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## **Prop. Reg. Section 1.168(k)-2(b)(3)(iii)(B)(1)**

Additional first year depreciation deduction for property acquired and placed in service after September 27, 2017

### (a) Scope and definitions.

(1) Scope. This section provides rules for determining the additional first year depreciation deduction allowable under section 168(k) for qualified property acquired and placed in service after September 27, 2017.

(2) Definitions. For purposes of this section-

(i) Act is the Tax Cuts and Jobs Act, Public Law 115-97 (131 Stat. 2054 (December 22, 2017)); and

(ii) Applicable percentage is the percentage provided in section 168(k)(6).

### (b) Qualified property.

(1) In general. Qualified property is depreciable property, as defined in §1.168(b)-1(a)(1), that meets all the following requirements in the first taxable year in which the property is subject to depreciation by the taxpayer whether or not depreciation deductions for the property are allowable:

(i) The requirements in §1.168(k)-2(b)(2) (description of qualified property);

(ii) The requirements in §1.168(k)-2(b)(3) (original use or used property acquisition requirements);

(iii) The requirements in §1.168(k)-2(b)(4) (placed-in-service date); and

(iv) The requirements in §1.168(k)-2(b)(5) (acquisition of property).

(2) Description of qualified property.

(i) In general. Depreciable property will meet the requirements of this paragraph (b)(2) if the property is-

(A) MACRS property, as defined in §1.168(b)-1(a)(2), that has a recovery period of 20 years or less. For purposes of this paragraph (b)(2)(i)(A) and section 168(k)(2)(A)(i)(I), the recovery period is determined in accordance with section 168(c) regardless of any election made by the taxpayer under section 168(g)(7). This paragraph (b)(2)(i)(A) includes the following MACRS property that is acquired by the taxpayer after September 27, 2017, and placed in service by the taxpayer after September 27, 2017, and before January 1, 2018:

(1) Qualified leasehold improvement property as defined in section 168(e)(6) as in effect on the day before amendment by section 13204(a)(1) of the Act;

(2) Qualified restaurant property, as defined in section 168(e)(7) as in effect on the day before amendment by section 13204(a)(1) of the Act, that is qualified improvement property as defined in §1.168(b)-1(a)(5)(i)(C) and (a)(5)(ii); and

(3) Qualified retail improvement property as defined in section 168(e)(8) as in effect on the day before amendment by section 13204(a)(1) of the Act;

(B) Computer software as defined in, and depreciated under, section 167(f)(1) and the regulations under section 167(f)(1);

(C) Water utility property as defined in section 168(e)(5) and depreciated under section 168;

(D) Qualified improvement property as defined in §1.168(b)-1(a)(5)(i)(C) and (a)(5)(ii) and depreciated under section 168;

(E) Qualified film or television production, as defined in section 181(d) and §1.181-3, for which a deduction would have been allowable under section 181 without regard to section 181(a)(2) and (g), or section 168(k);

(F) Qualified live theatrical production, as defined in section 181(e), for which a deduction would have been allowable under section 181 without regard to section 181(a)(2) and (g), or section 168(k); or

(G) A specified plant, as defined in section 168(k)(5)(B), for which the taxpayer has properly made an election to apply section 168(k)(5) for the taxable year in which the specified plant is planted, or grafted to a plant that has already been planted, by the taxpayer in the ordinary course of the taxpayer's farming business, as defined in section 263A(e)(4) (for further guidance, see paragraph (e) of this section).

(ii) Property not eligible for additional first year depreciation deduction. Depreciable property will not meet the requirements of this paragraph (b)(2) if the property is-

(A) Described in section 168(f) (for example, automobiles for which the taxpayer uses the optional business standard mileage rate);

(B) Required to be depreciated under the alternative depreciation system of section 168(g) pursuant to section 168(g)(1)(A), (B), (C), (D), (F), or (G), or other provisions of the Internal Revenue Code (for example, property described in section 263A(e)(2)(A) if the taxpayer or any related person, as defined in section 263A(e)(2)(B), has made an election under section 263A(d)(3), or property described in section 280F(b)(1));

(C) Included in any class of property for which the taxpayer elects not to deduct the additional first year depreciation (for further guidance, see paragraph (e) of this section);

(D) A specified plant that is placed in service by the taxpayer during the taxable year and for which the taxpayer made an election to apply section 168(k)(5) for a prior taxable year;

(E) Included in any class of property for which the taxpayer elects to apply section 168(k)(4). This paragraph (b)(2)(ii)(E) applies to property placed in service in any taxable year beginning before January 1, 2018;

(F) Described in section 168(k)(9)(A) and placed in service in any taxable year beginning after December 31, 2017; or

(G) Described in section 168(k)(9)(B) and placed in service in any taxable year beginning after December 31, 2017.

(3) Original use or used property acquisition requirements.

(i) In general. Depreciable property will meet the requirements of this paragraph (b)(3) if the property meets the original use requirements in paragraph (b)(3)(ii) of this section or if the property meets the used property acquisition requirements in paragraph (b)(3)(iii) of this section.

(ii) Original use.

(A) In general. Depreciable property will meet the requirements of this paragraph (b)(3)(ii) if the original use of the property commences with the taxpayer. Except as provided in paragraphs (b)(3)(ii)(B) and (C) of this section, original use means the first use to which the property is put, whether or not that use corresponds to the use of the property by the taxpayer. Additional capital expenditures incurred by a taxpayer to recondition or rebuild property acquired or owned by the taxpayer satisfy the original use requirement. However, the cost of reconditioned or rebuilt property does not satisfy the original use requirement (but may satisfy the used property acquisition requirements in paragraph (b)(3)(iii) of this section). The question of whether property is reconditioned or rebuilt property is a question of fact. For purposes of this paragraph (b)(3)(ii)(A), property that contains used parts will not be treated as reconditioned or rebuilt if the cost of the used parts is not more than 20 percent of the total cost of the property, whether acquired or self-constructed.

(B) Conversion to business or income-producing use.

(1) Personal use to business or income-producing use. If a taxpayer initially acquires new property for personal use and subsequently uses the property in the taxpayer's trade or business or for the taxpayer's production of income, the taxpayer is considered the original user of the property. If a person initially acquires new property for personal use and a taxpayer subsequently acquires the property from the person for use in the taxpayer's trade or business

or for the taxpayer's production of income, the taxpayer is not considered the original user of the property.

