as adjusted for inflation), for any month beginning before Jan. 1, 2015, a parity provision required that the monthly dollar limitation for transit passes and transportation in a commuter highway vehicle had to be applied as if it were the same as the dollar limitation for that month for employer-provided parking ($250 for 2014).

New law. For months after Dec. 31, 2014, the Act permanently extends the maximum monthly exclusion amount for transit passes and van pool benefits so that these transportation benefits match the exclusion for qualified parking benefits. (Code Sec. 132(f)(2) , as Act Sec. 105) These fringe benefits are excluded from an employee's wages for payroll tax purposes and from gross income for income tax purposes.


RIA observation: As it has in past years when parity between mass transit and parking benefits was retroactively revived (see, e.g., Notice 2015-2, 2015-4 IRB) , IRS doubtless will issue a notice providing guidance on how employers should handle the retroactive 2015 increase in the monthly exclusion for employer-provided transit and vanpooling benefits.

Permanent: Reduction in S Corp Recognition Period for Built-In Gains Tax

An S corporation generally is not subject to tax, but instead passes through its income to its shareholders, who pay tax on their pro-rata shares of the S corporation's income. Where a corporation that was formed as a C corporation

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elects to become an S corporation (or where an S corporation receives property from a C corporation in a nontaxable carryover basis transfer), the S corporation is taxed at the highest corporate rate (currently 35%) on all gains that were built-in at the time of the election if the gain is recognized during a recognition period.

Under pre-Act law, for S corporation tax years beginning in 2012 and 2013, the recognition period was five years (instead of the generally applicable 10-year period). Thus, the recognition period was the 5-year period beginning with the first day of the first tax year for which the corporation was an S corporation (or beginning with the date of acquisition of assets if the rules applicable to assets acquired from a C corporation applied). If an S corporation disposed of such assets in a tax year beginning in 2012 or 2013 and the disposition occurred more than five years after the first day of the relevant recognition period, gain or loss on the disposition wasn't taken into account in determining the net recognized built-in gain.

New law. The Act retroactively and permanently provides that, for determining the net recognized built-in gain, the recognition period is a 5-year period-the same rule that applied to tax years beginning in 2014. (Code Sec. 1374(d)(7) , as amended by Act Sec. 127(a))

Permanent: Lower Shareholder Basis Adjustment for Charitable Contributions by S Corporations

Before the Pension Protection Act of 2006 (PPA), if an S corporation contributed money or other property to a charity, each shareholder took into account his pro rata share of the fair market value of the contributed property in determining his own income tax liability. The shareholder reduced his basis in his S stock by the amount of the charitable contribution that flowed through to him. *The PPA amended this rule to provide that the amount of a shareholder's basis reduction in S stock by reason of a charitable contribution made by the corporation is equal to his pro rata share of the adjusted basis of the contributed property.*

Under pre-Act law, the PPA rule did not apply for contributions made in tax years beginning after Dec. 31, 2014.

New law. The Act retroactively and permanently extends the PPA rule. (Code Sec. 1367(a)(2) , as amended by Act Sec. 115(a))

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Depreciation & Expensing Provisions

Permanent: Enhanced Sec 179 Expensing

Under Code Sec. 179 , a taxpayer, other than an estate, a trust, or certain noncorporate lessors, may elect to deduct as an expense, rather than to depreciate, up to a specified amount of the cost of new or used tangible personal property placed in service during the tax year in the taxpayer's trade or business. The maximum annual expensing amount generally is reduced dollar-for-dollar by the amount of Code Sec. 179 property placed in service during the tax year in excess of a specified investment ceiling. Amounts ineligible for expensing due to excess investments in expensing-eligible property cannot be carried forward and expensed in a subsequent year. Rather, they can only be recovered through depreciation. The amount eligible to be expensed for a tax year cannot exceed the taxable income derived from the taxpayer's active conduct of a trade or business. And any amount that is not allowed as a deduction because of the taxable income limitation may be carried forward to succeeding tax years.

For tax years beginning in 2014: (1) the dollar limitation on the expensing deduction was $500,000; and (2) the investment-based reduction in the dollar limitation began to take effect when property placed in service in the tax year exceeds $2 million (the investment ceiling). Under the 2014 limits, the Code Sec. 179 deduction did not phase out completely until the cost of expensing-eligible property exceeded $2.5 million ($2 million (investment ceiling) + $500,000 (dollar limit)).

Under pre-Act law, for tax years beginning after 2014, the maximum expensing limit dropped to $25,000, and the investment ceiling dropped to $200,000. Thus, the Code Sec. 179 deduction phased out completely when the cost of expensing-eligible property exceeded $225,000 ($200,000 (investment ceiling) + $25,000 (dollar limit)).

In general, under pre-Act law, property is eligible for Code Sec. 179 expensing if it is:

> . . . tangible property that's Code Sec. 1245 property (generally, machinery and equipment), depreciated under the MACRS rules of Code Sec. 168 , regardless of its depreciation recovery period;
>
> . . . for any tax year beginning in 2010 through 2014, up to $250,000 of qualified real property-qualified leasehold improvement property, qualified restaurant property, and qualified retail improvement property-(under a carryover limitation for qualifying real property no portion of the disallowed expensing could be carried to a tax year beginning after 2014); or
>
> . . . off-the-shelf computer software, but only if placed in service in a tax year beginning before 2015.

