UPDATE ON QPP
NOTICE 2026-16

November 3, 2026

ASCSP EST 2006 20 YEAR ANNIVERSARY

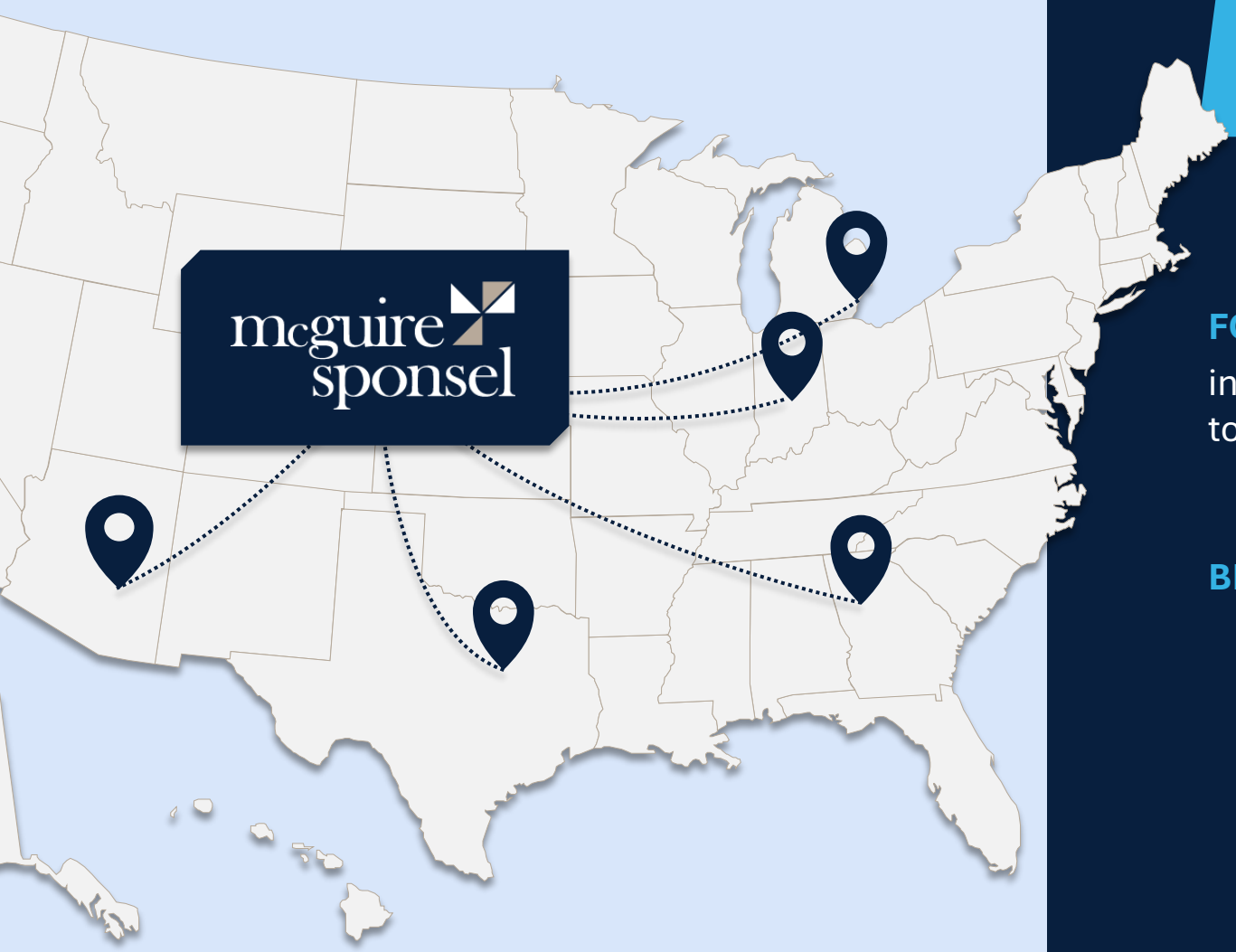
mcguire sponsel

DAVE McGUIRE

CHIEF TECHNICAL OFFICER
Shareholder & Co-Founder

mcguire sponsel

ABOUT US



Phoenix, AZ | Dallas, TX | Indianapolis, IN (HQ) | Detroit, MI | Atlanta, GA

FOUNDED

in 2007, McGuire Sponsel is a trusted tax and advisory partner to more than 500 CPA and real estate firms nationwide