(2) Inventory to business or income-producing use. If a taxpayer initially acquires new property and holds the property primarily for sale to customers in the ordinary course of the taxpayer's business and subsequently withdraws the property from inventory and uses the property primarily in the taxpayer's trade or business or primarily for the taxpayer's production of income, the taxpayer is considered the original user of the property. If a person initially acquires new property and holds the property primarily for sale to customers in the ordinary course of the person's business and a taxpayer subsequently acquires the property from the person for use primarily in the taxpayer's trade or business or primarily for the taxpayer's production of income, the taxpayer is considered the original user of the property. For purposes of this paragraph (b)(3)(ii)(B)(2), the original use of the property by the taxpayer commences on the date on which the taxpayer uses the property primarily in the taxpayer's trade or business or primarily for the taxpayer's production of income.

(C) Fractional interests in property. If, in the ordinary course of its business, a taxpayer sells fractional interests in new property to third parties unrelated to the taxpayer, each first fractional owner of the property is considered as the original user of its proportionate share of the property. Furthermore, if the taxpayer uses the property before all of the fractional interests of the property are sold but the property continues to be held primarily for sale by the taxpayer, the original use of any fractional interest sold to a third party unrelated to the taxpayer subsequent to the taxpayer's use of the property begins with the first purchaser of that fractional interest. For purposes of this paragraph (b)(3)(ii)(C), persons are not related if they do not have a relationship described in section 267(b) or 707(b) and the regulations under section 267(b) or 707(b).

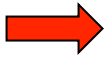
(iii) Used property acquisition requirements.

(A) In general. Depreciable property will meet the requirements of this paragraph (b)(3)(iii) if the acquisition of the used property meets the following requirements:

(1) Such property was not used by the taxpayer or a predecessor at any time prior to such acquisition;

(2) The acquisition of such property meets the requirements of section 179(d)(2)(A), (B), and (C), and §1.179-4(c)(1)(ii), (iii), and (iv), or 1.179-4(c)(2) (property is acquired by purchase); and

(3) The acquisition of such property meets the requirements of section 179(d)(3) and §1.179-4(d) (cost of property) (for further guidance regarding like-kind exchanges and involuntary conversions, see paragraph (f)(5) of this section).



- (B) Property was not used by the taxpayer at any time prior to acquisition.
- (1) In general. Solely for purposes of paragraph (b)(3)(iii)(A)(1) of this section, the property is treated as used by the taxpayer or a predecessor at any time prior to acquisition by the taxpayer or predecessor if the taxpayer or the predecessor had a depreciable interest in the property at any time prior to such acquisition, whether or not the taxpayer or the predecessor claimed depreciation deductions for the property. If a lessee has a depreciable interest in the improvements made to leased property and subsequently the lessee acquires the leased property of which the improvements are a part, the unadjusted depreciable basis, as defined in §1.168(b)-1(a)(3), of the acquired property that is eligible for the additional first year depreciation deduction, assuming all other requirements are met, must not include the unadjusted depreciable basis attributable to the improvements.
- (2) Taxpayer has a depreciable interest in a portion of the property. If a taxpayer initially acquires a depreciable interest in a portion of the property and subsequently acquires a depreciable interest in an additional portion of the same property, such additional depreciable interest is not treated as used by the taxpayer at any time prior to its acquisition by the taxpayer. This paragraph (b)(3)(iii)(B)(2) does not apply if the taxpayer or a predecessor previously had a depreciable interest in the subsequently acquired additional portion. For purposes of this paragraph (b)(3)(iii)(B)(2), a portion of the property is considered to be the percentage interest in the property. If a taxpayer holds a depreciable interest in a portion of the property, sells that portion or a part of that portion, and subsequently acquires a depreciable interest in another portion of the same property, the taxpayer will be treated as previously having a depreciable interest in the property up to the amount of the portion for which the taxpayer held a depreciable interest in the property before the sale.
- (3) Application to members of a consolidated group.
- (i) Same consolidated group. Solely for purposes of applying paragraph (b)(3)(iii)(A)(1) of this section, if a member of a consolidated group, as defined in §1.1502-1(h), acquires depreciable property in which the consolidated group had a depreciable interest at any time prior to the member's acquisition of the property, the member will be treated as having a depreciable interest in the property prior to the acquisition. For purposes of this paragraph (b)(3)(iii)(B)(3)(i), a consolidated group will be treated as having a depreciable interest in property during the time any current or previous member of the group had a depreciable interest in the property while a member of the group.

(ii) Certain acquisitions pursuant to a series of related transactions. Solely for purposes of applying paragraph (b)(3)(iii)(A)(1) of this section, if a series of related transactions includes one or more transactions in which property is acquired by a member of a consolidated group and one or more transactions in which a corporation that had a depreciable interest in the property becomes a member of the group, the member that acquires the property will be treated as having a depreciable interest in the property prior to the time of its acquisition.

(ii) Time for testing membership. Solely for purposes of applying paragraph (b)(3)(iii)(B)(3)(i) and (ii) of this section, if a series of related transactions includes one or more transactions in which property is acquired by a member of a consolidated group and one or more transactions in which the transferee of the property ceases to be a member of a consolidated group, whether the taxpayer is a member of a consolidated group is tested immediately after the last transaction in the series.

(C) Special rules for a series of related transactions. Solely for purposes of section 168(k)(2)(E)(ii) and paragraph (b)(3)(iii)(A) of this section, in the case of a series of related transactions (for example, a series of related transactions including the transfer of a partnership interest, the transfer of partnership assets, or the disposition of property and the disposition, directly or indirectly, of the transferor or transferee of the property)-

(1) The property is treated as directly transferred from the original transferor to the ultimate transferee; and

(2) The relation between the original transferor and the ultimate transferee is tested immediately after the last transaction in the series.

(iv) Application to partnerships.

(A) Section 704(c) remedial allocations. Remedial allocations under section 704(c) do not satisfy the requirements of paragraph (b)(3) of this section. See §1.704-3(d)(2).

(B) Basis determined under section 732. Any basis of distributed property determined under section 732 does not satisfy the requirements of paragraph (b)(3) of this section.

(C) Section 734(b) adjustments. Any increase in basis of depreciable property under section 734(b) does not satisfy the requirements of paragraph (b)(3) of this section.

(D) Section 743(b) adjustments.

(1) In general. For purposes of determining whether the transfer of a partnership interest meets the requirements of paragraph (b)(3)(iii)(A) of this section, each partner is treated as having a depreciable interest in the partner's proportionate share of partnership property. Any increase in basis of depreciable property under section 743(b) satisfies the requirements of paragraph (b)(3)(iii)(A) of this section if-

(i) At any time prior to the transfer of the partnership interest that gave rise to such basis increase, neither the transferee partner nor a predecessor of the transferee partner had any depreciable interest in the portion of the property deemed acquired to which the section 743(b) adjustment is allocated under section 755 and the regulations under section 755; and

(ii) The transfer of the partnership interest that gave rise to such basis increase satisfies the requirements of paragraphs (b)(3)(iii)(A)(2) and (3) of this section.

