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100% Bonus Depreciation Available for 2023 New Aircraft Deliveries

The general rule for bonus depreciation for a 2023 acquisition is 80%. “Certain Aircraft” as defined by Internal Revenue Code §168(k)(2)(C) will qualify for 100% bonus depreciation for aircraft that will be delivered and placed in service in 2023 (§168(k)(6)(B)(i)).

Certain Aircraft defined:

1. New aircraft or a demonstrator
2. Written binding contract entered with a nonrefundable deposit of at least \$100,000
3. Production period of the aircraft exceeds 4 months
4. Aircraft is not for charter use (noncommercial aircraft)

The regulations are not clear whether a written binding contract must be executed by December 31, 2022, for the application of 100% bonus depreciation in 2023. With the backlog most aircraft manufacturers are experiencing, this may be a moot point. ATC will request clarification from the IRS on this potential requirement.

The phaseout of bonus depreciation for noncommercial new business aircraft is as follows:

§168(k)(6)(B)(i) - In the case of property placed in service after September 27, 2017, and before January 1, 2024, 100 percent;

§168(k)(6)(B)(ii) - In the case of property placed in service after December 31, 2023, and before January 1, 2025, 80 percent;

§168(k)(6)(B)(iii) - In the case of property placed in service after December 31, 2024, and before January 1, 2026, 60 percent;

§168(k)(6)(B)(iv) - In the case of property placed in service after December 31, 2025, and before January 1, 2027, 40 percent;

§168(k)(6)(B)(v) - In the case of property placed in service after December 31, 2026, and before January 1, 2028, 20 percent.

Aircraft tax depreciation and deductions are taken in the year when the aircraft is placed in service. Other IRS regulations can curtail the availability of bonus depreciation. A proper ownership structure that considers IRS regulations, state sales and use tax rules and FAA regulations is critical to ensure that aircraft tax deductions are available.

Aviation Tax Consultants (ATC) assists aircraft purchasers in acquiring aircraft in a tax efficient manner. Our services include the elimination or reduction of sales and use tax, maximizing income tax savings, controlling the cost of personal use of the aircraft, and complying with Federal Aviation Regulations. Cooperation with client's tax and legal advisors is welcome and encouraged. ATC has offices in Columbus, Indiana and Scottsdale, Arizona.

February 4, 2022

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