

The Fast Lane for Fixed Assets: Bonus Depreciation and Section 179 After the One Big Beautiful Bill Act

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Over the past decade, the tax rules for recovering the cost of capital investments have shifted sharply. Before the Tax Cuts and Jobs Act (Public Law 115-97, commonly referred to as the “TCJA”), most fixed-asset costs generally were recovered over time through depreciation deductions. The TCJA accelerated that recovery by allowing 100% bonus depreciation for certain “qualified property” acquired and placed in service after September 27, 2017, and before January 1, 2023, and by expanding eligibility to certain used property.

The TCJA then phased bonus depreciation down over time (twenty percent per year from 2023, before being phased out completely by December 31, 2026), complicating long-term planning. Public Law 119-21 (informally known as the One Big Beautiful Bill Act, or “OBBBA”) reverses that trajectory by permanently reinstating 100% bonus depreciation for qualified property acquired after January 19, 2025, an update that can materially affect after-tax cash flows in private-company M&A transactions.

M&A Lens: Why Cost Recovery Can Drive Deal Structure

In private-company M&A, accelerated depreciation and expensing are more than compliance items – they can influence valuation, purchase price negotiations, and even deal structure. The threshold issue is basis: a taxable asset acquisition (or a stock acquisition treated as an asset deal for tax purposes under Code Sections 336(e), 336(g), or 338(h)(10)) can create a step-up in the tax basis of acquired assets. That stepped-up basis is what allows a buyer to claim meaningful first-year deductions under Code Sections 168(k) and 179.

In a taxable asset acquisition, the size of the buyer’s potential deductions is often driven by the purchase price allocation rules under Code Section 1060 (i.e., how the purchase price is allocated among the acquired asset classes, including goodwill). Timing matters as well: deductions generally depend on when acquired assets are placed in service, which may occur after closing for installed equipment, commissioned production lines, or implemented software. As a result, diligence and modeling commonly focus on (i) the asset mix and allocation support, (ii) the buyer’s projected taxable income and state conformity profile, and (iii) which elections improve the overall outcome.

In deal models, Code Section 168(k) is often the primary source of near-term tax value, but only if the transaction creates (or is treated as creating) new tax basis in the target’s assets. In a taxable asset acquisition (or a stock acquisition with a deemed-asset election), bonus depreciation generally allows the buyer to expense qualified property placed in service after closing (now permanently 100% for qualified property acquired after January 19, 2025), which can materially improve near-term cash flow.

The magnitude of the benefit is frequently driven by the Code Section 1060 allocation and related valuation support, because allocating more basis to eligible tangible personal property

increases the amount that can be recovered immediately. Bonus depreciation also differs from Code Section 179 in two deal-critical ways: it is not subject to an annual dollar cap, and it is not limited by taxable income, so it can create or increase losses when leverage, integration costs, or other deductions depress taxable income in year one. In a straight stock deal with no deemed asset treatment, however, Code Section 168(k) typically produces little to no incremental deduction because the buyer generally does not receive a stepped-up basis in the target's assets.

Code Section 179 can also be relevant in M&A, but it is typically a tactical, asset-by-asset election rather than the main driver of first-year deductions. Where the buyer obtains a basis step-up (most commonly in a taxable asset deal, or in a deemed asset acquisition), Code Section 179 allows immediate expensing of qualifying tangible personal property, subject to annual dollar limits, a phase-out once total additions exceed a threshold, and a taxable income limitation (with carryforwards).

For tax years beginning in 2026, Code Section 179 permits expensing up to \$2,560,000 of qualifying property, subject to a dollar-for-dollar phase-out once total qualifying additions exceed \$4,090,000 (fully phased out at approximately \$6,650,000). The deduction is also limited to taxable income from the active conduct of a trade or business, with any excess carried forward. In deals where taxable income will be constrained (for example, due to leverage or integration costs), buyers often reserve Code Section 179 for priority assets and rely on Code Section 168(k) for remaining eligible basis. And as with bonus depreciation, in a straight stock acquisition without deemed asset treatment, Code Section 179 generally does not create incremental deductions tied to the purchase price because the buyer does not receive a basis step-up in the target's assets.