(2) Relatedness tested at partner level. Solely for purposes of paragraph (b)(3)(iv)(D)(1)(ii) of this section, whether the parties are related or unrelated is determined by comparing the transferor and the transferee of the transferred partnership interest.

(v) Syndication transaction. If a lessor has a depreciable interest in the property and the lessor and any predecessor did not previously have a depreciable interest in the property, and the property is sold by the lessor or any subsequent purchaser within three months after the date the property was originally placed in service by the lessor (or, in the case of multiple units of property subject to the same lease, within three months after the date the final unit is placed in service, so long as the period between the time the first unit is placed in service and the time the last unit is placed in service does not exceed 12 months), and the user of the property after the last sale during the three-month period remains the same as when the property was originally placed in service by the lessor, the purchaser of the property in the last sale during the three-month period is considered the taxpayer that acquired the property for purposes of applying paragraphs (b)(3)(ii) and (iii) of this section.

(vi) Examples. The application of this paragraph (b)(3) is illustrated by the following examples. Unless the facts specifically indicate otherwise, assume that the parties are not related within the meaning of section 179(d)(2)(A) or (B) and §1.179-4(c), no corporation is a member of a consolidated or controlled group, and the parties do not have predecessors:

Example (1).

(i) On August 1, 2018, A buys a new machine for \$35,000 from an unrelated party for use in A's trade or business. On July 1, 2020, B buys that machine from A for \$20,000 for use in B's trade or business. On October 1, 2020, B makes a \$5,000 capital expenditure to recondition the machine. B did not have any depreciable interest in the machine before B acquired it on July 1, 2020.

(ii) A's purchase price of \$35,000 satisfies the original use requirement of paragraph (b)(3)(ii) of this section and, assuming all other requirements are met, qualifies for the additional first year depreciation deduction.

(iii) B's purchase price of \$20,000 does not satisfy the original use requirement of paragraph (b)(3)(ii) of this section, but it does satisfy the used property acquisition requirements of paragraph (b)(3)(iii) of this section. Assuming all other requirements are met, the \$20,000 purchase price qualifies for the additional first year depreciation deduction. Further, B's \$5,000 expenditure satisfies the original use requirement of paragraph (b)(3)(ii) of this section and, assuming all other requirements are met, qualifies for the additional first year depreciation deduction, regardless of whether the \$5,000 is added to the basis of the machine or is capitalized as a separate asset.

Example (2). C, an automobile dealer, uses some of its automobiles as demonstrators in order to show them to prospective customers. The automobiles that are used as demonstrators by C are held by C primarily for sale to customers in the ordinary course of its business. On November 1, 2017, D buys from C an automobile that was previously used as a demonstrator by C. D will use the automobile solely for business purposes. The use of the automobile by C as a demonstrator does not constitute a "use" for purposes of the original use requirement and, therefore, D will be considered the original user of the automobile for purposes of paragraph (b)(3)(ii) of this section. Assuming all other requirements are met, D's purchase price of the automobile qualifies for the additional first year depreciation deduction for D, subject to any limitation under section 280F.

Example (3). On April 1, 2015, E acquires a horse to be used in E's thoroughbred racing business. On October 1, 2018, F buys the horse from E and will use the horse in F's horse breeding business. F did not have any depreciable interest in the horse before F acquired it on October 1, 2018. The use of the horse by E in its racing business prevents F from satisfying the original use requirement of paragraph (b)(3)(ii) of this section. However, F's acquisition of the horse satisfies the used property acquisition requirements of paragraph (b)(3)(iii) of this section. Assuming all other requirements are met, F's purchase price of the horse qualifies for the additional first year depreciation deduction for F.

Example (4). In the ordinary course of its business, G sells fractional interests in its aircraft to unrelated parties. G holds out for sale eight equal fractional interests in an aircraft. On October 1, 2017, G sells five of the eight fractional interests in the aircraft to H and H begins to use its proportionate share of the aircraft immediately upon purchase. On February 1, 2018, G sells to I the remaining unsold  $\frac{3}{8}$  fractional interests in the aircraft. H is considered the original user as to its  $\frac{5}{8}$  fractional interest in the aircraft and I is considered the original user as to its  $\frac{3}{8}$  fractional interest in the aircraft. Thus, assuming all other requirements are met, H's purchase price for its  $\frac{5}{8}$  fractional interest in the aircraft qualifies for the additional first year depreciation deduction and I's purchase price for its  $\frac{3}{8}$  fractional interest in the aircraft qualifies for the additional first year depreciation deduction.



Example (5). On September 1, 2017, J, an equipment dealer, buys new tractors that are held by J primarily for sale to customers in the ordinary course of its business. On October 15, 2017, J withdraws the tractors from inventory and begins to use the tractors primarily for producing rental income. The holding of the tractors by J as inventory does not constitute a "use" for purposes of the original use requirement and, therefore, the original use of the tractors commences with J on October 15, 2017, for purposes of paragraph (b)(3)(ii) of this section. However, the tractors are not eligible for the 100-percent additional first year depreciation deduction because J acquired the tractors before September 28, 2017.

Example (6). On September 1, 2017, J, an equipment dealer, buys new tractors that are held by J primarily for sale to customers in the ordinary course of its business. On October 15, 2017, J withdraws the tractors from inventory and begins to use the tractors primarily for producing rental income. The holding of the tractors by J as inventory does not constitute a "use" for purposes of the original use requirement and, therefore, the original use of the tractors commences with J on October 15, 2017, for purposes of paragraph (b)(3)(ii) of this section. However, the tractors are not eligible for the 100-percent additional first year depreciation deduction because J acquired the tractors before September 28, 2017.

Example (7). The facts are the same as in Example 6 of this paragraph (b)(3)(vi), except that K and L are related parties within the meaning of section 179(d)(2)(A) or (B) and §1.179-4(c). As a result, L's acquisition of Machine #1 does not satisfy the used property acquisition requirements of paragraph (b)(3)(iii) of this section. Thus, Machine #1 is not eligible for the additional first year depreciation deduction for L.

Example (8). The facts are the same as in Example 6 of this paragraph (b)(3)(vi), except L incurred capital expenditures of \$5,000 to improve Machine #1 on September 5, 2017, and has a depreciable interest in such improvements. L's purchase price of \$5,000 for the improvements to Machine #1 satisfies the original use requirement of §1.168(k)-1(b)(3)(i) and, assuming all other requirements are met, qualifies for the 50-percent additional first year depreciation deduction. Because L had a depreciable interest only in the improvements to Machine #1, L's acquisition of Machine #1, excluding L's improvements to such machine, satisfies the used property acquisition requirements of paragraph (b)(3)(iii) of this section. Assuming all other requirements are met, L's unadjusted depreciable basis of Machine #1, excluding the amount of such unadjusted depreciable basis attributable to L's improvements to Machine #1, qualifies for the 100-percent additional first year depreciation deduction.

