

SECTION 179 DEDUCTION

(Updated For 2008 Inflation Adjustments)

Most new business equipment can be either depreciated over its useful life or expensed immediately under Internal Revenue Code Section 179. Each 1040, whether Single or Joint, is limited to one maximum. Section 179 expenses passed through via K-1s from partnerships (1065), S-corps (1120S), or trusts (1041) are limited at the 1040 level to the one maximum amount. A C corporation is able to deduct its own Section 179 expenses in addition to what is claimed on the 1040s of the owners.

The following table is the Federal maximums based on the schedule for the date in which the tax year **begins**. Many states have not matched these amounts and have much smaller allowable deductions. In those cases, it is critical to maintain two sets of depreciation schedules; one for IRS and another for the State. Since the basis of an asset may be different for each tax agency, the gain or loss on its disposal will similarly be different.

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| 2002 | \$24,000 |
| 2003 | \$100,000 |
| 2004 | \$102,000 |
| 2005 | \$105,000 |
| 2006 | \$108,000 |
| 2007 | \$125,000 |
| 2008 | \$128,000 |
| 2009 | \$128,000 + COLA |
| 2010 | \$128,000 + COLA |
| 2011 | \$25,000 |

For 2004 through 2010, the annual amounts are to be adjusted for inflation. Up until recently, the Section 179 election was only allowed on originally filed tax returns. People who overlooked it were not allowed to claim it on amended returns. This new law allows the Section 179 expensing election to be claimed or revoked on amended returns for 2003 through 2010.

Generally, the types of business equipment that qualify for this expensing election are the same kind that qualified for the now-defunct Investment Tax Credit. Most movable assets qualify. Permanent structures do not qualify. Business vehicles with a gross vehicle weight over 6,000 pounds qualify for the full Section 179, while lighter vehicles have a much lower dollar limit.

One of the most common questions I am still receiving is whether the Section 179 expensing election is only available for the purchase of brand new assets or whether things such as used vehicles qualify. The answer is still the same. The asset just has to be new to you. You can claim the deduction for items purchased from anyone other than yourself or an entity controlled by you, such as a closely held corporation.

As of October 22, 2004, the maximum amount that can be claimed for SUVs weighing between 6,000 and 14,000 pounds is \$25,000. The remaining \$77,000 can be used for other kinds of business equipment, including vehicles weighing more than 14,000 pounds. To be eligible for the Section 179 deduction, the asset must be used at least 50% for business in the first year it is placed in service. The cost eligible for the deduction is the business usage percentage. Here are more details on qualifying and nonqualifying property.

QUALIFYING PROPERTY

- Tangible personal property (such as machines, equipment, furniture).
- Certain other tangible property used for specified purposes.
- Single-purpose agricultural or horticultural structures.
- Certain storage facilities.
- Railroad gradings or tunnel bores.

Some examples of qualifying property from the Depreciation QuickFinder Handbook:

- Airplanes
- Automobiles
- Billboards (if movable)
- Cattle – dairy or breeding
- Citrus trees
- Computers

- Emus
- Fruit trees
- Gas storage tanks
- Goats – breeding or milking
- Greenhouses
- Helicopters
- Horses
- Macadamia trees
- Machinery and equipment
- Mink and other fur-bearing animals
- Office equipment – copiers, typewriters, fax machines, etc.
- Office furniture – desks, chairs, file cabinets, book shelves, etc.
- Off-the-shelf computer software
- Oil and gas well and drilling equipment
- Orchards
- Ostriches
- Printing presses
- Refrigerators
- Sheep – breeding
- Signs
- Sport utility vehicles (SUVs)
- Storage facility (e.g. peanut, hay, potato or tobacco)
- Store counters
- Testing equipment
- Tractors
- Trailers (movable)
- Trucks
- Vineyards
- Water wells

NONQUALIFYING PROPERTY

- Property held for the production of income (investment property, most rentals).
- Real property, including buildings and their structural components, air conditioning and heating units.
- Property acquired by gift, inheritance or trade.
- Property purchased from certain related parties.
- Controlled group to controlled group transactions.
- Property used outside the United States.
- Property used in connection with furnishing lodging.
- Property used by tax-exempt organizations and governmental units.
- Property used by foreign persons or entities.
- Property held by an estate or trust.
- Property used by a passive activity.
- Intangible property (including computer software).

Some examples of non-qualifying property from the Depreciation QuickFinder Handbook:

- Air conditioning units
- Barns
- Billboards (if not movable)
- Bridges
- Buildings
- Docks
- Elevators
- Escalators
- Fences
- Foreign used property
- Heating units
- Investment property
- Land
- Landscaping
- Leased property
- Rental property
- Roads
- Shrubbery
- Sidewalks
- Stables
- Swimming pools
- Trailers (nonmobile with wheels detached and permanent utilities)
- Warehouses
- Wharves

PHASE-OUT OF SECTION 179

There is a phase out of the allowable Section 179 deduction if too much new §179 qualifying property is purchased during the tax year. For each dollar of newly acquired qualifying property purchased during the tax year that exceeds the amounts established below, the Section 179 deduction is reduced by a dollar; but not below zero.

- For 2003, that phase-out begins at \$400,000
- For 2004, that phase-out begins at \$410,000
- For 2005, that phase-out begins at \$420,000
- For 2006, that phase-out begins at \$430,000
- For 2007, that phase-out begins at \$500,000
- For 2008, that phase-out begins at \$510,000

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