



9224 W. Raintree Dr. • Columbus, IN 47201 • (800)342-9589 • Fax (812)341-9001

The American Jobs Creation Act of 2004 Impacts Deductibility of Personal Use of a Business Aircraft

On October 22, 2004, President Bush signed into law the American Jobs Creation Act of 2004. This bill includes an amendment that has a significant and immediate impact on how personal use of an aircraft affects allowable tax deductions.

The new law provides that the amount of deduction by a corporation related to personal use of a corporate aircraft is limited to the amount of income reported by the specified person under the Standard Industry Fare Level (SIFL).

The Internal Revenue Service will be issuing guidance and interpretation of the new laws in the near future. Some of the issues to be clarified include mixed use trips with both business and personal uses and allocation of depreciation expense for pre- and post- October 22, 2004 usage. In the meantime, taxpayers should be aware of the following:

1. Specified individuals generally include officers, directors, and 10-percent-or-greater owners of private and publicly held companies.
2. Personal use is defined as non-business use of a corporate aircraft for entertainment, amusement or recreation.
3. Pre-October 22, 2004 personal use can continue to be accounted for by utilizing SIFL.

Planning

This new provision reverses the favorable tax treatment of corporate aircraft by the tax court decision in *Sutherland Lumber*. After October 22, 2004, a corporation can deduct fixed and operating expenses of a corporate aircraft to the extent of business use only.

Certain strategies can and should be implemented to maximize the income tax deductions still available under the new law. However, careful consideration should be made to ensure FAR's are not inadvertently violated. Be sure to consult with your aviation tax expert before making any decisions relating to the new law changes.

*Fred McCarter, Managing Member
Aviation Tax Consultants (ATC)*

fmccarter@aviationtaxconsultants.com

Aviation Tax Consultants (ATC) assists aircraft purchasers 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.