Provisions of the Tax Cuts and Jobs Act that Affect Building Owners

Here is a summary of the most important changes affecting building owners.

1. Bonus depreciation extended, expanded, and increased to 100%

- The 50% bonus depreciation rate is increased to 100% for qualified property acquired or built after September 27, 2017.
- Bonus depreciation has been expanded to apply to both newly constructed buildings and used property purchased and acquired after September 27, 2017. Bonus eligible property must have a depreciable life of 20 years or less.

2. Bonus depreciation applies to Qualified Improvement Property

- Qualified Leasehold Improvements, Qualified Retail Improvements, and Qualified Restaurant Property are all replaced with Qualified Improvement Property (QIP). QIP has a 15-year recovery period and is eligible for 100% bonus (restaurants now have a class life of 39 years).
- Structural items like interior supporting framing, escalators, and elevators are not included in QIP. The improvements must have begun at least one day after the building was placed in service for its intended use.
- Items removed, discarded, or abandoned have value that should be removed from the depreciation schedule and identified as a partial asset disposition (PAD). This must be done in the same tax year as the removal or the tax payer loses the ability to capture the write-down.

3. Expansion of Section 179 expensing

- Section 179 expense limitations for 2018 will double from $500,000 to $1 million while the phase-out limitation will be increased from $2 million to $2.5 million. Qualifying property eligible for Section 179 will include roofs, HVAC, fire protection & alarm systems, and security systems if these improvements are made to non-residential real property and begun after the building was placed in service for its intended use. Section 179 still includes tangible personal property such as furniture and appliances (FF&E). Section 179 assets will recapture at personal tax rates when the building is sold.

Bonus Depreciation

Qualified Improvement Property

Section 179 Expensing

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Continued...

4. 1031 Exchanges continue but only for real property

- 1031 Exchanges continue to be allowed for Real Property but are no longer allowed for tangible personal property acquired after December 31, 2017. Taxpayers that have applied Cost Segregation to a building in the past will not be able to exchange Section 1245 property in a 1031 Exchange. However, a cost segregation study on the new building's basis should minimize the effects of recapture.

5. Modified tax rates

- The 2018 Tax Code will provide a reduction of the highest Corporate Tax Rate (C corporations) to 21% for the Tax Years beginning on or after December 31, 2017.
- There are slightly modified tax rates for individuals, with the top bracket decreasing from 39.6% to 37.0% and the standard deduction doubled.

6. 20% income reduction for pass-through income

- Partnerships, S corporations, and LLCs with income less than $157.5k for individuals and $315k for married filing jointly are eligible without restrictions. Personal service corporations such as medical professionals, accounting firms, and attorneys are eligible but are subject to phase out and restrictions at higher incomes.

7. Carrybacks and net operating loss restrictions

- The two-year carry back of net operating losses is no longer allowed after 12/31/2017. An NOL can be carried forward indefinitely up to a limit of 80% of the tax payer's income in any year.

8. Alternative minimum tax for C corporations is abolished.

- The final bill also eliminates the corporate alternative minimum tax.

1031 Exchanges

Modified Tax Rates

20% Reduction for Pass-through

Carrybacks and NOLs

AMT for C corps

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