



BUSINESS AVIATION AND THE BOARDROOM



Troy A. Rolf, a business aviation and tax attorney, manages the Minnesota office of GKG Law, P.C. Contact him via email at trolf@gkglaw.com.

Bonus Depreciation: Extended for Another Year.

Some aspects of Bonus Depreciation were retained in recent legislation to avoid the fiscal cliff, observes attorney Troy Rolf.

The American Taxpayer Relief Act of 2012, which prevented the nation from going over the so-called fiscal cliff, includes a one-year extension of the popular Bonus Depreciation provisions contained in Section 168(k) of the Internal Revenue Code. Taxpayers who place “Qualified Property” in use before the end of 2013, or in some cases before the end of 2014, can write off

50% of the adjusted basis of the asset in the year the Qualified Property is placed in service. The 2012 Act did not, however, extend the period during which certain Qualified Property was eligible for Bonus Depreciation at the 100% level.

Bonus Depreciation, a term used to denote write-off of an asset at a faster pace than typically allowed, was written into the U.S. tax code in 2001 as a short-term stimulus measure to help boost the nation’s economy and has subsequently been revived several times by the Congress. In its present form, Bonus Depreciation typically grants a 50% tax depreciation allowance during the first year of use for taxpayers who place certain “Qualified Property” in service by 2013, or in some cases 2014.

Bonus Depreciation does not increase or change the total amount of depreciation (typically 100 percent of the asset’s value) that a taxpayer is entitled to claim over the depreciable life of an asset. Rather, it allows taxpayers to deduct a larger portion of the cost basis of an asset in the year that the asset is placed in service than would otherwise be allowed.

WHAT IS ‘QUALIFIED PROPERTY’?

To be deemed “Qualified,” property must meet the following requirements:

- (1) Have a tax recovery period of 20 years or less;
- (2) Be placed in service by the taxpayer after December 31, 2007;
- (3) Be acquired by the taxpayer after December 31, 2007, and before January 1, 2014, but (a) only if no “Written Binding Contract” for the acquisition was in effect before January 1, 2008, or (b) must be acquired by the taxpayer pursuant to a Written Binding Contract that was entered into after December 31, 2007 and before January 1, 2014; and
- (4) Be placed in service by the taxpayer before January 1, 2014, or, in the case of “Certain Aircraft” or “Property Having Long Production Periods”, before January 1, 2015.

In addition, the property must be depreciable under the Modified Accelerated Cost Recovery System (MACRS) - property that is not eligible for MACRS is not eligible for Bonus Depreciation.

OTHER REQUIREMENTS

The deadline for placing in service “Certain Aircraft” and “Property Having Long Production Times” is December 31, 2014. Depending on certain circumstances, a business aircraft could qualify under either the “Certain Aircraft” provision, or the provision governing “Property Having Long Production Times,” or neither provision.