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Under pre-Act law, for tax years beginning before 2015, an expensing election or specification of property to be expensed may be revoked without IRS's consent, but, if revoked, cannot be reelected. However, for tax years beginning after Dec. 31, 2014, the expensing election, and any specification made in it, was to have been revocable only with IRS's consent.

New law. The Act makes the following changes to the Code Sec. 179 expensing election:

- The $500,000 expensing limitation and $2 million phase-out amounts are retroactively extended and made permanent. (Code Sec. 179(b) , as amended by Act Sec. 124(a))

- For any tax year beginning after 2015, both the $500,000 and $2 million limits are indexed for inflation. (Code Sec. 179(b)(6) , as amended by Act Sec. 124(f))

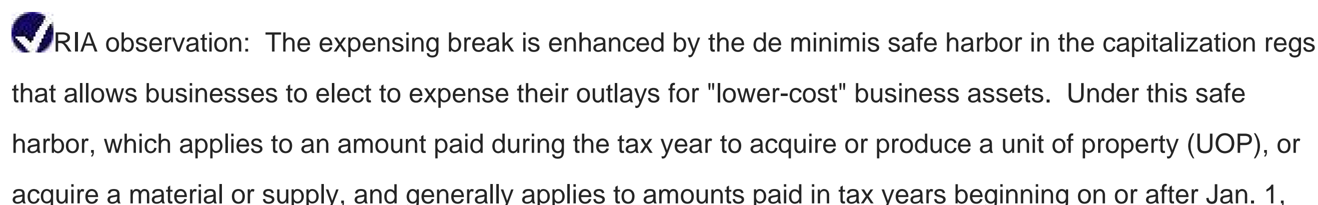
- The rule that allows expensing for computer software is retroactively extended and made permanent. (Code Sec. 179(d)(1)(A)(ii) , as amended by Act Sec. 124(b))

- For tax years beginning after Dec. 31, 2014, an expensing election or specification of property to be expensed may be revoked without IRS's consent. (Code Sec. 179(c)(2) , as amended by Act Sec. 124(d)) Thus, the ability to revoke a Code Sec. 179 election without IRS consent is made permanent.

- Qualified real property is eligible to be expensed for tax years beginning before 2016. (Code Sec. 179(f)(1) , as amended by Act Sec. 124(c)(1)) No portion of disallowed expensing may be carried to a tax year beginning after 2015. (Code Sec. 179(f)(4) , as amended by Act Sec. 124(c)(1))

- For tax years beginning after Dec. 31, 2015, expensing of qualified real property is made permanent without a carryover limitation (Code Sec. 179(f)(1) and Code Sec. 179(f)(4) , as amended by Act Sec. 124(c)(2)) and the $250,000 expensing limitation with respect to qualifying real property is eliminated. (Code Sec. 179(f) , as amended by Act Sec. 124(c))

- For tax years beginning after Dec. 31, 2015, air conditioning and heating units are eligible for expensing. (Code Sec. 179(d)(1) , as amended by Act Sec. 124(e))


RIA observation: The expensing break is enhanced by the de minimis safe harbor in the capitalization regs that allows businesses to elect to expense their outlays for "lower-cost" business assets. Under this safe harbor, which applies to an amount paid during the tax year to acquire or produce a unit of property (UOP), or acquire a material or supply, and generally applies to amounts paid in tax years beginning on or after Jan. 1,

