



Qualifying for Bonus Depreciation on Aircraft

The Economic Stimulus Act of 2008 includes an unlimited 50% bonus depreciation for new assets placed in service during 2008. A special rule relating to certain qualifying aircraft will extend bonus depreciation on new aircraft purchased in 2008 but delivered in 2009. The 50% bonus depreciation allows an immediate deduction of 50% of the cost, followed by accelerated depreciation on the balance. Noncommercial operators would generally therefore be entitled to deduct 60% of qualifying assets in the year of acquisition. The balance of the asset will be written off in the remaining five years under an accelerated method.¹

ALTERNATIVE MINIMUM TAX

Alternative minimum tax rules for non-commercial aircraft not qualifying for bonus depreciation are calculated under a five year 150 declining balance method. Assets that qualify for bonus depreciation are entitled to use the same rapid 50% bonus and double-declining balance method for both alternative minimum tax and regular income tax.

STATUTORY LIMITATIONS

If the taxpayer has already contracted to buy an asset prior to 2008, the asset will not qualify for bonus depreciation to that party, or any related company. However, if an unrelated party acquires the rights to the new asset, it may qualify for bonus depreciation. Under certain circumstances it is possible to acquire an interest in a position in an aircraft from an unrelated party and have it qualify for bonus depreciation. The ability to qualify the asset for bonus depreciation may be impacted by how title to the position is held, how it is acquired, and the relationship between the parties. Generally, the use by a dealer of an aircraft held in inventory as a demonstrator will constitute a new aircraft for purposes of bonus depreciation. Only property qualifying for the modified accelerated cost recovery system method of depreciation qualifies for bonus depreciation. The asset must therefore be used more than 50% for business and excludes certain leases to related parties.

EXTENDED PLACED IN SERVICE RULES FOR QUALIFYING AIRCRAFT

A qualifying aircraft ordered in 2008 may be placed in service prior to January 1, 2010. It must be used primarily for non-commercial use, (not a charter aircraft). It must have an estimated production period exceeding 4 months, and a cost of more than \$200,000. Certain contractual and deposit requirements must be met prior to January 1, 2009.

PLANNING OPPORTUNITIES

The window of opportunity for bonus depreciation on aircraft is brief. Traditional planning considering federal aviation regulations and sales tax considerations need to be carefully blended into the planning and acquisition of an aircraft qualifying for bonus depreciation.

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¹ Aircraft used primarily for noncommercial purposes are depreciated using a 5-year life and double declining basis. Depreciation is as follows: Year 1 - 20%, Year 2 - 32%, Year 3 - 19.2%, Year 4 - 11.52%, Year 5 - 11.52%, Year 6 5.76%.