

effect, or the manufacture, construction, or production of a component began, before September 11, 2001, for qualified property or before May 6, 2003, for 50-percent bonus depreciation property, the component does not qualify for the additional first year depreciation deduction. Similarly, if a binding contract to acquire a component was in effect, or the manufacture, construction, or production of a component began, before September 11, 2001, for qualified property or before May 6, 2003, for 50-percent bonus depreciation property, but the manufacture, construction, or production of the larger self-constructed property began after September 10, 2001, for qualified property, or after May 5, 2003, for 50-percent bonus depreciation property, and before January 1, 2005, the larger self-constructed property qualifies for the additional first year depreciation deduction (assuming all other requirements are met) but the component does not. Additionally, if the manufacture, construction, or production of the larger self-constructed property began before September 11, 2001, for qualified property or before May 6, 2003, for 50-percent bonus depreciation property, the larger self-constructed property and any acquired or self-constructed component related to the larger self-constructed property do not qualify for the 30-percent or 50-percent additional first year depreciation deduction. However, if the binding contract to acquire the component was entered into, or the manufacture, construction, or production of the component began, after September 10, 2001, for qualified property, or after May 5, 2003, for 50-percent bonus depreciation property, and before January 1, 2005, but the manufacture, construction, or production of the larger self-constructed property begins after December 31, 2004, the component qualifies for the additional first year depreciation deduction (assuming all other requirements are met) but the larger self-constructed property does not.

The regulations provide rules for when certain acquired or self-constructed property will not meet the acquisition date requirement (disqualified transactions). When the user of property as of the date on which the property was originally placed in service, or a related party to the user, acquired, or had a written binding contract in effect for the acquisition of, the property at any time before September 11, 2001, or before May 6, 2003, as applicable, the property does not qualify for the 30-percent or 50-

percent additional first year depreciation deduction. Similarly, property manufactured, constructed, or produced for the taxpayer or a related party does not qualify for the 30-percent or 50-percent additional first year depreciation deduction if the manufacture, construction, or production began at any time before September 11, 2001, or before May 6, 2003, as applicable. For this purpose, persons are related if they have a relationship specified in section 267(b) or 707(b).

#### *Placed-in-Service Date*

Pursuant to section 168(k)(2)(A)(iv) and 168(k)(4)(B)(iii), the regulations provide that qualified property or 50-percent bonus depreciation property is property that is placed in service by the taxpayer before January 1, 2005. However, the placed in service date of January 1, 2005, is extended for one year to January 1, 2006, for property described in section 168(k)(2)(B).

The regulations also provide special rules for sale-leaseback transactions and syndication transactions. If qualified property is originally placed in service after September 10, 2001, or 50-percent bonus depreciation property is originally placed in service after May 5, 2003, by a person and is involved in a sale-leaseback transaction described in section 168(k)(2)(D)(ii), the property is treated as originally placed in service by the taxpayer-lessor not earlier than the date on which the property is used by the lessee under the sale-leaseback. Likewise, if qualified property is originally placed in service by a lessor after September 10, 2001, or 50-percent bonus depreciation property is originally placed in service by a lessor after May 5, 2003, and 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, and the user of the property does not change during this three-month period, the property is treated as originally placed in service not earlier than the date of the last sale by the purchaser of the property in the last sale.

Special rules also are provided for certain nonrecognition transactions. In the case of a technical termination of a partnership under section 708(b)(1)(B), qualified property or 50-percent bonus depreciation 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 or the 50-percent bonus depreciation property is contributed by the terminated

partnership to the new partnership. Additionally, qualified property or 50-percent bonus depreciation property transferred in a "step-in-the-shoes" transaction described in section 168(i)(7) in the taxable year the qualified property or the 50-percent bonus depreciation property is placed in service by the transferor is treated as originally placed in service on the date the transferor placed the qualified property or the 50-percent bonus depreciation property in service.

#### *Liberty Zone Property*

Generally, the requirements for determining the eligibility of property for the additional first year depreciation deduction for Liberty Zone property provided by section 1400L(b) are similar to the requirements for the 30-percent additional first year depreciation deduction for qualified property provided by section 168(k)(1). There are, however, some differences that are discussed below.

The regulations provide that Liberty Zone property includes the same property that is described as qualified property or 50-percent bonus depreciation property for purposes of section 168(k). In addition, Liberty Zone property includes nonresidential real property or residential rental property to the extent such property rehabilitates real property damaged, or replaces real property destroyed or condemned, as a result of the terrorist attacks of September 11, 2001. Property is treated as replacing destroyed or condemned property if, as part of an integrated plan, the property replaces real property that is included in a continuous area that includes real property destroyed or condemned. Real property is considered to have been destroyed or condemned only if an entire building or structure was destroyed or condemned as a result of the terrorist attacks of September 11, 2001.

While Liberty Zone property includes the same property that is described as qualified property or 50-percent bonus depreciation property for purposes of section 168(k), only one additional first year depreciation deduction is allowable for the property. Thus, pursuant to section 1400L(b)(2)(C)(i), the regulations provide that if the 30-percent or 50-percent additional first year depreciation deduction under section 168(k) applies to the property, it is not Liberty Zone property.

Pursuant to section 1400L(b)(2)(A)(ii), property is Liberty Zone property if substantially all of the use of the property is in the Liberty Zone and the property is used in the active conduct of a taxpayer's trade or business in the