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Aircraft Acquisition Tax Planning

Tax considerations will have a major influence on the ownership structure of an aircraft. These considerations will include both income tax and sales and use tax, and to a lesser extent, property taxes. The following is an overview of the topics that are relevant to an aircraft acquisition.

Depreciation

The tax code offers a very generous depreciation schedule for aircraft utilized in a trade or business. A non-commercial Part 91 operator can depreciate an aircraft over five years using the Modified Accelerated Cost Recovery System (MACRS) of the Internal Revenue Code. The following table illustrates the depreciation percentage allowed for each year of ownership:

Year 1	20.00%
Year 2	32.00%
Year 3	19.20%
Year 4	11.52%
Year 5	11.52%
Year 6	5.76%

The taxpayer – a corporate entity or an individual - that can fully utilize the depreciation deductions will influence the setup of the ownership structure.

Passive Activity Loss

A leasing company arrangement can be utilized by taxpayers to support the business use of an aircraft. However, extreme caution should be exercised to ensure that the leasing activity is not classified as a passive activity by the tax code. Depreciation and other deductions generated from a passive activity cannot be used to offset your primary trade or business income. These passive losses can be suspended until the time when the aircraft is disposed of.

Taxpayers also need to be aware of the Federal Aviation Regulations (FAR) that govern the operation and leasing of the aircraft. Violating Federal Aviation Regulations may result in fines, suspensions and could even void your insurance coverage.

Hobby Loss Rules

The Internal Revenue Service continues to challenge hobby and non-profitable business operations disguised by the taxpayer as a business enterprise. Obviously, an aircraft can be construed as a hobby of a taxpayer. Careful planning to integrate the aircraft operation with an existing business, detailed documentation of profit motive, projections and the existence of business plans are all recommended avenues to support the acquisition of the aircraft.

Personal Use of a Business Aircraft

Reimbursing the corporation for the cost of a personal flight may seem to be a fair arrangement; however, it is generally prohibited by Federal Aviation Regulations. The proper handling of personal use is of utmost importance in the post-Sutherland Lumber era. The practice by a taxpayer to recognize an amount (SIFL) as a fringe benefit has become inefficient for income tax purposes. A clear understanding of the extent of personal use of a business aircraft is necessary to create a tax efficient aircraft ownership structure.

Sales and Use Tax

We have seen a major increase in enforcement of sales and use tax regulations on aircraft purchases across the country. In this environment of state budget deficits, we foresee this trend continuing. The location of the aircraft closing and base will affect the sales and use tax exposure of the aircraft acquisition. Careful review of state, city and county sales and use tax statutes is critical to minimize this exposure PRIOR to closing.

Property Tax

Property tax assessments are generally controlled by local government regulations where your home airport is located. Unless you have flexibility to base your aircraft in more than one location, you are bound by the local property tax regulations.

In summary, careful integration of the numerous tax regulations is the key to the successful implementation of an aircraft acquisition tax plan.

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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