BEYOND COMMON PRACTICES

- Cost Segregation & Energy Studies
- R&D Tax Credits
- Transfer Pricing
- Site Selection
- Property Tax
- International Tax Compliance

LOCATION ADVISORY

- **Site Selection**
- State and Local Incentive Management
- Single or Multi-Site Incentive Benefit Analysis
- **Incentive Procurement**
- Compliance & Reporting

R&D TAX CREDIT

- State and Federal Tax Credit Studies
- Retroactive Studies
- Current Year Reviews
- Tax Credit Review
- Federal and State Audit Defense & Risk Advisory

GLOBAL BUSINESS

- Global Expansion
- Global Structuring

Cross-Border Transactions:

- Operational
- M&A Transactions
- **Transfer Pricing Studies**

International Tax Planning:

- IC-DISC
- **International Tax Compliance**

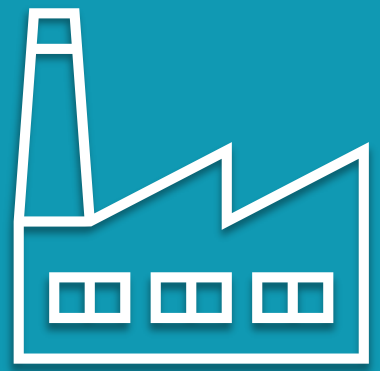
FIXED ASSETS

- **Cost Segregation**
- Fixed Asset/Depreciation Management
- 179D Tax Deduction
- 45L Energy Efficient Tax Credit
- **Property Tax**
- IRA Credits

AGENDA

- Qualified Production Property Overview
- Notice 2026-16 Updates
- Definitions
- Qualifications
- Pitfalls

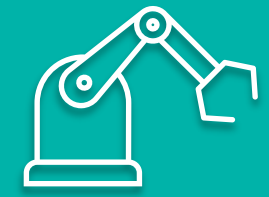
Qualified Production Property (QPP)



SECTION 70307
ONE BIG BEAUTIFUL BILL ACT

- In the case of any qualified production property
- The deduction provided under 167(a) for the taxable year in which such property is placed in service
- The adjusted basis…shall be reduced by the amount of such deduction
- Which is used in a “qualified production activity”

WHAT IS QUALIFIED PRODUCTION?



1. Property which is an integral part of qualified production
2. Manufacturing, production, or refining of a qualified product
3. Must Result in “substantial transformation”
4. QP is considered tangible personal property, except for food or beverages prepared and sold in the same building
5. Current year election