Example (9). During 2016, M and N purchased used equipment for use in their trades or businesses and each own a 50 percent interest in such equipment. Prior to this acquisition, M and N did not have any depreciable interest in the equipment. Assume this ownership arrangement is not a partnership. During 2018, N enters into a written binding contract with M to buy M's interest in the equipment. Pursuant to paragraph (b)(3)(iii)(B)(2) of this section, N is not treated as using M's interest in the equipment prior to N's acquisition of M's interest. As a

result, N's acquisition of M's interest in the equipment satisfies the used property acquisition requirements of paragraph (b)(3)(iii) of this section. Assuming all other requirements are met, N's purchase price of M's interest in the equipment qualifies for the additional first year depreciation deduction for N.

Example (10). The facts are the same as in Example 9 of this paragraph (b)(3)(vi), except N had a 100 percent depreciable interest in the equipment prior to 2016 and M purchased from N a 50 percent interest in the equipment during 2016. As a result, N's acquisition of M's interest in the equipment during 2018 does not satisfy the used property acquisition requirements of paragraphs (b)(3)(iii)(A)(1) and (b)(3)(iii)(B)(1) of this section. Paragraph (b)(3)(iii)(B)(2) of this section does not apply because N initially acquired a 100 percent depreciable interest in the equipment. Accordingly, N's purchase price of M's interest in the equipment during 2018 does not qualify for the additional first year depreciation deduction for N.

Example (11). The facts are the same as in Example 9 of this paragraph (b)(3)(vi), except during 2018, M also enters into a written binding contract with N to buy N's interest in the equipment. Pursuant to paragraph (b)(3)(iii)(B)(2) of this section, both M and N are treated as previously having a depreciable interest in a 50-percent portion of the equipment. Accordingly, the acquisition by M of N's 50-percent interest and the acquisition by N of M's 50-percent interest in the equipment during 2018 do not qualify for the additional first year depreciation deduction.

Example (12). O and P form an equal partnership, OP, in 2018. O contributes cash to OP, and P contributes equipment to OP. OP's basis in the equipment contributed by P is determined under section 723. Because OP's basis in such equipment is determined in whole or in part by reference to P's adjusted basis in such equipment, OP's acquisition of such equipment does not satisfy section 179(d)(2)(C) and §1.179-4(c)(1)(iv) and, thus, does not satisfy the used property acquisition requirements of paragraph (b)(3)(iii) of this section. Accordingly, OP's acquisition of such equipment is not eligible for the additional first year depreciation deduction.

Example (13). Q, R, and S form an equal partnership, QRS, in 2019. Each partner contributes \$100, which QRS uses to purchase a retail motor fuels outlet for \$300. Assume this retail motor fuels outlet is QRS' only property and is qualified property under section 168(k)(2)(A)(i). QRS makes an election not to deduct the additional first year depreciation for all qualified property placed in service during 2019. QRS has a section 754 election in effect. QRS claimed depreciation of \$15 for the retail motor fuels outlet for 2019. During 2020, when the retail motor fuels outlet's fair market value is \$600, Q sells all of his partnership interest to T in a fully taxable transaction for \$200. T never previously had a depreciable interest in the retail motor fuels outlet. T takes an outside basis of \$200 in the partnership interest previously owned by Q. T's share of the partnership's previously taxed capital is \$95. Accordingly, T's section 743(b) adjustment is \$105 and is allocated entirely to the retail motor fuels outlet under section 755. Assuming all other requirements are met, T's section 743(b) adjustment qualifies for the additional first year depreciation deduction.

Example (14). The facts are the same as in Example 13 of this paragraph (b)(3)(vi), except that Q sells his partnership interest to U, a related person within the meaning of section 179(d)(2)(A) or (B) and §1.179-4(c). U's section 743(b) adjustment does not qualify for the additional first year depreciation deduction.

Example (15). The facts are the same as in Example 13 of this paragraph (b)(3)(vi), except that Q dies and his partnership interest is transferred to V. V takes a basis in Q's partnership interest under section 1014. As a result, section 179(d)(2)(C)(ii) and §1.179-4(c)(1)(iv) are not satisfied, and V's section 743(b) adjustment does not qualify for the additional first year depreciation deduction.

Example (16). The facts are the same as in Example 13 of this paragraph (b)(3)(vi), except that QRS purchased the retail motor fuels outlet from T prior to T purchasing Q's partnership interest in QRS. T had a depreciable interest in such retail motor fuels outlet. Because T had a depreciable interest in the retail motor fuels outlet before T acquired its interest in QRS, T's section 743(b) adjustment does not qualify for the additional first year depreciation deduction.

Example (17). In November 2017, AA Corporation purchases a used drill press costing \$10,000 and is granted a trade-in allowance of \$2,000 on its old drill press. The used drill press is qualified property under section 168(k)(2)(A)(i). The old drill press had a basis of \$1,200. Under sections 1012 and 1031(d), the basis of the used drill press is \$9,200 (\$1,200 basis of old drill press plus cash expended of \$8,000). Only \$8,000 of the basis of the used drill press satisfies the requirements of section 179(d)(3) and §1.179-4(d) and, thus, satisfies the used property acquisition requirement of paragraph (b)(3)(iii) of this section. The remaining \$1,200 of the basis of the used drill press does not satisfy the requirements of section 179(d)(3) and §1.179-4(d) because it is determined by reference to the old drill press. Accordingly, assuming all other requirements are met, only \$8,000 of the basis of the used drill press is eligible for the additional first year depreciation deduction.

Example (18). In a series of related transactions, a father sells a machine to an unrelated party who sells the machine to the father's daughter for use in the daughter's trade or business. Pursuant to paragraph (b)(3)(iii)(C) of this section, the transfers of the machine are treated as a direct transfer from the father to his daughter and the time to test whether the parties are related is immediately after the last transaction in the series. Because the father and the daughter are related parties within the meaning of section 179(d)(2)(A) and §1.179-4(c)(ii), the daughter's acquisition of the machine does not satisfy the used property acquisition requirements of paragraph (b)(3)(iii) of this section. Further, because the transfers of the machine are treated as a direct transfer from the father to his daughter, the unrelated party's acquisition of the machine is not eligible for the additional first year depreciation deduction.