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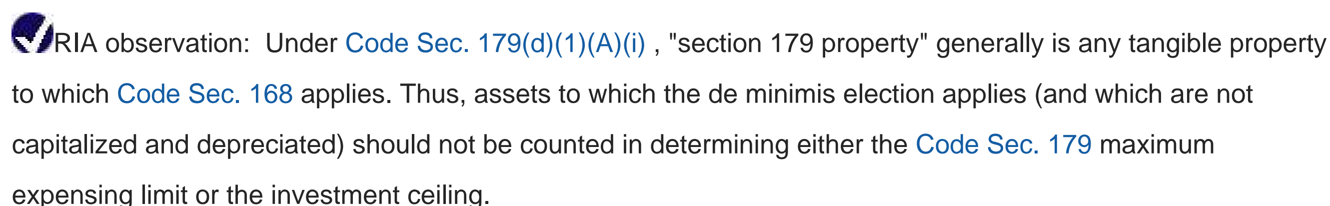
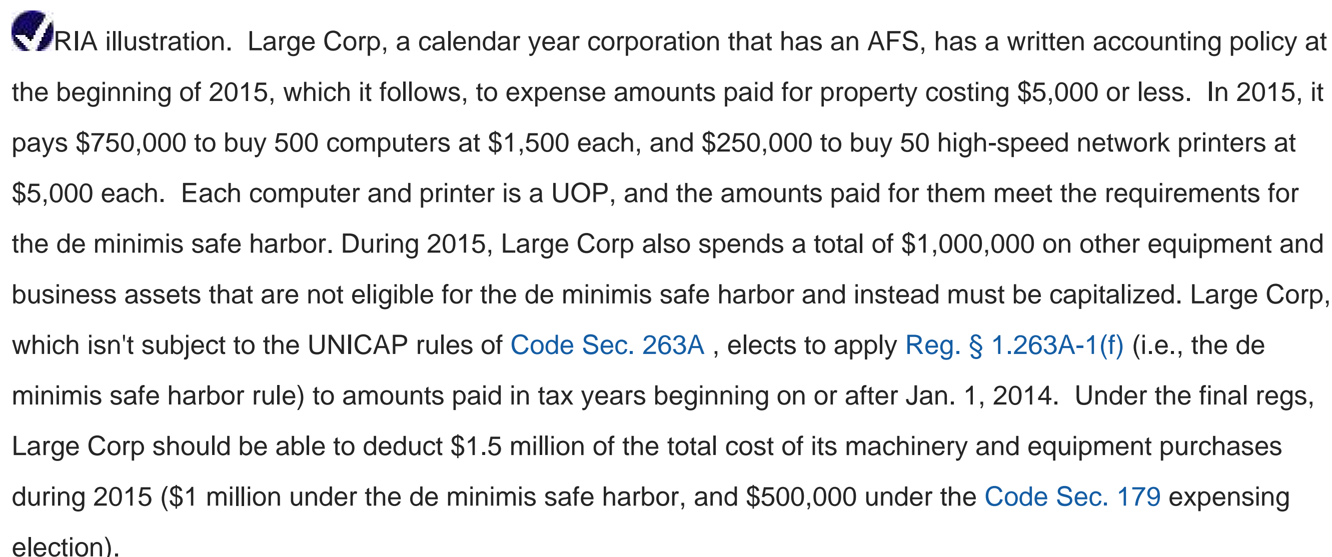
2014, qualifying businesses with an applicable financial statement (AFS) can expense eligible property if the amount paid doesn't exceed $5,000 per invoice (or per item as substantiated by the invoice). If the taxpayer does not have an AFS, the same rule applies except that the amount paid for eligible property can't exceed $2,500 per invoice (or per item as substantiated by the invoice); this amount was $500 before 2016, but IRS won't challenge an earlier use of the higher amount. Both the $5,000 and $2,500/$500 amounts can be changed by published IRS guidance. Assets expensed under the de minimis safe harbor election may be deducted in the year of purchase, assuming that the costs that otherwise qualify as ordinary expenses, and assuming the costs don't have to be capitalized under the UNICAP rules of Code Sec. 263A .



RIA observation: Under Code Sec. 179(d)(1)(A)(i) , "section 179 property" generally is any tangible property to which Code Sec. 168 applies. Thus, assets to which the de minimis election applies (and which are not capitalized and depreciated) should not be counted in determining either the Code Sec. 179 maximum expensing limit or the investment ceiling.



RIA illustration. Large Corp, a calendar year corporation that has an AFS, has a written accounting policy at the beginning of 2015, which it follows, to expense amounts paid for property costing $5,000 or less. In 2015, it pays $750,000 to buy 500 computers at $1,500 each, and $250,000 to buy 50 high-speed network printers at $5,000 each. Each computer and printer is a UOP, and the amounts paid for them meet the requirements for the de minimis safe harbor. During 2015, Large Corp also spends a total of $1,000,000 on other equipment and business assets that are not eligible for the de minimis safe harbor and instead must be capitalized. Large Corp, which isn't subject to the UNICAP rules of Code Sec. 263A , elects to apply Reg. § 1.263A-1(f) (i.e., the de minimis safe harbor rule) to amounts paid in tax years beginning on or after Jan. 1, 2014. Under the final regs, Large Corp should be able to deduct $1.5 million of the total cost of its machinery and equipment purchases during 2015 ($1 million under the de minimis safe harbor, and $500,000 under the Code Sec. 179 expensing election).

Permanent: 15-YR Writeoff for Qualified Leasehold & Retail Improvements and Restaurant Property

Qualified leasehold improvement property, qualified restaurant property and qualified retail improvement property that was placed in service before Jan. 1, 2015 was included in the 15-year MACRS class for depreciation purposes-that is, such property was depreciated over 15 years under MACRS.

Under pre-Act law, the 15-year writeoff did not apply to property placed in service after Dec. 31, 2014.

New law. Effective for property placed in service after Dec. 31, 2014, the Act retroactively extends and makes

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permanent the inclusion of qualified leasehold improvement property, qualified restaurant property and qualified retail improvement property in the 15-year MACRS class. (Code Sec. 168(e)(3)(E) , as amended by Act Sec. 123)

Extended Through 2019: Bonus First-Year Depreciation

Under pre-Act law, Code Sec. 168(k) generally allows an additional first-year depreciation deduction (also called bonus first-year depreciation) equal to 50% of the adjusted basis of qualified property acquired and placed in service after Dec. 31, 2011, and before Jan. 1, 2015 (before Jan. 1, 2016 for certain longer-lived and transportation property). The additional first-year depreciation deduction is allowed for both regular tax and alternative minimum tax (AMT) purposes, but is not allowed for purposes of computing earnings and profits. The basis of the property and the depreciation allowances in the year of purchase and later years are appropriately adjusted to reflect the additional first-year depreciation deduction. A taxpayer may elect out of additional first-year depreciation for any class of property for any tax year.

