

**Depreciation Update for Aircraft Used in Business**  
 American Jobs Act of 2011 Proposed Changes, plus Bonus Depreciation and Sec 179

- AS/ Aviation Business Management from Embry-Riddle Aeronautical University
- BS/Aviation Management from Florida Institute of Technology

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October 5, 2011

WELCOME

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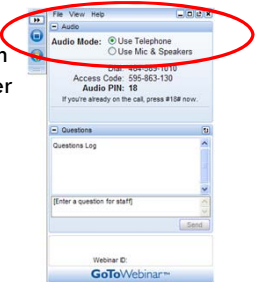


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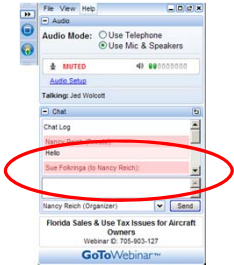
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### Resource Lookup




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- This PowerPoint presentation – 50102
- IRS code and regulation references on each slide
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**Depreciation Update for Aircraft Used in Business**  
American Jobs Act of 2011 Proposed Changes, plus Bonus Depreciation and Sec 179

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## Topics

- Current rules for aviation and proposed changes from *American Jobs Act of 2011* 11004
- Current rules for reporting bonus depreciation provision, and comparison with proposed changes
- Current rules for enhanced IRC Section 179 expensing 10707
- Considerations for taking and keeping the Bonus or Enhanced Expensing tax benefits

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## Current "Selected" Depreciation Rules for Aircraft

- 100% Bonus Depreciation provision is available for aircraft placed in service through Dec 31, 2011
  - Bonus reduces to 50% for 2012
- Depreciation rates:
  - 5-year MACRS (6-yr ADS) for Part 91 aircraft
  - 7-year MACRS (12-yr ADS) for Part 135 aircraft
- Sec. 179: \$500,000 deduction for tangible personal property placed in service through December 31, 2011
  - Reduces to \$125,000 in 2012

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## American Jobs Act of 2011

- Administration presented \$447 billion jobs package to Congress on September 12, 2011
- Assigned bill #'s H.R. 12/S. 1549
- Act calls for certain changes to Federal tax rules effecting business aircraft

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## Proposed American Jobs Act of 2011 Federal Tax Changes for Aircraft

- Extend depreciation life for Part 91-use aircraft
  - 7 years MACRS accelerated depr. for +50% use effective 1/1/2013
  - 12 years ADS straight line for -50%
  - Part 135 depreciation remains the same
- Extend 100% Bonus Depreciation thru 2012
- Sec 179 for 2012 and beyond maintained at \$125,000 annually with a dollar-for-dollar phase-out beginning at \$500,000 as amended by the Job Creation Act of 2010 11005

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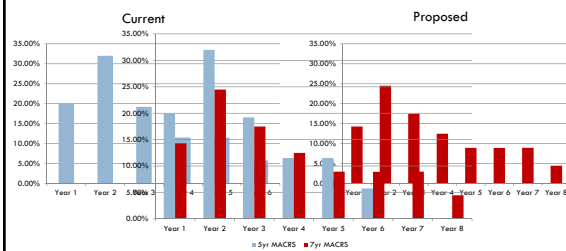
## Now vs. Proposed

Now	Proposed*
Normal Depreciation – Part 91: 5 Year MACRS for +50% business use 6 Year SL for -50% business use	Normal Depreciation – all uses (91/135) 7 Year MACRS for +50% business use 12 Year SL for -50% business use
Normal Depreciation – Part 135 7 Year MACRS for +50% business use 12 Year SL for -50% business use	No change
Bonus Depreciation: 100% to December 31, 2011 50% beginning January 01, 2012	Bonus Depreciation 100% for 2012

\*Assets placed in service beginning January 01, 2013

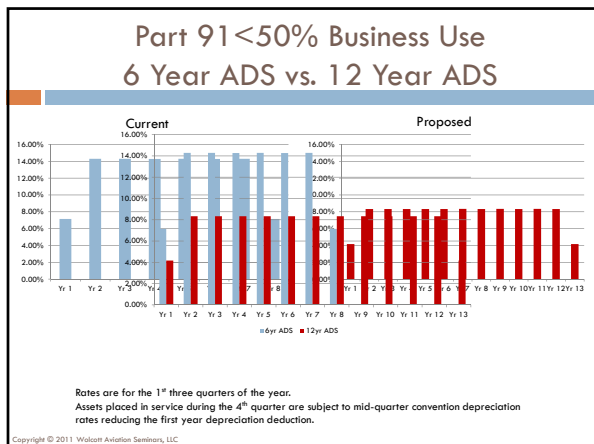
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## Part 91 >50% Business Use 5 Year MACRS vs. 7 Year MACRS



Rates are for the 1<sup>st</sup> three quarters of the year. Assets placed in service during the 4<sup>th</sup> quarter are subject to mid-quarter convention depreciation rates reducing the first year depreciation deduction.

