John T. Wagener
Dressler & Peters, LLC
70 W. Hubbard St, #200
Chicago, IL 60654
312-602-7369 (direct)
jtwagener@dresslerpeters.com

NEWS FLASH: Section 179 Deductions for 2016 are available until 12/31/16

Last December, Congress passed the bipartisan, Protecting Americans from Tax Hikes (PATH) Act of 2015. This legislation made permanent some of the then temporary tax credits for businesses and working families. Until further notice, Section 179 is permanent at the $500,000 level, with the cap being indexed to inflation in $10,000 increments in future years. In addition, the 50% Bonus Depreciation was extended through 2019, but it will begin to phase down to 40 percent in 2018 and 30 percent in 2019. Businesses of all sizes will still be able to depreciate 50 percent of the cost of equipment acquired and put in service during 2016.

The PATH Act Advantage for New & Used Coaches

This bi-partisan legislation extended some changes that were set to expire at the end of 2014. For example, these changes now allow businesses to claim a 50% first-year bonus depreciation for new assets placed in service in the calendar years 2015-2017. Additionally, Congress made the generous Section 179 deduction rules permanent in order to stimulate the economy by accelerating capital purchases. This deduction allows the cost of qualifying new and used depreciable assets (including most software) to be substantially written off in Year One. For assets placed in service in tax years beginning in 2015 and beyond, the new law maintains the maximum Section 179 deduction allowance at the generous figure of $500,000. For post-2015 years, the $500,000 cap will be indexed for inflation. This deduction, combined with the first-year 50% bonus depreciation break, can lead to big tax savings for small and medium-size businesses.

New Coach purchase of $1,950,000: A new coach purchaser can now receive the benefit of the increased small businesses deduction for the first $500,000. The §179 deduction is phased out $1 per $1 when the investment limit of $2 million is reached. As a result, the purchaser can claim a deduction of $500,000 and then apply the 50% bonus depreciation for new equipment to the remaining $1,450,000, see explanation on reverse side. Alternatively, the purchaser can elect to apply the 50% up-front bonus depreciation deduction to the entire purchase. [1]

Pre-Owned Coach purchase of $825,000: Deduct up to the first $500,000 of the purchase price. Bonus Depreciation does not apply to used equipment.

It is thus an exceptionally good time to buy a new or pre-owned coach to be used in your business.

Increased Expensing for Small Businesses under §179

This deduction encourages businesses to expand by allowing a deduction for a portion of business investment purchases and investment costs. Congress restored the deduction and income phase-out limits to $500,000 and $2,000,000 respectively. Total purchases of qualified property that exceed $2 million reduce the taxpayer's expense allowance dollar for dollar. Further, under the PATH Act, the limits are now indexed to inflation instead of depending on periodic amendments to the law. Congress had previously allowed the deduction and income limits to fall to $25,000 and $200,000.

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[1] The increased §179 deduction and the 50% bonus depreciation can both apply in many situations to your business for certain new equipment costing less than $2,000,000 if acquired and placed in service this year. It might be assumed that the 50% bonus depreciation would be preferable to the §179 deduction because, unlike the §179 deduction, the bonus depreciation deduction is not limited by taxable income and might create a *net operating loss* (which may be carried back to prior years). Note, however, the election to take the §179 deduction may still be advisable even for property that qualifies for the 50% bonus depreciation since many states require an add back of the up-front bonus depreciation while allowing the §179 deduction in its entirety. **Please consult your tax professional to determine which scenario is best for you.**

To qualify for the bonus §179 expensing (the election to deduct as an expense rather than to depreciate up to a specified amount of the cost), the qualifying property can be either new or used when placed in service during the tax year involved. Qualifying property is tangible personal property purchased for use in the active conduct of a trade or business. The §179 deduction now includes certain "qualified real property" as well. If a new asset is acquired by trade, both the boot and any remaining depreciable basis of the relinquished asset qualify for the 50% bonus. In addition, the following requirements must be met:

- The amount to be expensed cannot exceed the taxable income derived from the business;
- The parties to the transaction cannot be a related; and
- The acquisition transaction cannot be between two members of the same controlled group.

Example: *An independent trucker wants to buy a truck, which costs about $450,000. Under these revisions, he will now be able to write off the entire purchase price (up to the $500,000 limit if new or used). Note: The deduction is allowed even if the purchase price is financed in whole or in part. Consult a tax adviser because a business has to be profitable to benefit from expensing.*[2]

Bonus Depreciation for New Property

This Tax Code change, allows American businesses that bought new equipment to deduct a large percentage of the cost of their investment in the first year. Bonus depreciation has been an "on again-off again" benefit for taxpayers since 2001. It is now a temporary benefit for taxpayers, but only up until 2019 (and, as usual, with an additional year for certain properties with a longer production period).

Because the PATH Act provides for a gradual phasedown of bonus depreciation, it is best to take advantage at the present time. The bonus depreciation percentage (as an immediate write-off) is as follows for 2016 through 2019:

- As of January 1, 2016 through December 31, 2017: 50%
- As of January 1, 2018 through December 31, 2018: 40%
- As of January 1, 2019 through December 31, 2019: 30%

The special depreciation allowance under Section 168(k) generally provides the following four requirements for new property to be eligible for bonus depreciation through December 31, 2019:

- The depreciable property must be a certain type [i.e., qualified property—tangible property under the Modified Accelerated Cost Recovery System (MACRS) with a recovery period of 20 years or less (including off-the-shelf software) and qualified leasehold, restaurant, and retail properties];
- The original use of the depreciable property must commence with the taxpayer after the relevant bonus depreciation date (i.e., bonus depreciation is available only for new equipment);
- The depreciable property must be acquired by the taxpayer before January 1, 2020; and
- The depreciable property must be placed in service before January 1, 2020

Example: *A company spends $1 million on replacing all its computers and servers in various locations. Computers are treated under the tax law as having a five-year recovery period for depreciation purposes. Without bonus depreciation, the company could claim depreciation in the first year of only $200,000 (20 percent of $1 million). With the new 50 percent bonus depreciation, the company can deduct one-half of the entire cost in the first year, or $500,000.*

For more information on this topic, or any other legal questions that you may have, please contact John Wagener at 312-602-7369 or visit our Firm's website at www.dresslerpeters.com.

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[2] The examples were published in the New York Times, in 2008, and updated by the author to reflect recent changes.