Example (19). Parent owns all of the stock of B Corporation and C Corporation. Parent, B Corporation, and C Corporation are all members of the Parent consolidated group. C Corporation has a depreciable interest in Equipment #1. During 2018, C Corporation sells Equipment #1 to B Corporation. Prior to this acquisition, B Corporation never had a depreciable interest in Equipment #1. B Corporation's acquisition of Equipment #1 does not satisfy the used property

acquisition requirements of paragraph (b)(3)(iii) of this section for two reasons. First, B Corporation and C Corporation are related parties within the meaning of section 179(d)(2)(B) and §1.179-4(c)(2)(iii). Second, pursuant to paragraph (b)(3)(iii)(B)(3)(i) of this section, B Corporation is treated as previously having a depreciable interest in Equipment #1 because B Corporation is a member of the Parent consolidated group and C Corporation, while a member of the Parent consolidated group, had a depreciable interest in Equipment #1. Accordingly, B Corporation's acquisition of Equipment #1 is not eligible for the additional first year depreciation deduction.

Example (20).

(i) Parent owns all of the stock of D Corporation and E Corporation. Parent, D Corporation, and E Corporation are all members of the Parent consolidated group. D Corporation has a depreciable interest in Equipment #2. No other members of the Parent consolidated group ever had a depreciable interest in Equipment #2. During 2018, D Corporation sells Equipment #2 to BA, a person not related, within the meaning of section 179(d)(2)(A) or (B) and §1.179-4(c), to any member of the Parent consolidated group. In an unrelated transaction during 2019, E Corporation acquires Equipment #2 from BA or another person not related to any member of the Parent consolidated group within the meaning of section 179(d)(2)(A) or (B) and §1.179-4(c).

(ii) Pursuant to paragraph (b)(3)(iii)(B)(3)(i) of this section, E Corporation is treated as previously having a depreciable interest in Equipment #2 because E Corporation is a member of the Parent consolidated group, and D Corporation, while a member of the Parent consolidated group, had a depreciable interest in Equipment #2. As a result, E Corporation's acquisition of Equipment #2 does not satisfy the used property acquisition requirements of paragraph (b)(3)(iii) of this section. Thus, E Corporation's acquisition of Equipment #2 is not eligible for the additional first year depreciation deduction. The results would be the same if D Corporation had ceased to be a member of the Parent consolidated group prior to E Corporation's acquisition of Equipment #2.

Example (21).

(i) Parent owns all of the stock of F Corporation and G Corporation. Parent, F Corporation, and G Corporation are all members of the Parent consolidated group. G Corporation has a depreciable interest in Equipment #3. No other members of the Parent consolidated group ever had a depreciable interest in Equipment #3. X Corporation is the common parent of a consolidated group and is not related, within the meaning of section 179(d)(2)(A) or (B) and §1.179-4(c), to any member of the Parent consolidated group. No member of the X consolidated group ever had a depreciable interest in Equipment #3. In a series of related transactions, G Corporation sells Equipment #3 to F Corporation, and Parent sells all of the stock of F Corporation to X Corporation.

(ii) F Corporation was a member of the Parent consolidated group at the time it acquired Equipment #3 from G Corporation, another member of the group. Paragraph (b)(3)(iii)(B)(3)(i) of this section generally treats each member of a consolidated group as having a depreciable interest in property during the time any member of the group had a depreciable interest in such property while a

member of the group. Nevertheless, because there is a series of related transactions that includes the acquisition of Equipment #3 and a transaction in which F Corporation, the transferee of the property, leaves the Parent consolidated group and joins the X consolidated group, the time to test whether F Corporation is a member of the Parent consolidated group for purposes of paragraph (b)(3)(iii)(B)(3)(i) of this section is met immediately after the last transaction in the series, that is, the sale of the F Corporation stock to X Corporation. See paragraph (b)(3)(iii)(B)(3)(iii) of this section. Accordingly, because F Corporation is not a member of the Parent consolidated group after the last transaction of the series, F Corporation is not treated as previously having a depreciable interest in Equipment #3 by virtue of G Corporation's depreciable interest in Equipment #3 under paragraph (b)(3)(iii)(B)(3)(i) of this section.

(iii) After the sale of the F Corporation stock to X Corporation, F Corporation is a member of the X consolidated group. Because no member of the X consolidated group previously had a depreciable interest in Equipment #3, F Corporation is not treated as previously having a depreciable interest in Equipment #3 under paragraph (b)(3)(iii)(B)(3)(i) of this section.

(iv) Because relatedness is tested after F Corporation leaves the Parent consolidated group, F Corporation and G Corporation are not related within the meaning of section 179(d)(2)(A) or (B) and §1.179-4(c). Accordingly, F Corporation's acquisition of Equipment #3 satisfies the used property acquisition requirements of paragraph (b)(3)(iii)(A)(1) of this section and, assuming all other requirements are met, F Corporation's acquisition of Equipment #3 is eligible for the additional first year depreciation deduction.

Example (22).

(i) H Corporation, which is not a member of a consolidated group, has a depreciable interest in Equipment #4. Parent owns all the stock of I Corporation, and Parent and I Corporation are members of the Parent consolidated group. No member of the Parent consolidated group ever had a depreciable interest in Equipment #4. Neither Parent nor I Corporation is related to H Corporation within the meaning of section 179(d)(2)(A) or (B) and §1.179-4(c). During 2018, H Corporation sells Equipment #4 to a person not related to H Corporation, Parent, or I Corporation within the meaning of section 179(d)(2)(A) or (B) and §1.179-4(c). In a series of related transactions, during 2019, Parent acquires all of the stock of H Corporation, and I Corporation purchases Equipment #4 from an unrelated person.

(ii) In a series of related transactions, H Corporation became a member of the Parent consolidated group, and I Corporation, also a member of the Parent consolidated group, acquired Equipment #4. Because H Corporation previously had a depreciable interest in Equipment #4, pursuant to paragraph (b)(3)(iii)(B)(3)(ii) of this section, I Corporation is treated as having a depreciable interest in Equipment #4. As a result, I Corporation's acquisition of Equipment #4 does not satisfy the used property acquisition requirements of paragraph (b)(3)(iii) of this section. Accordingly, I Corporation's acquisition of Equipment #4 is not eligible for the additional first year depreciation deduction.

Example (23).

(i) J Corporation, K Corporation, and L Corporation are unrelated parties within the meaning of section 179(d)(2)(A) or (B) and §1.179-4(c). None of J Corporation, K Corporation, and L Corporation is a member of a consolidated group. J Corporation has a depreciable interest in Equipment #5. During 2018, J Corporation sells Equipment #5 to K Corporation. During 2020, J Corporation merges into L Corporation in a transaction described in section 368(a)(1)(A). In 2021, L Corporation acquires Equipment #5 from K Corporation.

