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CLIENT ALERT

**More Restrictions on Aircraft Related Tax Deductions May Be Ahead –
Time to Return to the Horse and Buggy?**

by

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Recent remarks by President Obama have caused considerable consternation within the business aircraft community. The President stated in a June 29 press conference that *“if we choose to keep a tax break for corporate jet owners . . . , then that means we’ve got to cut some kids off from getting a college scholarship. That means we’ve got to stop funding certain grants for medical research. That means that food safety may be compromised. That means that Medicare has to bear a greater part of the burden.”* The President went on to state that *“those are the choices we have to make. I think it’s only fair to ask an oil company or a corporate jet owner that has done so well to give up that tax break that no other business enjoys.”*

The President’s remarks stemmed from the ongoing debate regarding the increase in the U.S. debt ceiling and long term strategy for reducing the federal budget deficit and overall U.S. debt. The larger issue under discussion was whether as part of that strategy the depreciation schedules for depreciable assets should be lengthened. In that context, the debate regarding the depreciation of corporate aircraft apparently focused on an increase in the depreciation schedule for such aircraft from five to seven years. The irony in all of this rhetoric is that the President championed the use of accelerated depreciation in the context of aircraft purchases as part of his economic stimulus package that extended the availability of so-called “bonus” depreciation through the end of this year and increased the amount of such depreciation from 50% to 100% of the purchase price of a qualifying aircraft.

So just what does this mean for you, the corporate aircraft owner? For the moment, not a whole lot. These discussions all address changes to the tax code that according to the parties involved including the President and key members of Congress, would not take effect until 2013 at the earliest. Therefore it does not appear that the President’s politically charged remarks and any resulting legislation that is part of a larger deficit reduction package will have any immediate effect on the ability of a corporate aircraft owner to deduct expenses relating to such aircraft.

This, however, still leaves corporate aircraft owners in the position of needing to ensure that aircraft costs are in fact deductible and are not subject to many existing limitations in the tax code that the President did not address in his remarks. These include limitations relating to hobby losses, passive activity losses, personal and recreational use of corporate aircraft, and “qualified business use” requirements. These and other limitations already exist and were presumably designed to “close” the perceived tax loopholes that President Obama has repeatedly referred to in his comments on the subject. Thus, even if any change to the rules regarding deduction of aircraft expenses is several years away, there are still important limitations on such deductions that every corporate aircraft owner must deal with now.

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