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Mr. Thomas Barthold
Chief of Staff
Joint Committee on Taxation
U.S. House of Representatives
1015 Longworth House Office Building
Washington, D.C. 20515

Re: "Blue Book" for the 111th Congress – 100% Expensing Provision

Dear Mr. Barthold,

I am writing on behalf of the Equipment Leasing and Finance Association (ELFA) which represents financial services companies and manufacturers in the $521 billion U.S. equipment finance sector. As you and your staff prepare the General Explanation of Tax Legislation Enacted in the 111th Congress (i.e., the "Blue Book"), we would respectfully request confirmation of the effective dates for the "100% expensing" provision that was enacted as part of the "Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010" (Pub. Law 111-312).

The technical explanation of the "Effective Date" of the provision, as prepared by the staff of the Joint Committee on Taxation in JCX-55-10, describes the effective date for the provision as follows:

> "The provision expanding the additional first-year depreciation deduction to 100 percent of the basis of qualified property applies to property **placed in service** by the taxpayer after September 8, 2010, in taxable years ending after such date." (emphasis added)

The "Effective Date" section of the technical explanation is silent as to changes to any additional requirements such as the date of "original use," the date the property was "purchased," or other binding contract rules. Rather, the explanation simply refers to "qualified property," which has its own set of timing rules.

> As described in the "Present Law" section of the technical explanation:
>
> "[T]he taxpayer must purchase the property within the applicable time period. . . . To qualify, property must be acquired (1) after December 31, 2007, and before January 1, 2011, but only if no binding written contract for the acquisition is in effect before January 1, 2008, or (2) pursuant to a binding written contract which

was entered into after December 31, 2007, and before January 1, 2011." See pages 54, 554 of the Technical Explanation.

In the "Explanation of Provision" section of the technical explanation, the JCT states that:

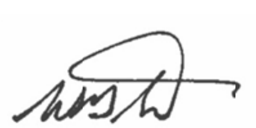
"The provision extends and expands the additional first-year depreciation to equal 100 percent of the cost of qualified property placed in service after September 8, 2010 and before January 1, 2012 (before January 1, 2013 for certain longer-lived and transportation property), . . . Rules similar to those in section 168(k)(2)(A)(ii) and (iii), which provide that qualified property does not include property acquired pursuant to a written binding contract that was in effect prior to January 1, 2008, apply for purposes of determining whether property is eligible for the temporary 100 percent additional first-year depreciation deduction. Thus under the provision, property acquired pursuant to a written **binding contract entered into after December 31, 2007** is qualified property for purposes of the 100 percent additional first-year depreciation assuming all other requirements of section 168(k)(2) are met." (emphasis added)

Accordingly, "qualified property" that was purchased subject to a binding contract entered into after Dec. 31, 2007 and placed in service by the taxpayer after September 8, 2010, and that otherwise meets the requirements of section 168(k)(2) should qualify for 100% expensing.

We believe it would be helpful to taxpayers and the IRS in administering this provision if the Blue Book re-confirmed this interpretation of the law.

Thank you advance and we would be happy to meet with you and your staff to discuss this issue in more detail.

Respectfully submitted,



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