

Evaluating the Accelerated Research and AMT Credits Election Under §168(k)(4)

Review by

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Subject Matter and Overview

- IRC §168(k)(4) provides special election allowing a corporation to accelerate
 - Unused research credit
 - Alternative minimum tax carryover
- Trade-off of making the election is giving up of
 - Bonus depreciation
 - MACRS depreciation



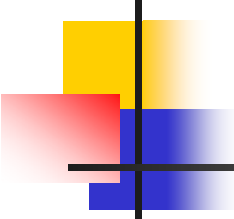
Suggestion for improvement

- There is a typo on the Example on Page 5!!!!!!



What did I learn from the paper as an aspiring author?

- Instead of simply providing an explanation of the tax law, the authors provide an **EXTREMELY USEFUL AND PRACTICAL** format of analysis for practitioners and managers
- The “sensitivity analysis” section provides useful information on how a change in facts changes the tax results



How can I use this paper in the classroom?

- A great example of the use of a present value analysis in a pure tax context
- This paper could be used as assigned reading for class discussion in a tax strategy graduate course
- The method and analysis fits in with the Scholes, Wolfson, et al. framework



Rev. Proc. 2008-65

- Makes clear that the waiver of bonus depreciation also applies to 50% bonus depreciation for
 - Qualified reuse and recycling property placed in service > 8/31/2008 (Energy Improvement and Extension Act of 2008)
 - Qualified disaster assistance property placed in service after 12/31/2007 and before 2010 (Heartland Disaster Relief Act of 2008)



Rev. Proc. 2008-65 (continued)

- Section 3 specifies that the §168(k)(4) election applies to property placed in service within a narrowly defined time period
 - Original use > 3/31/2008
 - Acquired > 3/31/2008 and before 1/1/2009 provided there was not a written binding contract for the acquisition in place < 1/1/2008



Rev. Proc. 2008-65 (continued)

- Property manufactured, constructed or produced for the taxpayer's own use if the TP begins manufacturing, constructing or producing > 3/31/2008 and < 1/1/2009
- Special rules apply for acquisition of passenger aircrafts
- The placed in service date is extended to < 1/1/2010 for property with long production periods and certain aircraft



Rev. Proc. 2008-65 (continued)

- TRAP FOR THE UNWARY (Section 4.01):
 - “Even if a taxpayer does not place in service any eligible qualified property in its first taxable year ending after March 31, 2008, the taxpayer **must** make the election to apply §168(k)(4) for that taxable year if it wishes to apply the election to eligible qualified property placed in service in a subsequent taxable year.”



Rev. Proc. 2008-65 (continued)

- Once the election is made to apply §168(k)(4), it may be revoked only with the written consent of the IRS.



FINAL COMMENTS

- GREAT PAPER
- I WISH I HAD COME UP WITH THE IDEA USING THE PV APPROACH AND EXCEL SPREADSHEET TO PRESENT THE ANALYSIS!!!!!!