



## Federal Tax ADVISORY ■

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### Bonus Depreciation

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Anecdotal evidence suggests that investment bankers don't give any credit for bonus depreciation. Therefore, all the planning and structuring that has been done since late 2017 to shoehorn domestic tangible asset purchases into bonus depreciation has mostly been for real dollar purposes: to reduce actual tax paid, to create tax receivable agreement payments, and to perhaps show up the investment bankers by reducing the effective tax rate of traded corporations and affect stock prices after the fact.

But for every upside there can be a downside. The bonus depreciation property has no basis. It will not produce future depreciation, and its sale can produce 100% gain. That gain might be taxed at rates higher than the write-off-year rates, if rates change. In other words, bonus depreciation is a bird-in-the-hand benefit.

The main topic of interest in the proposed regulations is selling property eligible for bonus depreciation within the consolidated group and then deconsolidating the buyer, either through a spin or sale or other transaction. The proposed regulation confirms that the buyer can use the bonus depreciation outside the group, but must leave the group within 90 days. Some are complaining that that is not enough time to take the buyer public or otherwise deconsolidate it.

Bonus depreciation is a remarkably effective tool for taxpayers. Unexpected avenues to use it should be explored

For more information, please contact [Jack Cummings](#) at 919.862.2302.

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