(ii) Because J Corporation is the predecessor of L Corporation and J Corporation previously had a depreciable interest in Equipment #5, L Corporation's acquisition of Equipment #5 does not satisfy paragraphs (b)(3)(iii)(A)(1) and (b)(3)(iii)(B)(1) of this section and, thus, does not satisfy the used property acquisition requirements of paragraph (b)(3)(iii) of this section. Accordingly, L Corporation's acquisition of Equipment #5 is not eligible for the additional first year depreciation deduction.

Example (24).

(i) M Corporation acquires and places in service a used airplane on March 26, 2018. Prior to this acquisition, M Corporation never had a depreciable interest in this airplane. On March 26, 2018, M Corporation also leases the used airplane to N Corporation, an airline company. On May 27, 2018, M Corporation sells to O Corporation the used airplane subject to the lease with N Corporation. M Corporation and O Corporation are related parties within the meaning of section 179(d)(2)(A) or (B) and §1.179-4(c). As of May 27, 2018, N Corporation is still the lessee of the used airplane. Prior to this acquisition, O Corporation never had a depreciable interest in the used airplane. O Corporation is a calendar-year taxpayer.

(ii) The sale transaction of May 27, 2018, satisfies the requirements of paragraph (b)(3)(v) of this section. As a result, O Corporation is considered the taxpayer that acquired the used airplane for purposes of applying the used property acquisition requirements in paragraph (b)(3)(iii) of this section. In applying these rules, the fact that M Corporation and O Corporation are related parties is not taken into account because O Corporation, not M Corporation, is treated as acquiring the used airplane. Further, pursuant to paragraph (b)(4)(iv) of this section, the used airplane is treated as originally placed in service by O Corporation on May 27, 2018. Because O Corporation never had a depreciable interest in the used airplane and assuming all other requirements are met, O Corporation's purchase price of the used airplane qualifies for the 100-percent additional first year depreciation deduction for O Corporation.

Example (25).

(i) The facts are the same as in Example 24 of this paragraph (b)(3)(vi). Additionally, on September 5, 2018, O Corporation sells to P Corporation the used airplane subject to the lease with N Corporation. Prior to this acquisition, P Corporation never had a depreciable interest in the used airplane.

(ii) Because O Corporation, a calendar-year taxpayer, placed in service and disposed of the used airplane during 2018, the used airplane is not eligible for the

additional first year depreciation deduction for O Corporation pursuant to paragraph (f)(1)(i) of this section.

(iii) Because P Corporation never had a depreciable interest in the used airplane and assuming all other requirements are met, P Corporation's purchase price of the used airplane qualifies for the 100-percent additional first year depreciation deduction for P Corporation.

(4) Placed-in-service date.

(i) In general. Depreciable property will meet the requirements of this paragraph (b)(4) if the property is placed in service by the taxpayer for use in its trade or business or for production of income after September 27, 2017; and, except as provided in paragraphs (b)(2)(i)(A) and (D) of this section, before January 1, 2027, or, in the case of property described in section 168(k)(2)(B) or (C), before January 1, 2028.

(ii) Specified plant. If the taxpayer has properly made an election to apply section 168(k)(5) for a specified plant, the requirements of this paragraph (b)(4) are satisfied only if the specified plant is planted before January 1, 2027, or is grafted before January 1, 2027, to a plant that has already been planted, by the taxpayer in the ordinary course of the taxpayer's farming business, as defined in section 263A(e)(4).

(iii) Qualified film, television, or live theatrical production.

(A) For purposes of this paragraph (b)(4), a qualified film or television production is treated as placed in service at the time of initial release or broadcast as defined under §1.181-1(a)(7).

(B) For purposes of this paragraph (b)(4), a qualified live theatrical production is treated as placed in service at the time of the initial live staged performance. Solely for purposes of this paragraph, the term initial live staged performance means the first commercial exhibition of a production to an audience. However, the term initial live staged performance does not include limited exhibition, prior to commercial exhibition to general audiences, if the limited exhibition is primarily for purposes of publicity, determining the need for further production activity, or raising funds for the completion of production. For example, an initial live staged performance does not include a preview of the production if the preview is primarily to determine the need for further production activity.

(iv) Syndication transaction. If a lessor has a depreciable interest in the property and the lessor and any predecessor did not previously have a depreciable interest in the property, and the property is sold by the lessor or any subsequent purchaser within three months after the date the property was originally placed in service by the lessor (or, in the case of multiple units of property subject to the same lease, within three months after the date the final unit is placed in service, so long as the period between the time the first unit is placed in service and the time the last unit is placed in service does not exceed 12 months), and the user of the property after

the last sale during this three-month period remains the same as when the property was originally placed in service by the lessor, the property is treated as originally placed in service by the purchaser of the property in the last sale during the three-month period but not earlier than the date of the last sale.

(v) Technical termination of a partnership. For purposes of this paragraph (b)(4), in the case of a technical termination of a partnership under section 708(b)(1)(B) occurring in a taxable year beginning before January 1, 2018, qualified property placed in service by the terminated partnership during the taxable year of termination is treated as originally placed in service by the new partnership on the date the qualified property is contributed by the terminated partnership to the new partnership.

(vi) Section 168(i)(7) transactions. For purposes of this paragraph (b)(4), if qualified property is transferred in a transaction described in section 168(i)(7) in the same taxable year that the qualified property is placed in service by the transferor, the transferred property is treated as originally placed in service on the date the transferor placed in service the qualified property. In the case of multiple transfers of qualified property in multiple transactions described in section 168(i)(7) in the same taxable year, the placed-in-service date of the transferred property is deemed to be the date on which the first transferor placed in service the qualified property.

(5) Acquisition of property.

(i) In general. This paragraph (b)(5) provides rules for the acquisition requirements in section 13201(h) of the Act. These rules apply to all property, including self-constructed property or property described in section 168(k)(2)(B) or (C).

(ii) Acquisition date. Except as provided in paragraph (b)(5)(vi) of this section, depreciable property will meet the requirements of this paragraph (b)(5) if the property is acquired by the taxpayer after September 27, 2017, or is acquired by the taxpayer pursuant to a written binding contract entered into by the taxpayer after September 27, 2017. Property that is manufactured, constructed, or produced for the taxpayer by another person under a written binding contract that is entered into prior to the manufacture, construction, or production of the property for use by the taxpayer in its trade or business or for its production of income is acquired pursuant to a written binding contract. If a taxpayer acquired the property pursuant to a written binding contract and such contract states the date on which the contract was entered into and a closing date, delivery date, or other similar date, the date on which the contract was entered into is the date the taxpayer acquired the property. See paragraph (b)(5)(v) of this section for when a qualified film, television, or live theatrical production is treated as acquired for purposes of this paragraph (b)(5).

(iii) Definition of binding contract.