In general, an asset qualifies for the bonus depreciation allowance if:

> . . . It falls into one of the following categories: property to which the modified accelerated cost recovery system (MACRS) rules apply with a recovery period of 20 years or less; computer software other than computer software covered by Code Sec. 197 ; qualified leasehold improvement property; or certain water utility property.
>
> . . . It is placed in service before Jan. 1, 2015. (Certain long-production-period property and certain transportation property may be placed in service before Jan. 1, 2016)
>
> . . . Its original use commences with the taxpayer. Original use is the first use to which the property is put, whether or not that use corresponds to the taxpayer's use of the property.

New law. The Act extends bonus depreciation for qualified property acquired and placed in service during 2015 through 2019 (through 2020 for certain longer-lived and transportation property). Eligible taxpayers will be able to claim:

(1) a 50% bonus depreciation allowance for qualified property placed in service in 2015 through 2017 ;

(2) a 40% bonus depreciation allowance for qualified property placed in service in 2018; and

(3) a 30% bonus depreciation allowance for qualified property placed in service in 2019. (Code Sec. 168(k) , as amended by Act Sec. 143; Joint Committee Explanation)

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The percentages apply to certain longer-lived and transportation property placed in service one year later than shown in the list above. (Joint Committee Explanation)

Related changes. The Act also provides that:

- After 2015, additional first-year depreciation is allowed for qualified improvement property without regard to whether the improvements are property subject to a lease, and there is no requirement that the improvement must be placed in service more than three years after the date the building was first placed in service. (Code Sec. 168(k)(3) as amended by Act Sec. 143(b)(1); Joint Committee Explanation)
- For plants planted or grafted after Dec. 31, 2015 and before Jan. 1, 2020, 50% bonus depreciation is allowed for certain trees, vines, and plants bearing fruit or nuts when planted or grafted, rather than when placed in service. (Code Sec. 168(k)(5) , as amended by Act Sec. 143(b)(4); Official Summary)
- The special rule for the allocation of bonus depreciation to a long-term contract is extended for five years to property placed in service before Jan. 1, 2020 (Jan. 1, 2021, in the case of certain longer-lived and transportation property). (Code Sec. 460(c)(6)(B) , as amended by Act Sec. 143)

Extended Thru 2019: Enhanced First-Year Depreciation Cap for Autos and Trucks

Under the luxury auto dollar limits of Code Sec. 280F , depreciation deductions (including Code Sec. 179 expensing) that can be claimed for passenger autos are subject to dollar limits that are annually adjusted for inflation. For passenger automobiles placed in service in 2015, the adjusted first-year limit is $3,160. For light trucks or vans, the adjusted first-year limit is $3,460. Light trucks or vans are passenger automobiles built on a truck chassis, including minivans and sport-utility vehicles (SUVs) built on a truck chassis that are subject to the Code Sec. 280F limits because they are rated at 6,000 points gross (loaded) vehicle weight or less.

The applicable first-year depreciation limit is increased by $8,000 (not indexed for inflation) for any passenger automobile that is "qualified property" under the bonus depreciation rules of Code Sec. 168(k) and which isn't subject to a taxpayer election to decline bonus depreciation.

Under pre-Act law, qualified property did not include property placed in service after Dec. 31, 2014 (except for certain aircraft and certain long-production-period property that had, instead, a Dec. 31, 2015 placed-in-service deadline). Thus, under pre-Act law, the $8,000 boost in first-year depreciation allowances was not available for new cars and trucks purchased after 2014.

New law. For property placed in service after Dec. 31, 2015 and before Jan. 1, 2018, the Act provides that the Code

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Sec. 280F limitation for a passenger auto or light truck or van that is qualified property is increased by $8,000. For an auto or light truck or van placed in service in 2018, the Code Sec. 280F limitation is increased by $6,400. For an auto or light truck or van placed in service in 2019, the Code Sec. 280F limitation is increased by $4,800. (Code Sec. 168(k)(2) , as amended by Act Sec. 143(b)(1))

Extended Thru 2016: Expanded Expensing Election for Costs of Film and TV Production

Taxpayers may elect to expense production costs of qualified film and television (TV) productions in the U.S. Expensing doesn't apply to the part of the cost of any qualifying film or TV production that exceeded $15 million for each qualifying production. The limit is $20 million if production expenses were "significantly incurred" in areas (1) eligible for designation as a low-income community or (2) eligible for designation by the Delta Regional Authority (a federal-state partnership covering parts of certain states) as a distressed county or isolated area of distress.

Under pre-Act law, these rules did not apply to qualified film and TV productions beginning after Dec. 31, 2014.

New law. The Act retroactively extends for two years the expensing election for costs of film and TV production for productions beginning before Jan. 1, 2017. (Code Sec. 181(f) , as modified by Act Sec. 169(a)) For productions beginning after Dec. 31, 2015, the expensing election is expanded to also apply to any "qualified live theatrical production," which is defined as a live staged production of a play (with or without music) which is derived from a written book or script and is produced or presented by a commercial entity in any venue which has an audience capacity of not more than 3,000, or a series of venues, the majority of which have an audience capacity of not more than 3,000. In addition, qualified live theatrical productions include any live staged production which is produced or presented by a taxable entity no more than 10 weeks annually in any venue which has an audience capacity of not more than 6,500. (Code Sec. 181 , as modified by Act Sec. 169(b))

Extended & Modified: Choice to Forego Bonus Depreciation and Claim Credits Instead

Generally, Code Sec. 168(k)(4) permits a corporation to increase the alternative minimum tax (AMT) credit limitation by the bonus depreciation amount with respect to certain property placed in service after Dec. 31, 2010 and before Jan. 1, 2015 (Jan. 1, 2016 in the case of certain longer-lived and transportation property) if it forgoes bonus depreciation on that property.

