March 9, 2018

re: TAX CUTS AND JOBS ACT: DEPRECIATION

To Our Clients and Friends:

This is the fifth in a series of articles discussing select topics from the Tax Cuts and Jobs Act (Act). The Act has effectively lowered the cost of acquiring capital assets by making substantial changes to the income tax rules for bonus depreciation and other “cost recovery” deductions.

BONUS DEPRECIATION

Prior to the Act’s enactment, taxpayers were allowed to deduct 50% of the cost of most new tangible property in the year that it was placed in service (other than buildings and, with the exception of qualified improvement property, building improvements). Most new computer software was also eligible for the 50% deduction. This 50% bonus depreciation was to be phased out during the period beginning in 2018 and ending in 2020.

Subject to a few caveats, bonus depreciation for property placed in service and acquired after September 27, 2017 has been increased from 50% rate to 100%. (Appropriately, 100% bonus depreciation is also called “full expensing” or “100% expensing”.)

Additionally, under the Act the post-September 27, 2017 property eligible for bonus depreciation can be for either new or *used* property. Beginning in 2023, the 100% bonus depreciation rules will begin to phase-out.

CODE SECTION 179 EXPENSING

Before the Act, taxpayers could elect, on an asset-by-asset basis, to immediately deduct the entire cost of Section 179 property up to an annual limit of $500,000 adjusted for inflation. The adjusted limit was scheduled to be $520,000 for 2018. The 2018 Section 179 limit was scheduled to be reduced by one dollar for every dollar that the cost of all section 179 property placed in service by the taxpayer during the tax year exceeded $2,070,000.

The Act substitutes as the annual dollar limit $1 million (inflation-adjusted for tax years beginning *after* 2018) and $2.5 million as the phase-out threshold (and is similarly inflation-adjusted).

The Act provides for a far broader group of building improvements (other than residential rental buildings) which qualify for a Section 179 deduction including: (1) any building improvement other than elevators, escalators, building enlargements or changes to internal structural framework, and (2) building components that are roofs; heating, ventilation and air conditioning property; fire protection and alarm systems; or security systems.

Also, for tax years beginning after 2017, items (for example, non-affixed appliances) used in connection with residential buildings (but not the buildings or improvements to them) qualify as Section 179 property.

OTHER RULES FOR REAL PROPERTY DEPRECIATION

If placed in service after 2017, qualified improvement property, in addition to being eligible for bonus depreciation and being newly eligible as section 179 property, has a 15 year depreciation period (rather than the usual 39 year period for non-residential buildings). Apartment buildings and other residential rental buildings placed in service after 2017 generally continue to be depreciated over a 27.5 period.

VEHICLES

The Act triples the annual dollar caps on depreciation (and Code Sec. 179 expensing) of passenger automobiles and small vans and trucks.

COMPUTERS AND PERIPHERAL EQUIPMENT

Under the Act, computer or peripheral equipment placed in service after 2017 no longer has to pass a more-than-50%-qualified-business-use test to be eligible for Code Sec. 179 expensing.

ALTERNATIVE MINIMUM TAX

Property eligible for bonus depreciation continues to be exempt from the unfavorable depreciation adjustments that apply under the AMT.

Please feel free to contact us if you have any questions regarding the information presented in this letter.

Very truly yours,

Miller*Searles* LLC