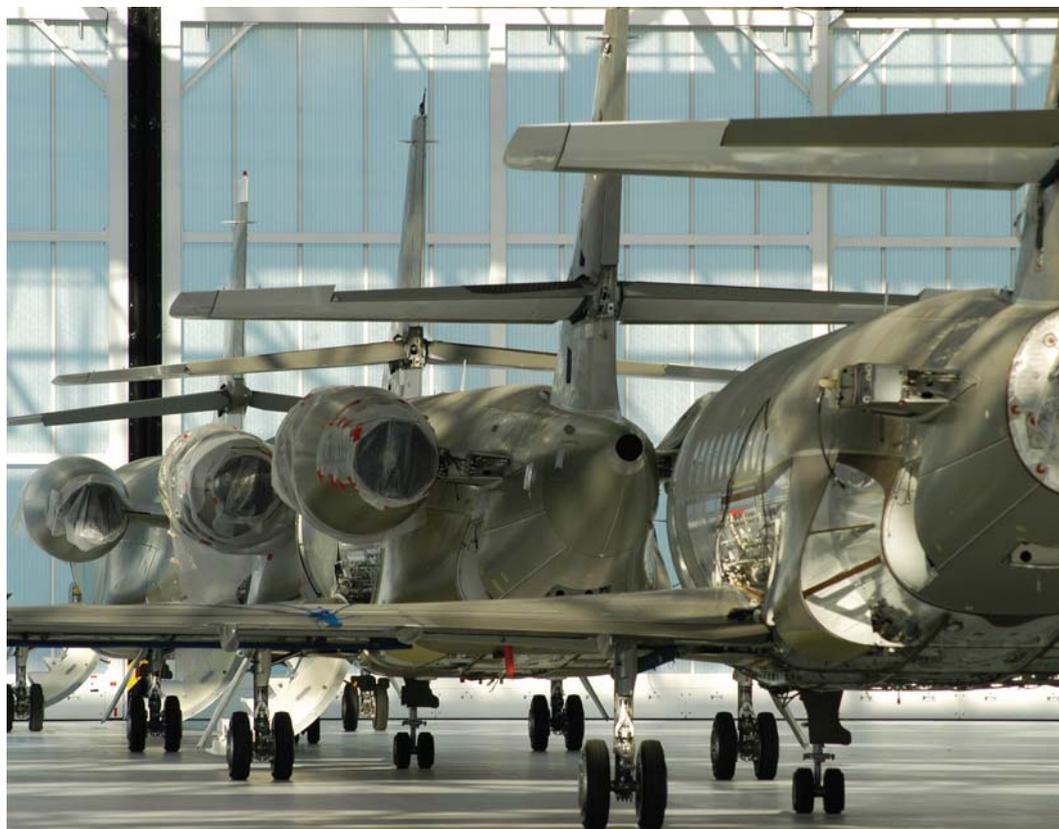
The following definitions are relevant only to property placed in service in calendar 2014. “Certain Aircraft” refers to:

- (1) aircraft that are not “Transportation Property”;
- (2) at the time of the purchase contract, the purchaser having made a nonrefundable deposit of the lesser of 10% of the purchase price, or \$100,000;
- (3) an aircraft that has an estimated production period exceeding 4 months; and
- (4) an aircraft that costs more than \$200,000. >





What the Boardroom needs to know about Business Aviation



The statute defines "Transportation Property" simply as tangible personal property used in the trade or business of transporting persons or property. This probably includes business jet aircraft that are used in on-demand charter operations. No definitive guidance yet exists to determine whether a specific aircraft is or is not "Transportation Property."

Property Having Long Production Times is property that satisfies each of the following four tests:

- (1) The property must meet all the requirements of "Qualified Property" discussed above;
- (2) The property must either have a recovery period of at least 10 years or be "Transportation Property;"
- (3) The property must be subject to IRC Section 263(A) (which applies to real or tangible personal property produced by the taxpayer);
- (4) And the property must meet certain requirements of clause (iii) of 263A(f)(1)(B) which requires property have a cost exceeding \$1,000,000, and an estimated production period exceeding 1 year.

This last requirement eliminates many corporate-class jets from qualifying for Bonus Depreciation under the "Property Having Long Production Times" provision, because only large cabin corporate jets actually have production periods exceeding a year. For "Property Having Long

Production Times", only that portion of the cost basis of the aircraft that is attributable to production before January 1, 2014 qualifies for Bonus Depreciation.

RESTRICTIONS FOR USED AIRCRAFT

Used aircraft, including rebuilt and reconditioned aircraft, do not qualify for Bonus Depreciation. However, the cost of new upgrades and improvements (e.g., new engines and new avionics) purchased by a taxpayer for an aircraft the taxpayer already owns can qualify. If the taxpayer purchases a used aircraft after the upgrades and improvements have been made, however, the aircraft will be considered rebuilt or reconditioned and no part of the total acquisition cost will qualify.

New aircraft used by an OEM or dealer for demonstrator purposes prior to sale to a customer should qualify for Bonus Depreciation. In such situations, the Original Use of the aircraft is considered to be by the taxpayer and not by the dealer or manufacturer. As this article suggests, rules involving Bonus Depreciation are complex. Readers are cautioned to seek additional information from counsel knowledgeable in relevant tax issues.

Do you have any questions or opinions on the above topic? Get them answered/published in World Aircraft Sales Magazine. Email feedback to: Jack@avbuyer.com

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