Under pre-Act law, the above provision did not apply to such property placed in service after Dec. 31, 2014 (Dec. 31, 2015 in the case of certain longer-lived and transportation property).

New law. For property placed in service during 2015, the Act allows taxpayers to elect to accelerate the use of AMT

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credits in lieu of bonus depreciation under special rules. Beginning in 2016, the Act modifies the AMT rules by increasing the amount of unused AMT credits that may be claimed in lieu of bonus depreciation. (Code Sec. 168(k)(4) , as amended by Act Sec. 143(b)(2))

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ENERGY Tax Provisions

Extended & Modified Thru 2016: Nonbusiness Energy Property Credit

For qualified energy property placed in service before Jan. 1, 2015, a taxpayer could claim a credit up to a $500 lifetime limit (with no more than $200 from windows and skylights) over the aggregate of the credits allowed to the taxpayer for all earlier tax years ending after Dec. 31, 2005. The credit equalled the sum of: (1) 10% of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements installed during the tax year, and (2) the amount of the residential energy property expenditures paid or incurred by the taxpayer during the tax year. The credit for residential energy property expenditures couldn't exceed: (i) $50 for an advanced main circulating fan; (ii) $150 for any qualified natural gas, propane, or hot water boiler; and (iii) $300 for any item of energy-efficient building property.

Qualified energy efficiency improvements were energy efficient building envelope components, such as (a) insulation materials or systems specifically and primarily designed to reduce heat loss/gain, that met criteria set by the International Energy Conservation Code (IECC); or (b) exterior windows, skylights or doors, or any metal roof with pigmented coating or asphalt roof with cooling granules specifically designed to reduce heat gain, installed on a dwelling unit that met certain Energy Star program requirements.

Under pre-Act law, the credit wasn't available for property placed in service after Dec. 31, 2014.

New law. The Act retroactively extends the nonbusiness energy property credit for two years, to apply to property placed in service after Dec. 31, 2014, and before Jan. 1, 2017. (Code Sec. 25C(g)(2) , as amended by Act Sec. 181(a)) The Act allows a credit of 10% of the amount paid or incurred by the taxpayer for qualified energy improvements, subject to new requirements described in Act Sec. 181(b), up to $500.

Extended Thru 2016: New Energy Efficient Home Credit

An eligible contractor could, for homes acquired before Jan. 1, 2015, claim a credit of $2,000 or $1,000 (depending on the projected level of fuel consumption) for each qualified new energy efficient home constructed by the contractor and acquired by a person from the contractor for use as a residence during the tax year.

Under pre-Act law, the new energy efficient home credit didn't apply to homes acquired after Dec. 31, 2014.

New law. The Act retroactively extends the credit for energy-efficient new homes for two years, i.e., to homes acquired before Jan. 1, 2017. (Code Sec. 45L(g) , as amended by Act Sec. 188)

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Extended Thru 2016: Renewable Electricity Production Credit

An income tax credit was allowed for the production of electricity from qualified energy resources at qualified facilities (the "renewable electricity production credit"). Qualified energy resources comprise wind, closed-loop biomass, open-loop biomass, geothermal energy, solar energy, small irrigation power, municipal solid waste, qualified hydropower production, and marine and hydrokinetic renewable energy. Qualified facilities are, generally, facilities that generate electricity using qualified energy resources.

Under pre-Act law, the construction of a qualifying facility had to begin before Jan. 1, 2015, to claim the credit.

New Law. The Act retroactively extends by two years the date by which construction of a qualifying facility must begin, i.e., to before Jan. 1, 2017. (Code Sec. 45(d) , as amended by Act Sec. 187(a))

Extended & Modified Thru 2016: Energy Efficient Commercial Building Property Deduction

A deduction was allowed in an amount equal to the cost of "energy efficient commercial building property" (described in the bill summary as "energy efficient improvements to lighting, heating, cooling, ventilation, and hot water systems of commercial buildings") placed in service during the tax year. The maximum deduction for any building for any tax year was the excess (if any) of the product of $1.80, and the square footage of the building, over the aggregate amount of the deduction under Code Sec. 179D(a) for the building for all earlier tax years.

Under pre-Act law, this deduction didn't apply to property placed in service after Dec. 31, 2014.

New law. The Act retroactively extends the deduction for two years, for property placed in service before Jan. 1, 2017. (Code Sec. 179D(h) , as amended by Act Sec. 190)

The Act also modifies the deduction by updating the energy efficiency standards to reflect new standards of the American Society of Heating, Refrigerating, and Air Conditioning Engineers beginning in 2016. (Code Sec. 179D(c)(2) , as amended by Act Sec. 341)

Extended Thru 2016: Facility's Construction Date Election to Take Energy Credit Instead of Production Tax Credit

A 30% business energy credit is allowed under Code Sec. 48 for certain energy property placed in service (fuel cell property, solar property, and small wind energy property). A renewable electricity production credit is allowed (as extended; see above) under Code Sec. 45 for the production of electricity from qualified energy resources at qualified facilities. For qualified property that is part of qualified investment credit facilities, taxpayers can make an irrevocable

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election to take a 30% energy credit instead of the electricity production credit.