PRODUCTION PROPERTY

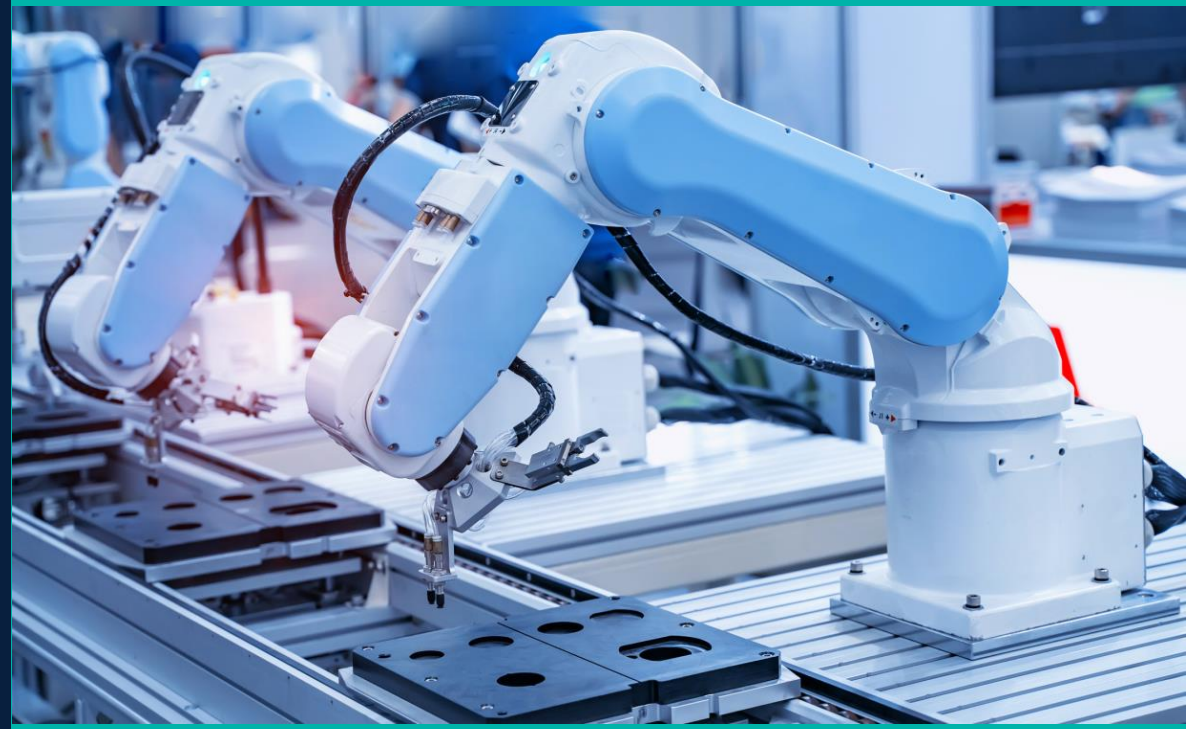
- New allowance for Qualified Production Property (QPP)
  - Must meet “original use” test, unless not used in production from January 1, 2021 - May 12, 2025
  - Construction must have started after January 19, 2025
  - Production of qualified product defined as Tangible Personal Property 1.48-1(c)
- Does not include offices, administration, research areas, etc.

Manufacturing Area
Qualifies

Office Area
Does not qualify

PRODUCTION PROPERTY

- Devil is in the details
  - Property owned by a lessor, used by a lessee does not qualify
  - Used property qualifies if not used in production “by any person” between January 1, 2021 – May 12, 2025
  - Exclusion of office space
- Recapture if in 10-years changes use



QUALIFIED PRODUCTION VS. BONUS DEPRECIATION

QUALIFIED PRODUCTION

- On “Real Property”
- 168(n) is a current year election
- Only for areas where “Qualified Production” is occurring
- Recapture triggered by “change in use” or sale

BONUS DEPRECIATION

- Assets with a life of 20-years or less
- Accounting method
- All properties will have some assets
- Recapture on sale
- No recapture on “change in use”

QUESTIONS NOTICE 2026-16 ANSWERS

- How will start of construction be treated?
- How is a property purchased and then renovated treated? Is QPP all or nothing election?
- How do we allocate between parts of the building?
- What parts of a building qualify?
- What about properties where production has not commenced?
- Others?

ELECTION DETAILS

- Irrevocable
- Elect amount of QPP to take, up to total amount of Qualifying Basis
- If treating property as QPP, taxpayer is treated as electing out of bonus for same amount under 168(k)
  - Planning opportunity
  - Is Bonus or 179 better?

WHAT PARTS OF A FACILITY QUALIFY?