(A) In general. A contract is binding only if it is enforceable under State law against the taxpayer or a predecessor, and does not limit damages to a specified amount (for example, by use of a liquidated damages provision).



For this purpose, a contractual provision that limits damages to an amount equal to at least 5 percent of the total contract price will not be treated as limiting damages to a specified amount. In determining whether a contract limits damages, the fact that there may be little or no damages because the contract price does not significantly differ from fair market value will not be taken into account. For example, if a taxpayer entered into an irrevocable written contract to purchase an asset for \$100 and the contract did not contain a provision for liquidated damages, the contract is considered binding notwithstanding the fact that the asset had a fair market value of \$99 and under local law the seller would only recover the difference in the event the purchaser failed to perform. If the contract provided for a full refund of the purchase price in lieu of any damages allowable by law in the event of breach or cancellation, the contract is not considered binding.

(B) Conditions. A contract is binding even if subject to a condition, as long as the condition is not within the control of either party or a predecessor. A contract will continue to be binding if the parties make insubstantial changes in its terms and conditions or if any term is to be determined by a standard beyond the control of either party. A contract that imposes significant obligations on the taxpayer or a predecessor will be treated as binding notwithstanding the fact that certain terms remain to be negotiated by the parties to the contract.

(C) Options. An option to either acquire or sell property is not a binding contract.

(D) Letter of intent. A letter of intent for an acquisition is not a binding contract.

(E) Supply agreements. A binding contract does not include a supply or similar agreement if the amount and design specifications of the property to be purchased have not been specified. The contract will not be a binding contract for the property to be purchased until both the amount and the design specifications are specified. For example, if the provisions of a supply or similar agreement state the design specifications of the property to be purchased, a purchase order under the agreement for a specific number of assets is treated as a binding contract.

(F) Components. A binding contract to acquire one or more components of a larger property will not be treated as a binding contract to acquire the larger property. If a binding contract to acquire the component does not satisfy the requirements of this paragraph (b)(5), the component does not qualify for the additional first year depreciation deduction.

(iv) Self-constructed property.

(A) In general. If a taxpayer manufactures, constructs, or produces property for use by the taxpayer in its trade or business or for its production of income, the acquisition rules in paragraph (b)(5)(ii) of this section are treated as met for the

property if the taxpayer begins manufacturing, constructing, or producing the property after September 27, 2017. This paragraph (b)(5)(iv) does not apply to property that is manufactured, constructed, or produced for the taxpayer by another person under a written binding contract that is entered into prior to the manufacture, construction, or production of the property for use by the taxpayer in its trade or business or for its production of income (for further guidance, see paragraphs (b)(5)(ii) and (iii) of this section).

(B) When does manufacture, construction, or production begin.

(1) In general. For purposes of paragraph (b)(5)(iv)(A) of this section, manufacture, construction, or production of property begins when physical work of a significant nature begins. Physical work does not include preliminary activities such as planning or designing, securing financing, exploring, or researching. The determination of when physical work of a significant nature begins depends on the facts and circumstances. For example, if the taxpayer constructs a retail motor fuels outlet on-site for use by the taxpayer in its trade or business, construction begins when physical work of a significant nature commences at the site by the taxpayer; that is, when work begins on the excavation for footings, pouring the pads for the outlet, or the driving of foundation pilings into the ground. Preliminary work, such as clearing a site, test drilling to determine soil condition, or excavation to change the contour of the land (as distinguished from excavation for footings) does not constitute the beginning of construction. However, if the taxpayer assembles a retail motor fuels outlet on-site from modular units manufactured off-site by the taxpayer and delivered to the site where the outlet will be used, manufacturing begins when physical work of a significant nature commences at the off-site location by the taxpayer.

(2) Safe harbor. For purposes of paragraph (b)(5)(iv)(B)(1) of this section, a taxpayer may choose to determine when physical work of a significant nature begins in accordance with this paragraph (b)(5)(iv)(B)(2). Physical work of a significant nature will be considered to begin at the time the taxpayer incurs (in the case of an accrual basis taxpayer) or pays (in the case of a cash basis taxpayer) more than 10 percent of the total cost of the property (excluding the cost of any land and preliminary activities such as planning or designing, securing financing, exploring, or researching). A taxpayer chooses to apply this paragraph (b)(5)(iv)(B)(2) by filing a federal income tax return for the placed-in-service year of the property that determines when physical work of a significant nature begins consistent with this paragraph (b)(5)(iv)(B)(2).

(C) Components of self-constructed property.

(1) Acquired components. If a binding contract, as defined in paragraph (b)(5)(iii) of this section, to acquire a component does not satisfy the requirements of paragraph (b)(5)(ii) of this section, the component does not qualify for the additional first year depreciation deduction. A binding contract described in the preceding sentence to acquire one or more components of a larger self-constructed property will not preclude the

larger selfconstructed property from satisfying the acquisition rules in paragraph (b)(5)(iv)(A) of this section. Accordingly, the unadjusted depreciable basis of the larger selfconstructed property that is eligible for the additional first year depreciation deduction, assuming all other requirements are met, must not include the unadjusted depreciable basis of any component that does not satisfy the requirements of paragraph (b)(5)(ii) of this section. If the manufacture, construction, or production of the larger selfconstructed property begins before September 28, 2017, the larger self-constructed property and any acquired components related to the larger self-constructed property do not qualify for the additional first year depreciation deduction under this section.

(2) Self-constructed components. If the manufacture, construction, or production of a component by the taxpayer does not satisfy the requirements of this paragraph (b)(5)(iv), the component does not qualify for the additional first year depreciation deduction. However, if the manufacture, construction, or production of a component does not satisfy the requirements of this paragraph (b)(5)(iv), but the manufacture, construction, or production of the larger self-constructed property satisfies the requirements of this paragraph (b)(5)(iv), the larger self-constructed property qualifies for the additional first year depreciation deduction, assuming all other requirements are met, even though the component does not qualify for the additional first year depreciation deduction. Accordingly, the unadjusted depreciable basis of the larger self-constructed property that is eligible for the additional first year depreciation deduction, assuming all other requirements are met, must not include the unadjusted depreciable basis of any component that does not qualify for the additional first year depreciation deduction. If the manufacture, construction, or production of the larger self-constructed property began before September 28, 2017, the larger self-constructed property and any self-constructed components related to the larger self-constructed property do not qualify for the additional first year depreciation deduction under this section.

(v) Qualified film, television, or live theatrical production.

(A) For purposes of section 13201(h)(1)(A) of the Act, a qualified film or television production is treated as acquired on the date principal photography commences.

(B) For purposes of section 13201(h)(1)(A) of the Act, a qualified live theatrical production is treated as acquired on the date when all of the necessary elements for producing the live theatrical production are secured. These elements may include a script, financing, actors, set, scenic and costume designs, advertising agents, music, and lighting.