Under pre-Act law, the election was available for a qualified Code Sec. 45 facility placed in service after 2008 and the construction of which began before Jan. 1, 2015.

New Law. The Act retroactively extends the beginning construction requirement so that the election is available for a qualified Code Sec. 45 facility which is placed in service after 2008 and the construction of which begins before Jan. 1, 2017. (Code Sec. 48(a)(5)(C) , as amended by Act Sec. 187(b))

Extended Thru 2016: Credit for 2-Wheeled Electric Plug-in Vehicles

A taxpayer could, for vehicles purchased before Jan. 1, 2015, claim a 10% credit on the purchase of certain electric powered 2- or 3-wheeled vehicles manufactured primarily for use on public streets, roads and highways and capable of at least 45 miles per hour. To qualify, a vehicle had to be a 2-wheeled (e.g., motor scooter) or 3-wheeled vehicle propelled to a significant extent by a rechargeable battery with a capacity of at least 2.5 kilowatt hours. The maximum credit was $2,500.

Under pre-Act law, this credit didn't apply to vehicles purchased after Dec. 31, 2013.

New law. The Act extends the **credit for vehicles that have two wheels** (i.e., electric motorcycles) acquired after Dec. 31, 2014, and **before Jan. 1, 2017** (i.e., the credit lapsed for purchases in 2014). The credit for electric three-wheeled vehicles is not extended. (Code Sec. 30D(g) , as amended by Act Sec. 183)

Extended Thru 2016: Alternative Fuel Vehicle Refueling Property Credit

A taxpayer could, for property placed in service before Jan. 1, 2015, claim a 30% credit for the cost of installing *non-hydrogen* alternative vehicle refueling property for use in the taxpayer's trade or business (up to $30,000 maximum per year per location) or installed at the taxpayer's principal residence (up to $1,000 per year per location).

Under pre-Act law, this provision didn't apply to property placed in service after Dec. 31, 2014.

RIA observation: Under current law, *hydrogen-related* property remains eligible for the credit through 2016.

New law. The Act retroactively extends the alternative fuel vehicle refueling property credit under Code Sec. 30C for two years, to apply to property placed in service after Dec. 31, 2014 and before Jan. 1, 2017. (Code Sec. 30C(g) , as amended by Act Sec. 182)

Extended & Modified Thru 2016: Alternative Fuels & Mixtures Excise Tax Credit

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A 50¢-per-gallon (or gasoline gallon equivalent for non-liquid fuel) excise tax credit was allowed against the Code Sec. 4041 retail fuel excise tax liability for alternative fuel sold for use or used by a taxpayer. A credit was also allowed against the Code Sec. 4081 removal at terminal excise tax liability for alternative fuel used to produce an alternative fuel mixture for sale or use in the taxpayer's trade or business. A taxpayer could claim an excise tax refund (or, in some cases, a credit against income tax) to the extent the taxpayer's alternative fuel or mixture excise tax credit exceeded the taxpayer's Code Sec. 4041 or Code Sec. 4081 liability.

Under pre-Act law, the alternative fuel and alternative fuel mixture excise tax credit, and the refund rules, generally didn't apply for any sale or use after Dec. 31, 2014 (after Sept. 30, 2015, for all fuels involving liquefied hydrogen).

New law. The Act retroactively extends the alternative fuel and alternative fuel mixture tax incentives through Dec. 31, 2016. (Code Sec. 6426(d)(5) , as amended by Act Sec. 193(a)(1); Code Sec. 6427(e)(6) , as amended by Act Sec. 193(a)(2))

The Act also provides excise tax equivalency for liquefied petroleum gas and liquefied natural gas by converting the measurement of the alternative fuel excise tax credit for liquefied natural gas and liquefied petroleum gas from 50¢ per gallon to 50¢ cents per energy equivalent of a gallon of diesel fuel, which is approximately 29¢ per gallon for liquefied natural gas and approximately 36¢ per gallon for liquefied petroleum gas, effective for fuel sold or used after Dec. 31, 2015. (Code Sec. 6426(j), as added by Act Sec. 342)

Extended Thru 2016: __Credit for Fuel Cell Vehicles__

A taxpayer could claim a credit is for vehicles propelled by chemically combining oxygen with hydrogen and creating electricity. The base credit was $4,000 for vehicles weighing 8,500 pounds or less. Heavier vehicles could get up to a $40,000 credit, depending on their weight. An additional $1,000 to $4,000 credit was available to cars and light trucks to the extent their fuel economy exceeded the 2002 base fuel economy set forth in the Code.

Under pre-Act law, this provision didn't apply to property placed in service after Dec. 31, 2014.

New law. The Act extends the fuel cell vehicle credit for two years, through Dec. 31, 2016. (Code Sec. 30B , as amended by Act Sec. 193)

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INDIVIDUAL Tax Provisions

Permanent: Nontaxable IRA Transfers to Eligible Charities

Taxpayers who are age 70½ or older could, in tax years beginning before Jan. 1, 2015, make tax-free distributions to a charity from an Individual Retirement Account (IRA) of up to $100,000 per year. These distributions weren't subject to the charitable contribution percentage limits since they were neither included in gross income nor claimed as a deduction on the taxpayer's return.