- Integral Part of Qualified Production Activity (QPA)
  - Raw Materials (but only if production occurs in same facility or “Integrated facility”)
- Oversight of manufacturing
- Material selection
- Management of manufacturing
- Development of design specifications
- De Minimis Rule – 95%

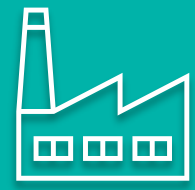
RELATED ACTIVITIES

- Will not fail to be a QPA if individuals performing or supervising, ar located at the same property, or integrated facility including:
  - Oversight
  - Material selection
  - Management of manufacturing
  - Developing design specifications
- If the related activity does not occur within ineligible property described in section 4.07(1) (offices, administrative services, lodging, parking, sales activities, research activities, software activities, or other functions unrelated to QPA.

START OF CONSTRUCTION

- Rules Consistent with § 1.168(k)-2(b)(5)(iv)(B), including the safe harbor provided in § 1.168(k)-2(b)(5)(iv)(B)(2)
- “Production of property begins when physical work of a significant nature begins. Physical work does not include preliminary activities…”
- Safe Harbor – 10% test
- Note – Component election NOT INCLUDED in this definition!

ACQUISITION RULES



- The property was not used in a QPA by any person from 1/1/21 through 5/12/25
- The property was not used by the taxpayer at any time prior to the acquisition
- The acquisition of the property meets the requirements of §179(d)(2) and (3)
  - Not acquired from a related party or by a member of a controlled group from another member of the same group
  - Basis in the property is not determined by reference to its basis in the hands of the transferor

INTEGRATED FACILITY

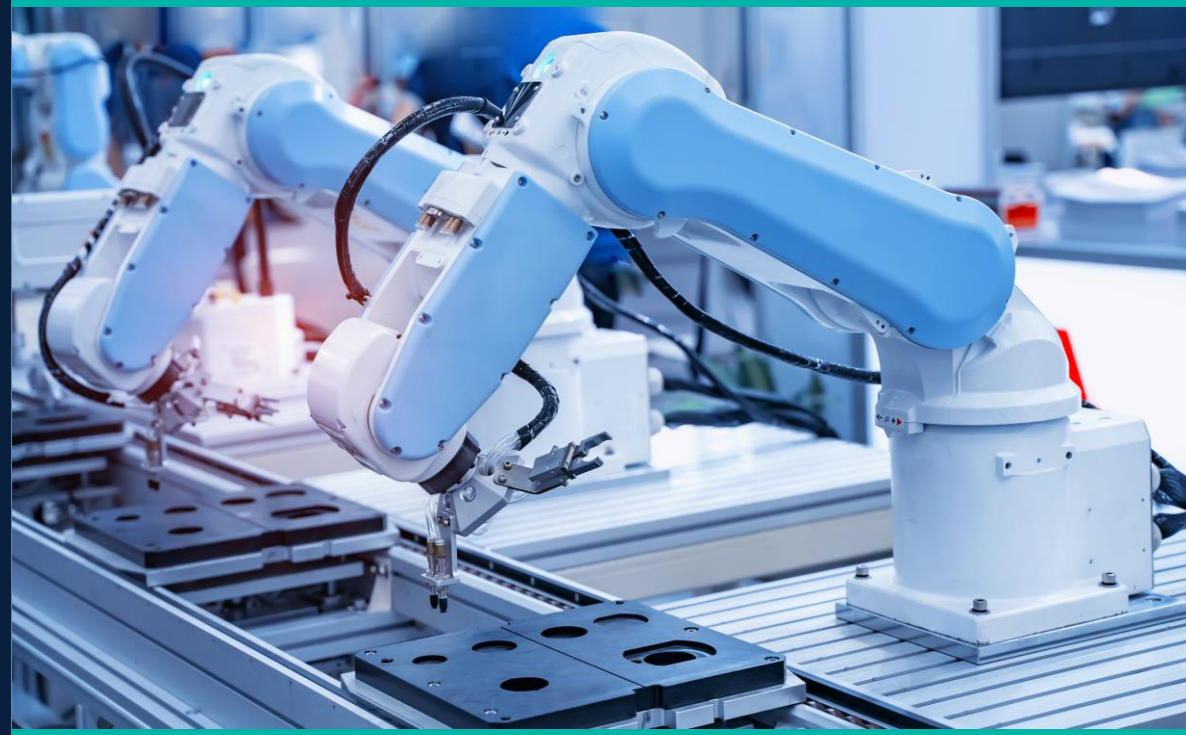
- Multiple properties that are physically located on same piece or contiguous pieces of land
- Property that is comprised solely of ineligible property is not treated as integrated
- Example – raw materials warehouse next to two buildings where QPA is completed

WHAT DOESN'T QUALIFY?

