KBKG TAX INSIGHT:

BONUS DEPRECIATION FOR GAS STATIONS WITH CONVENIENCE STORES

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Under TCJA, acquiring a gas station with a C-store can lead to accelerated deductions through 100% bonus depreciation available for acquired property.

Acquiring or constructing a gas station with a convenience store ("C-store") can be a lucrative addition to a real estate portfolio. Current rules allow investors to immediately write off all the improvements if certain requirements are met, and the property is placed in service after September 27, 2017. This went into effect after the Tax Cuts and Jobs Act when bonus depreciation was raised to 100% through the end of 2022.

To be eligible, the property must meet the definition of a 'retail motor fuel outlet,' which enables qualifying Section 1250 real property to be depreciated using a 150% declining balance method with a recovery period of 15 years. Commercial buildings are typically depreciated with a recovery period of 39 years and not eligible for additional bonus depreciation.

A definition of 'retail motor fuel outlet' is not provided within the tax code; however, in the late 90's the IRS released Coordinated Issue Papers ("CIP") for Petroleum and Retail Industries Convenience Stores, which provides a detailed definition and qualifying criteria. As per the CIP paper, a C-store at the gas station will qualify as a retail motor fuel outlet (15-year property) if **any** of the three following tests are met:

1. 50% or more of its gross revenues are generated from petroleum sales; or
2. 50% or more of its floor space is devoted to petroleum marketing sales; or
3. the C-store building is 1400 square feet or less (regardless of whether it meets either of the aforementioned criteria).

If none of the three tests are met, the basis of the C-Store building will be required to be depreciated over a 39-year period. However, if the C-store passes any of the above tests, the entire depreciable basis is eligible for a 15-year recovery period, and 100% bonus depreciation if acquired and placed in service after September 27, 2017.

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Taxpayers should evaluate all qualifying criteria but pay particularly close attention to the second test, which focuses on activities and services that qualify as space devoted to petroleum marketing sales.

In practice, we have seen taxpayers erroneously claim C-stores as retail motor fuel outlets. For example, in 2005, the Eight Circuit ruled that a truck stop with a C-store facility (Iowa 80 Group, Inc. & Subs, (CA 5/24/2005), 95 AFTR 2d 2005-901) did not meet the "50% or more of its floor space devoted to petroleum marketing sales" test as the C-store contained a significant portion of the building footprint dedicated to the foodservice preparation area, dining area, showers, arcade, and TV lounge. The taxpayer argued that the facility was designed to attract professional truck drivers to fuel at their service station and therefore met the "devoted to petroleum marketing sales" definition. The court found that the 1997 CIP outlined activities within a traditional service station, including service bays, diagnostic centers, and repair facilities, as a reference for activities and services that qualify under that criteria.

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C-stores that do not qualify as a retail motor fuel outlet can still accelerate depreciation deductions by performing a cost segregation study, which allocates a significant portion of the C-store to components depreciated over shorter lives and currently eligible for 100% bonus depreciation. This is even more important for C-stores in states that do not conform to the federal bonus depreciation rules. Based on industry benchmarks, 25% – 40% of the tax depreciable basis can be reclassified as personal property (5-year recovery period) and land improvements (15-year recovery period).

Under TCJA, acquiring a gas station with a C-store can lead to accelerated deductions through 100% bonus depreciation available for acquired property. However, careful attention must be paid to qualifying criteria surrounding the C-stores that can significantly impact your expected first year deductions.

Consult a cost segregation specialist to discuss how to maximize depreciation deductions on your gas station and C-store facility for both federal and state income tax purposes. Our team is available to answer any questions you may have.

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Amar spent 14 years at PwC and one year at Centiv, LLC, focusing on various specialty tax products including Cost Recovery Solutions and Research & Development Tax Credits. In the past 15 years of practice, Amar has become an expert in cost segregation and large fixed asset depreciation reviews for purposes of identifying federal, state, and property tax benefits. » Full Bio

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Operating out of our Dallas-Fort Worth office, Ryan VanderVelden is a manager with KBKG specializing in Cost Segregation and Fixed Asset Services. He has over four years of experience conducting cost segregation studies, fixed asset reviews, repairs/maintenance cost analyses, and retirement studies. Ryan was born and raised in northern California and received a Bachelor of Science in Civil Engineering from California State University, Chico. » Full Bio