Under pre-Act law, these rules didn't apply to distributions made in tax years beginning after Dec. 31, 2014.

New law. Effective for distributions made in tax years beginning after Dec. 31, 2014, the Act retroactively revives and permanently extends the ability of individuals at least 70½ years of age to exclude from gross income qualified charitable distributions from IRAs of up to $100,000 per year. (Code Sec. 408(d)(8)(F) , amended by Act Sec. 112)

Permanent: Enhanced American Opportunity Tax Credit

The Hope Scholarship Credit is a credit of $1,800 (indexed for inflation) for various tuition and related expenses for the first two years of post-secondary education. It phases out for AGI starting at $48,000 (if single) and $96,000 (if married filing jointly), with indexing for inflation. (Code Sec. 24A(b), Code Sec. 24A(d))

Under pre-Act law, through 2017, the American Opportunity Tax Credit (AOTC; essentially a modified version of the pre-existing Hope credit) increased the above credit to $2,500 for four years of post-secondary education, and increased the beginning of the phase-out amounts to $80,000 (single) and $160,000 (married filing jointly).

New law. The Act makes the AOTC permanent. (Code Sec. 25A(i) as amended by Act Sec. 102)

For tax years beginning after Dec. 31, 2015, and expenses paid after that date for education furnished in academic periods beginning after that date, a taxpayer claiming the AOTC must report the employer identification number (EIN) of the educational institution to which the taxpayer makes qualified payments under the credit. (Code Sec. 25A(i)(6) , as amended by Act Sec. 211)

Finally, for expenses paid after Dec. 31, 2015 for education furnished in academic periods beginning after that date, higher education institutions are required to report (on Form 1098-T) only qualified tuition and related expenses actually paid (rather than choosing between amounts paid and amounts billed, as under current law). (Code Sec. 6050S(b)(2)(B)(i) , as amended by Act Sec. 212)

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Extended Thru 2016: Above-the-Line Deduction for Higher Education Expenses

Eligible individuals could, for tax years beginning before Jan. 1, 2015, deduct higher education expenses-i.e., "qualified tuition and related expenses" of the taxpayer, his spouse, or dependents-as an adjustment to gross income to arrive at AGI. The maximum deduction was $4,000 for an individual whose AGI for the tax year doesn't exceed $65,000 ($130,000 in the case of a joint return), or $2,000 for individuals who don't meet the above AGI limit, but whose AGI doesn't exceed $80,000 ($160,000 in the case of a joint return). No deduction was allowed for an individual whose adjusted gross income exceeds the relevant adjusted gross income limitations, for a married individual who does not file a joint return, or for an individual for whom a personal exemption deduction may be claimed by another taxpayer for the tax year.

Under pre-Act law, this deduction wasn't available for tax years beginning after Dec. 31, 2014.

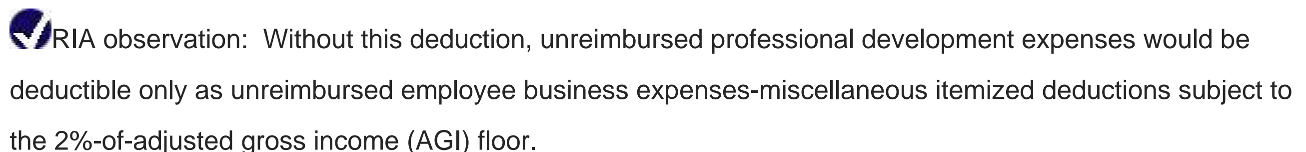
New law. Effective for tax years beginning after Dec. 31, 2014, the Act retroactively extends through 2016 the above-the-line deduction for qualified tuition and related expenses for higher education. (Code Sec. 222(e) , as amended by Act Sec. 153)

Permanent: Above-the-Line Deduction for Educator Expenses

Under pre-Act law, eligible elementary and secondary school teachers could, for tax years beginning before Jan. 1, 2015, claim an above-the-line deduction for up to $250 per year of expenses paid or incurred for books, certain supplies, computer and other equipment, and supplementary materials used in the classroom.

Under pre-Act law, this above-the-line deduction was unavailable for tax years beginning after Dec. 31, 2014.

New law. The Act permanently extends the educator expense deduction and, for tax years beginning after Dec. 31, 2015, modifies the deduction by (i) indexing the $250 amount for inflation, and (ii) ***treating professional development expenses as expenses eligible for the deduction.*** (Code Sec. 62(a)(2)(D) and Code Sec. 62(d) , as amended by Act Sec. 104)


RIA observation: Without this deduction, unreimbursed professional development expenses would be deductible only as unreimbursed employee business expenses-miscellaneous itemized deductions subject to the 2%-of-adjusted gross income (AGI) floor.