- ADS
- Non-Production areas
  - Office
  - Finished Good Storage
- Assets where construction began prior to 1/19/25
  - Follows rules under 1.168(k)-2(b)(5)(iv)(B)
  - 10% safe harbor
  - No component election
- Personal Property

SUBSTANTIAL TRANSFORMATION

- Must materially change form or function of the input materials
  - Distinguishable from original state
  - Cannot return to original state
- Does not include operations resulting solely in:
  - Packaging
  - Repacking
  - Labeling
  - Minor assembly
- Storage of raw materials or other inputs to be consumed during QPA
  - Finished storage does not qualify



PROPERTY USED BY LESSEE: WHAT ABOUT SELF RENTAL?

EXCEPTION FOR CONSOLIDATED GROUPS

- If member (S) of a consolidated group (§ 1.1502-1) owns & leases to another member (B)
- S is not treated as a lessor

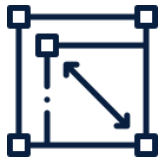
EXCEPTION FOR COMMONLY CONTROLLED PASS-THROUGH ENTITIES

- Sole Proprietorship, partnership or corporation if 50% or more is owned by the same person or group that owns 50% or more of lessor
- Not treated as lessor

MORE LENIENT THAN BUNDLING RULES UNDER 469

- Could create issues where passive losses become an issue
- Be careful of RPTB elections due to ADS limitations

HOW TO ALLOCATE BETWEEN BUILDING COMPONENTS



Reasonable method

- Cost Segregation
- Square footage
- ETC

Dual-use Infrastructure

- Any reasonable method

What is not a reasonable method?

- Headcount
- Time spent on QPA activities

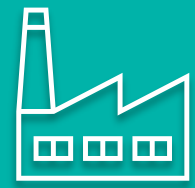
EXAMPLE
ELECTRICAL UPGRADE

- Company “A” Placed Factory in Service in 2023
- Factory used in QPA
- In 2028, company spends $2 million to upgrade electrical
  - Upgrade is QIP under 168(e)(6)
- Electrical system qualifies as QPP
- If company makes election to treat as QPP:
  - Treated as making election out of 168(k)
  - Which is better QIP or QPP?

AGRICULTURAL PRODUCTION

- Preparing soil
- Planting seeds
- Raising, cultivating, irrigating, and harvesting crops
- Breeding, rearing, feeding, and managing livestock
- Does not include:
  - Animals that are not livestock
  - Activities that are not agricultural production (such as food marketing)

MISC RULES



- Temporarily Idle Property
  - Being temporarily idle does not cause a change in use
  - For example; taken out of service for a finite period of time while upgrading a production line
- Contract Manufacturing
  - Qualifies
  - Does not require ownership of final product
- Agriculture does not include raising animals that are not livestock

QUESTIONABLE SITUATIONS

- Supplement manufacturing operation
- Pills manufactured offsite
- Manufacturing consists of:
  - Adding pills to “blister packs”
  - Blister packs are manufactured
- “Packaging” not included – what about manufacturing of packaging?

OTHER QUESTIONS TO CONSIDER

- When does R&D become production?
- What if manufacturing has not commenced?
- How much “manufacturing” needs to occur for minor assembly to become “production?”
- Others/Open discussion

Q&A

DAVE McGUIRE

CHIEF TECHNICAL OFFICER
Shareholder & Co-Founder

dmcguire@mcguiresponsel.com

317.460.9814