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EXTENSION OF BONUS DEPRECIATION FOR NEW AIRCRAFT ORDERED BEFORE DECEMBER 31, 2004

The Senate passed the American Jobs Creation Act of 2004 on October 11, 2004. This followed the House of Representatives passage of the same bill on October 7, 2004. President Bush is expected to sign the bill into law prior to the November election. The tax bill contains a provision that extends the placed in service date for certain qualified aircraft from December 31, 2004 to December 31, 2005.

To meet the definition of "qualified aircraft," a taxpayer has to comply with the following requirements:

1. The taxpayer has signed a binding contract to purchase a newly manufactured aircraft by December 31, 2004
2. The taxpayer has made a nonrefundable deposit of the lesser of 10% of the cost or \$100,000 by December 31, 2004
3. The aircraft has a cost exceeding \$200,000
4. The aircraft has an estimated production period exceeding four months

If all of the above requirements are met, a taxpayer can place the qualified aircraft in service before December 31, 2005 and qualify for the bonus depreciation rules. The current rules allow a taxpayer to elect to deduct 50% of the cost of an aircraft during the year the aircraft is placed in service. The new tax bill extends the placed in service date from December 31, 2004 to December 31, 2005. The remaining basis will be depreciated over five years for FAR Part 91 operators. Effectively, a taxpayer can deduct 60% of the purchase price of an aircraft in the first tax year of operation as depreciation expense. Obviously, this offers a tremendous economic benefit to a taxpayer that can utilize an aircraft for business purposes. Please be aware that this new provision does not accelerate depreciation expense to the current tax year. Depreciation is allowed in the tax year that the aircraft is placed in service.

Other issues to consider in an aircraft acquisition include sales and use tax implications in the state of domicile for the aircraft, availability of tax basis to fully utilize tax deductions, as well as FAA compliance issues.

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 welcomed and encouraged.

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