Permanent: Enhanced Child Tax Credit

The Child Tax Credit (CTC) allows taxpayers to claim a $1,000 tax credit for each qualifying child under age 17 that

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the taxpayer can claim as a dependent. (Code Sec. 24(a)) The CTC phases out when taxpayers' income exceeds certain thresholds. To the extent the CTC exceeds the taxpayer's tax liability, the taxpayer is eligible for a refundable credit equal to 15% percent of earned income in excess of a threshold dollar amount. (Code Sec. 24(d)(1))

Under pre-Act law, through 2017, the threshold dollar amount was an unindexed $3,000 (Code Sec. 24(d)(4)), and was then scheduled to rise to $10,000 indexed for inflation. (Code Sec. 24(d)(3))

New law. The Act makes the enhanced CTC permanent by setting the threshold dollar amount for purposes of computing the refundable credit at an unindexed $3,000. (Code Sec. 24(d) , as amended by Act Sec. 101) This change is effective for tax years beginning in 2016 (after the date of enactment).

Permanent: Enhanced Earned Income Tax Credit

Certain low- and moderate-income workers may be eligible for a refundable EITC. The amount of the credit depends on the taxpayer's earned income and the number of qualifying children, if any, and is calculated as a percentage of an inflation-adjusted earned income level.

Under pre-Act law, through 2017, the EITC amount was temporarily increased (to 45%) for those with three or more children, and the EITC marriage penalty was reduced by increasing the income phase-out range by $5,000 (indexed for inflation) for those who are married and filing jointly.

New law. The Act makes these provisions permanent. (Code Sec. 32(b)(1) and Code Sec. 32(b)(2)(B) , as amended by Act Sec. 103)

Permanent: State and Local Sales Tax Deduction

Taxpayers who itemize deductions could, for tax years beginning before Jan. 1, 2015, elect to deduct state and local general sales and use taxes instead of state and local income taxes.

Under pre-Act law, this choice was unavailable for tax years beginning after Dec. 31, 2014.

New law. Effective for tax years beginning after 2014, the Act retroactively revives and makes permanent the option to claim an itemized deduction for State and local general sales taxes in lieu of an itemized deduction for State and local income taxes. (Code Sec. 164(b)(5)(I) , as amended by Act Sec. 106) The taxpayer may either deduct the actual amount of sales tax paid in the tax year, or alternatively, deduct an amount prescribed by IRS.

Extended Thru 2016: Mortgage Insurance Premiums as Deductible Qualified Residence Interest

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Mortgage insurance premiums paid or accrued before Jan. 1, 2015 by a taxpayer in connection with acquisition indebtedness with respect to the taxpayer's qualified residence were treated as deductible qualified residence interest, subject to a phase-out based on the taxpayer's AGI. The amount allowable as a deduction was phased out ratably by 10% for each $1,000 by which the taxpayer's adjusted gross income exceeded $100,000 ($500 and $50,000, respectively, in the case of a married individual filing a separate return). Thus, the deduction wasn't allowed if the taxpayer's AGI exceeded $110,000 ($55,000 in the case of married individual filing a separate return).

Under pre-Act law, this provision only applied to premiums paid or accrued before Jan. 1, 2015 (and not properly allocable to any period after that date).

New law. Effective for amounts paid or accrued after Dec. 31, 2014, the Act retroactively extends this provision for two years so that a taxpayer can deduct, as qualified residence interest, mortgage insurance premiums paid or accrued before Jan. 1, 2017 (and not properly allocable to any period after 2016). (Code Sec. 163(h)(3)(E) , as amended by Act Sec. 152)

Extended Thru 2016: Exclusion for Discharged Home Mortgage Debt

Discharge of indebtedness income from qualified principal residence debt, up to a $2 million limit ($1 million for married individuals filing separately), was, in tax years beginning before Jan. 1, 2015, excluded from gross income.

Under pre-Act law, this exclusion didn't apply to any debt discharged after Dec. 31, 2014.

New law. The Act extends this exclusion for two years so that it applies to home mortgage debt discharged before Jan. 1, 2017. (Code Sec. 108(a)(1)(E), as amended by Act Sec. 151) For discharges of debt after Dec. 31, 2015, the exclusion also applies to home mortgage debt that's discharged subject to a written arrangement that's entered into before Jan. 1, 2017. Thus, according to an official summary of the bill, the exclusion applies to qualified principal residence debt that is discharged in 2017, if the discharge is pursuant to a binding written agreement entered into in 2016.

Permanent: Liberalized Rules for Qualified Conservation Contributions Made

A taxpayer's aggregate qualified conservation contributions (i.e., contributions of appreciated real property for conservation purposes) were, for tax years beginning before Jan. 1, 2015, allowed up to the excess of 50% of the taxpayer's contribution base over the amount of all other allowable charitable contributions (100% for qualified farmers and ranchers), with a 15-year carryover of such contributions in excess of the applicable limitation.

Under pre-Act law, these rules didn't apply to any contribution made in a tax year beginning after Dec. 31, 2014, and

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contributions made thereafter were to be subject to the otherwise applicable 30% limit for capital gain property (50% limit for qualified farmers and ranchers).

New law. Effective for contributions made in tax years beginning after Dec. 31, 2014, the Act retroactively revives and permanently extends the charitable deduction for contributions of real property for conservation purposes and the enhanced deduction for certain individual and corporate farmers and ranchers. (Code Sec. 170(b)(1)(E) and Code Sec. 170(b)(2)(B) , as amended by Act Sec. 111(a)) The Act also modifies the deduction beginning in tax years after Dec. 31, 2015, to permit Alaska Native Corporations to deduct donations of conservation easements up to 100% of taxable income. (Code Sec. 170(b)(2)(C) , as amended by Act Sec. 111(b))

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