(vi) Specified plant. If the taxpayer has properly made an election to apply section 168(k)(5) for a specified plant, the requirements of this paragraph (b)(5) are satisfied if the specified plant is planted after September 27, 2017, or is grafted after September 27, 2017, to a plant that has already been planted, by the taxpayer

in the ordinary course of the taxpayer's farming business, as defined in section 263A(e)(4).

(vii) Examples. The application of this paragraph (b)(5) is illustrated by the following examples. Unless the facts specifically indicate otherwise, assume that the parties are not related within the meaning of section 179(d)(2)(A) or (B) and §1.179-4(c), and the parties do not have predecessors:

Example (1). On September 1, 2017, BB, a corporation, entered into a written agreement with CC, a manufacturer, to purchase 20 new lamps for \$100 each within the next two years. Although the agreement specifies the number of lamps to be purchased, the agreement does not specify the design of the lamps to be purchased. Accordingly, the agreement is not a binding contract pursuant to paragraph (b)(5)(iii)(E) of this section.

Example (2). The facts are the same as in Example 1 of this paragraph (b)(5)(vii). On December 1, 2017, BB placed a purchase order with CC to purchase 20 new model XPC5 lamps for \$100 each for a total amount of \$2,000. Because the agreement specifies the number of lamps to be purchased and the purchase order specifies the design of the lamps to be purchased, the purchase order placed by BB with CC on December 1, 2017, is a binding contract pursuant to paragraph (b)(5)(iii)(E) of this section. Accordingly, assuming all other requirements are met, the cost of the 20 lamps qualifies for the 100-percent additional first year depreciation deduction.

Example (3). The facts are the same as in Example 1 of this paragraph (b)(5)(vii), except that the written agreement between BB and CC is to purchase 100 model XPC5 lamps for \$100 each within the next two years. Because this agreement specifies the amount and design of the lamps to be purchased, the agreement is a binding contract pursuant to paragraph (b)(5)(iii)(E) of this section. However, because the agreement was entered into before September 28, 2017, no lamp acquired by BB under this contract qualifies for the 100-percent additional first year depreciation deduction.

Example (4). On September 1, 2017, DD began constructing a retail motor fuels outlet for its own use. On November 1, 2018, DD ceases construction of the retail motor fuels outlet prior to its completion. Between September 1, 2017, and November 1, 2018, DD incurred \$3,000,000 of expenditures for the construction of the retail motor fuels outlet. On May 1, 2019, DD resumed construction of the retail motor fuels outlet and completed its construction on August 31, 2019. Between May 1, 2019, and August 31, 2019, DD incurred another \$1,600,000 of expenditures to complete the construction of the retail motor fuels outlet and, on September 1, 2019, DD placed the retail motor fuels outlet in service. None of DD's total expenditures of \$4,600,000 qualify for the 100-percent additional first year depreciation deduction because, pursuant to paragraph (b)(5)(iv)(A) of this section, DD began constructing the retail motor fuels outlet before September 28, 2017.

Example (5). The facts are the same as in Example 4 of this paragraph (b)(5)(vii) except that DD began constructing the retail motor fuels outlet for its own use on October 1, 2017, and DD incurred the \$3,000,000 between October 1, 2017, and

November 1, 2018. DD's total expenditures of \$4,600,000 qualify for the 100-percent additional first year depreciation deduction because, pursuant to paragraph (b)(5)(iv)(A) of this section, DD began constructing the retail motor fuels outlet after September 27, 2017, and DD placed the retail motor fuels outlet in service on September 1, 2019. Accordingly, assuming all other requirements are met, the additional first year depreciation deduction for the retail motor fuels outlet will be \$4,600,000, computed as \$4,600,000 multiplied by 100 percent.

Example (6). On August 15, 2017, EE entered into a written binding contract with FF to manufacture an aircraft described in section 168(k)(2)(C) for use in EE's trade or business. FF begins to manufacture the aircraft on October 1, 2017. EE places the aircraft in service on March 1, 2018. Pursuant to paragraph (b)(5)(ii) of this section, the aircraft is acquired by EE pursuant to a written binding contract. Because EE entered into such contract before September 28, 2017, the aircraft does not qualify for the 100-percent additional first year depreciation deduction.

Example (7). On June 1, 2017, HH entered into a written binding contract to acquire a new component part of property that is being constructed by HH for its own use in its trade or business. HH commenced construction of the property in November 2017, and placed the property in service in November 2018. Because HH entered into a written binding contract to acquire a component part prior to September 28, 2017, pursuant to paragraphs (b)(5)(ii) and (b)(5)(iv)(C)(1) of this section, the component part does not qualify for the 100-percent additional first year depreciation deduction. However, pursuant to paragraphs (b)(5)(iv)(A) and (b)(5)(iv)(C)(1) of this section, the property constructed by HH will qualify for the 100-percent additional first year depreciation deduction, because construction of the property began after September 27, 2017, assuming all other requirements are met. Accordingly, the unadjusted depreciable basis of the property that is eligible for the 100-percent additional first year depreciation deduction must not include the unadjusted depreciable basis of the component part.

Example (8). The facts are the same as in Example 7 of this paragraph (b)(5)(vii) except that HH entered into the written binding contract to acquire the new component part on September 30, 2017, and HH commenced construction of the property on August 1, 2017. Pursuant to paragraphs (b)(5)(iv)(A) and (C) of this section, neither the property constructed by HH nor the component part will qualify for the 100-percent additional first year depreciation deduction, because HH began construction of the property prior to September 28, 2017.

Example (9). On September 1, 2017, II acquired and placed in service equipment. On October 15, 2017, II sells the equipment to JJ and leases the property back from JJ in a sale-leaseback transaction. Pursuant to paragraph (b)(5)(ii) of this section, II's cost of the equipment does not qualify for the 100-percent additional first year depreciation deduction because II acquired the equipment prior to September 28, 2017. However, JJ acquired used equipment from an unrelated party after September 27, 2017, and, assuming all other requirements are met, JJ's cost of the used equipment does qualify for the 100-percent additional first year depreciation deduction for JJ.

Example (10). On July 1, 2017, KK began constructing property for its own use in its trade or business. KK placed this property in service on September 15, 2017.

On October 15, 2017, KK sells the property to LL and leases the property back from LL in a sale-leaseback transaction. Pursuant to paragraph (b)(5)(iv) of this section, KK's cost of the property does not qualify for the 100-percent additional first year depreciation deduction because construction began prior to September 28, 2017. However, LL acquired used property from an unrelated party after September 27, 2017, and, assuming all other requirements are met, LL's cost of the used property does qualify for the 100-percent additional first year depreciation deduction for LL.

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