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LAST CALL FOR 100% BONUS DEPRECIATION?

Cutting tax subsidies for corporate jet owners has been a hot topic around Washington D.C. and in national news recently. Politics aside, we will take a look at current law, explain the proposed changes, and discuss some planning ideas.

Current Law – Bonus Depreciation

President Obama signed H.R. 4853 into law in December 2010. This legislation allows 100% bonus depreciation for new business aircraft. The law is retroactive for new aircraft purchased after September 8, 2010 and will be in effect until December 31, 2011. The aircraft has to be placed in service by December 31, 2011. Bonus depreciation is reduced to 50% for new business aircraft for 2012 purchase.

Bonus depreciation is simply a form of accelerated depreciation. 100% of the purchase price of a business aircraft can be deducted in the year of acquisition, provided that a taxpayer meets the requirements and provisions of the tax code – justification of business use, placed in service date, passive activity loss and related party rental regulations, etc.

Current Law – Regular Depreciation

Federal Aviation Regulations Part 91 operators depreciate a business aircraft using MACRS (Modified Accelerated Cost Recovery System) double declining method with a five year life. Part 135 charter aircraft operators depreciate a business aircraft with a 7 year life.

	5-year Depreciation	7-year Depreciation
Year 1	20.00%	14.29%
Year 2	32.00%	24.49%
Year 3	19.20%	17.49%
Year 4	11.52%	12.49%
Year 5	11.52%	8.93%
Year 6	5.76%	8.92%
Year 7	0.00%	8.93%
Year 8	0.00%	4.46%
	<u>100.00%</u>	<u>100.00%</u>

PROPOSED CHANGES

The President has proposed to change the depreciable life of “corporate jets” from five to seven years. It is unclear if new business aircraft will be prohibited from utilizing bonus depreciation or if this will affect turboprops and piston aircraft. The effect of changing depreciable lives will create a timing difference for taxpayers – depreciation deductions will be spread out over a slightly longer time frame, from six tax years to eight tax years. For businesses that have experienced losses during this

recession, spreading out depreciation over a longer period may not have a material impact to its tax situation.

	5-year Depreciation	7-year Depreciation	Adjustment
Year 1	20.00%	14.29%	-5.71%
Year 2	32.00%	24.49%	-7.51%
Year 3	19.20%	17.49%	-1.71%
Year 4	11.52%	12.49%	0.97%
Year 5	11.52%	8.93%	-2.59%
Year 6	5.76%	8.92%	3.16%
Year 7	0.00%	8.93%	8.93%
Year 8	0.00%	4.46%	4.46%
	<u>100.00%</u>	<u>100.00%</u>	<u>0.00%</u>

The table above illustrates the timing differences of changing the depreciable life of a business aircraft from five to seven years. Depreciation deductions will decrease in four of the first five tax years, but it will catch up in tax years six to eight.

PLANNING IDEAS

If your business is reporting significant taxable income and you have a need for a business aircraft, completing a purchase of a new aircraft by December 31, 2011 will result in immediate income tax savings. Managing your business use and minimizing personal use in 2011 is of paramount importance.

In the current credit market environment, it is wise to begin preparing the financing application and get pre-approved for an aircraft loan. Aircraft manufacturers have reduced production in recent years. To ensure delivery by December 31, you should determine the aircraft that fits your business needs and place the order sooner than later.

Getting your legal, finance and tax advisors together to determine the optimal structure for the aircraft acquisition should also begin as the myriad of federal, state and FAA regulations will require a thorough review of your current corporate structure.

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

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