

¶420 Computers as Listed Property

NEW LAW EXPLAINED

Computers and peripheral equipment removed from listed property treatment.—Effective for property placed in service after December 31, 2017, computers and peripheral equipment are removed as a category of listed property (Code Sec. 280F(d)(4)(A), as amended by the Tax Cuts and Jobs Act). As a result, the cost of computers and peripheral equipment can be deducted or depreciated like other business property and are no longer subject to the strict substantiation requirements of Code Sec. 274(d).

COMMENT

The removal of computers from listed property status will allow more employees to depreciate or expense the cost of computers since the convenience of the employer and condition of employment requirements of Code Sec. 280F(d)(3) will no longer apply.

A conforming amendment strikes a provision which excludes a computer or peripheral equipment from the definition of listed property if it is used exclusively at a regular business establishment and owned or leased by the person operating the establishment (Code Sec. 280F(d)(4)(B), stricken by the Tax Cuts Act of 2017).

Impact on depreciation. The declassification of computers as listed property means that a computer used 50 percent or less for business purposes in the year that it is placed in service is no longer required to be depreciated under the MACRS alternative depreciation system (ADS) using the straight-line method and a five-year ADS recovery period. Instead, the five-year recovery period and the 200 percent declining balance method under the MACRS general depreciation system (GDS) will apply. Furthermore, if the computer is placed in service after 2017, bonus depreciation may be claimed even if business use is 50 percent or less, because the rule under Code Sec. 168(k)(2)(D)(i)(II) that bonus depreciation may not be claimed on a listed property used 50 percent or less for business in the year it is placed in service will no longer apply.

Removal of computers from listed property status also means that if business use drops to 50 percent or less in a tax year after the computer is placed in service, the listed property recapture rules will not apply. Consequently, regular depreciation deductions (including any bonus deduction) will not be recaptured upon such a business use decline. However, as explained below, section 179 recapture is still required.

Impact on section 179 expensing. Under current law, property may not be expensed under Code Sec. 179 if it is not used more than 50 percent for trade or business purposes in the tax year that it is placed in service (Code Sec. 179(d)(10); Reg. §1.179-1(d)(1)). This rule applies to listed and nonlisted property (Temporary Reg. §1.280F-3T(c)(1)). Thus, although computers are no longer considered listed property if placed in service after December 31, 2017, the failure to use the computer more than 50 percent in a trade or business in the tax year that the computer is placed in service will continue to prevent a taxpayer from expensing the portion of the cost of the computer that is not attributable to business use.

The amount expensed under Code Sec. 179 is recaptured if business use falls to 50 percent or less during any year of the expensed asset's recovery period (Code Sec. 179(d)(10); Reg. §1.179-1(e)). However, if the section 179 deduction is claimed on a listed property, the amount recaptured is determined by applying the listed property recapture rules when business use drops to 50 percent or less (Code Sec. 280F(d)(1)). That is, the listed property recapture rules take precedence in determining the recapture amount. As the result of the removal of computers from listed property classification, the section 179 recapture rules will now be used to determine the amount of section 179 allowance that is recaptured. The recapture amount included in ordinary income under the Code Sec. 179 recapture rules is the difference between the Code Sec. 179 expense allowance claimed and the depreciation (including bonus depreciation, if applicable) that would have been allowed on the amount expensed for prior tax years and the tax year of recapture (Reg. §1.179-1(e)(1)).

CAUTION

Since the provision declassifying computers as listed property applies to property placed in service after December 31, 2017, the listed property recapture rules continue to apply to computers placed in service before January 1, 2018.

Impact on fringe benefits. The declassification of computers as listed property means that employees must not longer meet the substantiation requirements under Code Sec. 274(d) in order to exclude the value of the availability of the computer from income as a working condition fringe benefit (Temporary Reg. §1.274-5T(e)). The new law does not affect Treasury's authority to determine the appropriate characterization of computers as a working condition fringe benefit under Code Sec. 132(d), or that the personal use of computers that are provided primarily for business purposes may constitute a de minimis fringe benefit under Code Sec. 132(e), the value of which is so small as to make accounting for it administratively impracticable.

Effective date. The provision is effective for property placed in service after December 31, 2017 (Act Sec. 13202(c) of the Tax Cuts and Jobs Act of 2017).