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BONUS DEPRECIATION UPDATE

Bonus depreciation is scheduled to expire on December 31, 2009. However, if certain conditions are met, the tax code allows bonus depreciation to be taken on 2010 aircraft deliveries. With income tax rates expected to increase, you should consider placing an aircraft order in 2009 and qualify for the generous 50% bonus depreciation in 2010. The after tax savings can be significant.

Following are the requirements that must be met for a 2010 delivery to qualify for bonus depreciation:

- * Signing a binding contract to purchase a new aircraft by December 31, 2009
- * Factory demonstration aircraft will qualify as new
- * Making a non-refundable deposit of the lesser of:
 - o 10 percent of the cost, or
 - o \$100,000, and
- * Taking delivery and placing the aircraft in service by December 31, 2010
- * Aircraft will be used in Part 91 business operation
- * Depreciation deduction will be taken on your 2010 income tax return

FLORIDA SALES AND USE TAX UPDATE

Florida Department of Revenue continues its aggressive approach in taxing new aircraft purchases that occur "outside" Florida. The enforcement and assessment of Florida use tax to purchases that occur outside Florida catches most aircraft owners by surprise, and many times, a very expensive surprise.

Florida statute states that an aircraft entering Florida within the first six months of purchase will be presumed to be purchased for use in Florida and subject to Florida use tax. The Department of Revenue has stated that this rule will not be enforced for aircraft that are in Florida for training, for a brief family vacation visit or attending a convention like Sun 'N Fun in Lakeland, if the aircraft owner does not have other "ties" or "connections" within Florida.

As reported by AOPA, the Florida Department of Revenue does not attend "fly-ins" like the AOPA Aviation Summit or Sun 'N Fun for the purpose of enforcing Florida use tax, nor do they conduct "ramp-checks" for this purpose. Rather, their use tax enforcement efforts are directed at property owners with significant connections to Florida.



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If you own a second home in Florida, you are an owner of a Florida business, or you have a satellite office in Florida, Florida Department of Revenue will consider these activities sufficient for Florida to assess use tax on your aircraft purchased outside Florida, if your new aircraft visits Florida within the first six months of purchase.

If you have previously paid sales tax to your home state, Florida will allow the sales tax paid as a credit to reduce your Florida use tax liability. However, if you live in a no sales tax state, like Delaware, Massachusetts or New Hampshire, this credit will not reduce your Florida use tax liability.

This is a significant problem for many unsuspecting aircraft owners, as many do own a winter or vacation home in Florida, or they are owners in corporations that regularly conduct business in Florida. You should consult your aviation tax advisor regarding the taxability of your recent aircraft purchase if you have “significant connections” to Florida.

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Aviation Tax Consultants (ATC) assists aircraft purchasers in acquiring aircraft in a tax efficient manner. Services include the elimination or reduction of sales and use tax at the time of purchase, maximizing income tax savings, controlling the cost of personal use of a business aircraft, and complying with Federal Aviation Regulations. Cooperation with client's current tax and legal advisors is welcome and encouraged.

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