

## **ACCESSORY DWELLING UNIT (“ADU”) TAX ATTRIBUTES**

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**The good news is if you purchase an ADU, you can take a business or investment deduction equal to 100% of what you paid for the dwelling.**

The purpose of this “White Paper” is to explain how the current U.S. Tax Code (“Code”) provisions are positive attributes associated with ADUs. With the passage of the One Big Beautiful Bill Act (“OBBBA”) H.R. 1 passed in July 2025, Section 179 of the Code has been expanded thus 100% bonus depreciation has been restored, allowing qualifying ADUs to be fully expensed in the year they are placed in service.

This change eliminates the scheduled phase-down that would have reduced Bonus Depreciation to 40% in 2025. Under the new law, companies (developers & real estate investors) upgrading their properties and portfolios can take full advantage of accelerated depreciation when they choose ADU solutions that qualify as Tangible Personal Property (“TPP”).

Unlike traditional stick-built construction, which is classified as real property and depreciated over 39 years, ADUs can often qualify for five or seven year Modified Accelerated Cost Recovery System (“MACRS”) treatment. Because ADUs are designed to be relocated and non-permanent, they typically meet the criteria for TPP. This allows purchasers to expend the full cost of their dwellings in the first year, freeing up capital and improving cash flow for reinvestment. In addition to 100% bonus depreciation, the OBBBA nearly doubles Section 179 expensing limits. Companies can now deduct up to \$2.5 million, with the phase-out threshold raised to \$4 million. These provisions make accelerated depreciation accessible to a wider range of businesses planning capital expenditures in 2025 and beyond.

Code Section 179 expense provision and Bonus Depreciation are two of the most important parts of the Code relating to capital expenditures. Section 179 allows businesses to write off the entire purchase price of an ADU in the calendar year acquired. Bonus Depreciation is a tax incentive that allows businesses to immediately deduct the purchase price of an ADU instead of capitalizing the cost and depreciating it over the “useful life” of the ADU. Bonus Depreciation allows businesses to deduct additional costs beyond the Section 179 limits.

Section 179 and Bonus Depreciation are often talked about as going hand in hand, but they are actually two different things. In the past Bonus Depreciation was offered in some years

and not in others and can vary in amount from year to year. With the passage of the OBBBA, Bonus Depreciation for ADUs is not limited. Applying these two tax incentives, Section 179 and Bonus Depreciation, the entire cost of the ADU can be deducted in the year it is acquired. As an alternative, the cost of the ADU can be capitalized and depreciated on the MACRS system, generally in five years.

#### Key Qualifications for OBBBA Benefits:

1. **TPP Status:** To qualify for accelerated five-to-seven-year MACRS depreciation and 100% Bonus Depreciation, the ADU must be designed as relocatable, non-permanent, and easily movable (e.g. panel-built structures). This prevents them from being classified as traditional “stick-built” real property, which is depreciated over 39 years.
2. **Energy-Efficiency Standard (Section 45L):** The OBBBA extended the amended Section 45L tax credit for eligible contractors constructing qualified energy-efficient homes. ADUs must be certified to meet rigorous Department of Energy and EPA Zero Energy Ready Home guidelines.
3. **Relocatable vs. Permanent Foundations:** The ADUs must act as non-residential real property integral to a qualified production activity (“QPA”). Developers and investors, however, can still qualify ADUs for beneficial tax incentives by renting the ADUs. The QPA provisions do not apply in the context of ADUs since Section 168(n) is a new provision of the Code enacted as part of the OBBBA (Public Law 119-21) that provides a significant tax incentive for businesses investing in certain production facilities.