Code Section 168(k) vs. Code Section 179: Practical Planning Considerations

For most buyers, the question is not "Which provision is better?" but "Which deductions will be usable, and when?" Once a deal creates a basis step-up, the optimal approach often depends on the Code Section 1060 allocation, projected taxable income (including interest limitation and net operating loss considerations), and state conformity.

- **Deal structure is the gatekeeper:** Code Sections 168(k) and 179 generally create meaningful incremental value only if the buyer gets (or elects into) a step-up in asset basis (taxable asset deal or deemed asset election). In a straight stock purchase with no deemed asset treatment, neither provision typically yields purchase-price-driven deductions.
- **Allocation and support drive the size of the benefit:** The Code Section 1060 allocation (and supporting valuation work) determines how much basis is assigned to eligible asset classes. More basis allocated to qualifying tangible personal property generally increases the amount available for immediate cost recovery.
- **Usability depends on limits:** Bonus depreciation under Code Section 168(k) is not capped annually and is not constrained by taxable income, so it can generate or increase losses. Code Section 179 is subject to annual dollar limits/phase-outs and a taxable income limitation (with carryforwards), which can reduce near-term value in low-income or highly leveraged deals.
- **Section 179 is more targeted; Section 168(k) is broader:** Code Section 179 is elected asset-by-asset, which can help manage taxable income and address state nonconformity selectively. Code Section 168(k) generally applies by default unless the buyer elects out for a class of property.
- **Ordering matters in models:** In general, Code Section 179 is applied first (to the extent elected and usable), then bonus depreciation under Code Section 168(k), and then regular depreciation. The ordering can affect limitations, carryforwards, and other attributes that may show up in purchase price negotiations.

- **Placed-in-service timing is a common friction point:** For both provisions, deductions generally depend on when assets are placed in service, which may occur after closing for installed equipment, commissioned production lines, or implemented software. Deal teams often plan for documentation and post-closing implementation, so the intended timing is supportable.
- **State conformity can change the answer:** Many states decouple from federal bonus depreciation (and may apply different Code Section 179 limits). A buyer's multistate footprint can make a purely federal approach suboptimal without a state-by-state view.

In practice, these rules reward early coordination. Buyers and sellers considering significant equipment purchases, software implementations, or production-facility projects often benefit from addressing eligibility and timing during diligence, aligning closing mechanics and post-closing implementation plans, and modeling elections (including electing out of bonus depreciation for certain classes) across federal and state filings.

Conclusion

OBDDA's permanent 100% bonus depreciation under Code Section 168(k), together with the expanded expensing available under Code Section 179, makes first-year cost recovery an increasingly important lever in M&A transactions, not only for post-closing tax compliance, but for valuation, purchase price negotiations, and deal structure. Capturing the benefit typically turns on fundamentals that must be addressed during the deal process: whether the transaction delivers a basis step-up (or a deemed asset result), how the purchase price allocation under Code Section 1060 is supported, and when key assets will be placed in service.

For buyers, the ability to obtain a basis step-up – and then claim immediate deductions under Code Sections 168(k) and 179 – can make an asset acquisition (or a deemed asset acquisition) significantly more valuable than a straight stock deal. That increased after-tax cash flow can support a higher bid, justify different pricing mechanics, or help offset other deal costs.

For sellers, this dynamic can create leverage in structuring negotiations. Even though sellers often prefer stock sales for tax and non-tax reasons, a buyer's potential basis step-up (and related first-year deductions) can translate into real economic value that may be shared through purchase price, allocation positions, or other deal terms. Recognizing when and how Code Sections 168(k) and 179 change the buyer's economics can help sellers evaluate whether an asset sale (or a deemed asset election) is "worth it" in exchange for improved overall deal consideration.

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