



VIEW*S* & VISIONS

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of acquisition. Under the Act, bonus depreciation was increased to 100 percent of the acquisition cost and it applies to both the purchase of new and used equipment.

The new bonus depreciation rules went into effect for purchases made from September 27, 2017 and will remain in effect through 2022. After 2022, bonus depreciation begins to phase out in accordance with the following timeframes:

- 80 percent for property placed in service during 2023
- 60 percent for property placed in service during 2024
- 40 percent for property placed in service during 2025
- 20 percent for property placed in service during 2026

Property that is classified as “listed property” under the revised law must be used more than 50 percent in the business in order to qualify for bonus depreciation. However, computers were removed from the definition of listed property, so under the Act a business may use bonus depreciation for computers even if they are used less than 50 percent of the time in the business.

Understanding the changes to Section 179 and Bonus Depreciation will save you a substantial amount of money in the form of a reduced tax bill. In addition, and if used correctly, the changes in the Act should stimulate businesses to purchase more equipment and construct or renovate more buildings, which will strengthen our economy. 



Business Court Overrules Excessive Property Tax on Natural Gas Operating Properties

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In January, the Business Court Division of the Circuit Court of Ritchie County held, in the case of *Antero Resources Corporation v. The Honorable Dale Steager, W. Va. State Tax Commissioner, et al.* (Case No. 17-AA-1), that the property tax assessments of that taxpayer’s operating natural gas properties in that county were in excess of the values mandated by law. In its ruling, the Court struck down the taxable values of those properties as initially set by the State Tax Commissioner, approved by the County Assessor and affirmed by the Ritchie County Commission sitting as a Board of Assessment Appeals.

Specifically, the Court held, in a well-reasoned opinion, that the Tax Commissioner’s appraisal practices of using a maximum fixed dollar amount for allowable operating expenses, and his omission of many categories of those expenses incurred to bring the produced gas to the point of sale, had the effect of significantly overvaluing the subject properties. Moreover, since the Court found that because the Commissioner’s use of those valuation practices for the taxpayer’s horizontally drilled natural gas wells was intentional and systematic, they violated both the Equal and Uniform Taxation provision of the West Virginia Constitution and the Equal Protection clause of the United States Constitution.

This case represents not only a highly favorable outcome for similarly situated taxpayers in the oil and gas industry, but is an example of the very complex business tax issues that the West Virginia Supreme Court of Appeals contemplated when it established the Business Court Division and included them within the scope of its jurisdiction. Now, as a result of the Tax Commissioner, Assessor and (despite its purported role as an independent forum initially adjudicating the case) the County Commission’s appeal of the Business Court ruling in this case (and in a number of other similar cases), the Supreme Court is being asked to review the same.

Thus, that appeal not only involves the fundamental question of whether, from now on, a major West Virginia industry can expect its property to be objectively and fairly valued for tax purposes, but, in a real sense, the practical efficacy of the Business Court system itself will also be on the line.

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