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## First -Year 100% Bonus Depreciation on New Aircraft and Equipment Purchases

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- ### 100% Bonus Depreciation – General Concepts
- Means faster depreciation, not more depreciation
  - Not limited to aircraft; applies to a range of capital assets
  - Retroactive for purchases made after September 8, 2010 and before January 01, 2012
  - 50% bonus depreciation applies again in 2012
  - Bonus depreciation is optional; taxpayer may opt out and elect standard MACRS or ADS depreciation
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- ### 100% Bonus Depreciation on Aircraft Purchases – Qualifying Property
- Taxpayer must be the first owner of record (i.e., new aircraft or property)
  - Aircraft must be placed in service after September 8, 2010 through December 31, 2011
  - There must have been no written binding contract in effect prior to January 01, 2008
  - There is an extended “placed in service” date for aircraft through the end of next year (2012) for “certain aircraft” and “transportation property”
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- ### 100% Bonus Depreciation on Aircraft Purchases (Continued):
- Asset must qualify as MACRS property
    - Requires more than 50% business use
    - At least 25% of use of the aircraft must be by people other than 5% owners
    - Predominant use must be within USA
  - MACRS criteria must be met during the entire depreciable life.
    - Failure to meet MACRS requirements in any subsequent year results in conversion to ADS and recapture of all bonus and other accelerated depreciation taken to date
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- ### 100% Bonus Depreciation on Aircraft Purchases (Continued):
- Bonus treatment applies to new equipment installed on a used aircraft
  - Applies to fractional aircraft interests, providing taxpayer is the first owner of the share (after the program manager)
  - The bonus depreciation must be reduced by the percentage of 1<sup>st</sup> year business use
    - Use of the aircraft from delivery to the end of the first year requires careful planning - keep business use as high as possible in year of purchase
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### Extended Placed-in-Service Dates until End of 2012 for "Certain Aircraft" Means:

- Aircraft which are not transportation property (other than agricultural or firefighting purpose)
- Costing more than \$200,000
- Having a production period in excess of four months
- Purchaser is required to make a nonrefundable deposit of the lesser of 10% of the cost of the aircraft or \$100,000
  - Includes virtually all jets and turboprop aircraft

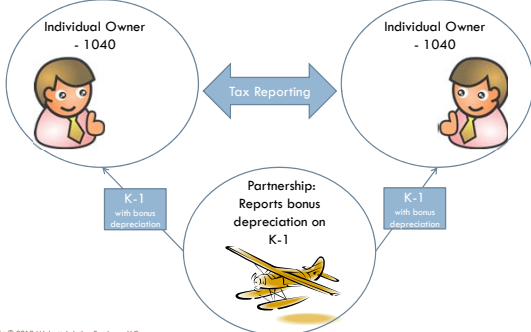
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### Extended Placed-in-Service Dates until End of 2012 for "Transportation Property"

- Regulations define transportation property as... "Property used in trade or business of transporting persons or property"
- Presumably includes aircraft used predominantly for charter, although regulations are not clear
- Limited to the adjusted basis attributable to manufacture **before** January 01, 2012

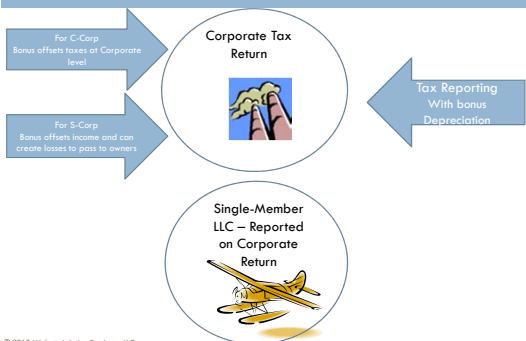
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### Partnership or Multi-Member LLC - Bonus Depreciation Reporting



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### Corporation Operating Company - Bonus Depreciation Reporting



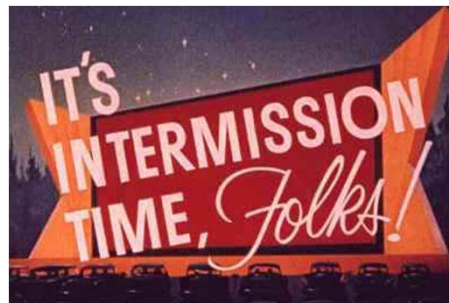
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### Additional Info: See NBAA Webinar on Tax Benefits for Business Aviation in 2011\*

- Green Aircraft rules
- Demonstrator aircraft
- Special rules for certain fractional aircraft
- Self-constructed property rules
- Rules constituting a "Written Binding Contract"
- Additional Listed Property Rules that qualify property for MACRS depreciation (and therefore bonus depreciation and Sec. 179)

\*Kammerer/Wolcott webinar, January 13, 2011 50103  
Edward Kammerer, Esq., Providence RI (401) 457-5314

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## Resource Materials

- Copies of today's materials are available at our website at [www.aviation-cpa.com](http://www.aviation-cpa.com).
- This PowerPoint presentation – 50102
- IRS code and regulation references on each slide
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## Upcoming Webinars

Topic		Date
Florida Sales and Use Tax Issues	Updated	October 20, 2011
Aircraft Audit Issues	NEW	November 3, 2011
Passive Activity Loss Limitations	Updated	November 17, 2011
Reporting for the Personal Use of Company Aircraft	Updated	December 1, 2011
Strategies for Reporting Entertainment Flight Cost Limitations	Updated	December 6, 2011
The Tax Benefits from Business Use of your Aircraft	NEW	December 8, 2011

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## Section 179 Expensing Election

## Current Expensing Election at \$500,000 (IRC Section 179) 10707

- Provisions apply to new and used aircraft, parts, and improvements for 2011
- **Maintains** the expensing election at \$500,000 for assets acquired, subject to phase out
- **Maintains** Phase-out; begins at \$2,000,000
  - Phase-out ends when aggregate acquisitions reach \$2,500,000
- Depreciate the remainder of the cost under normal MACRS
- Limitations apply if the company reports a loss

### Section 179 Limits

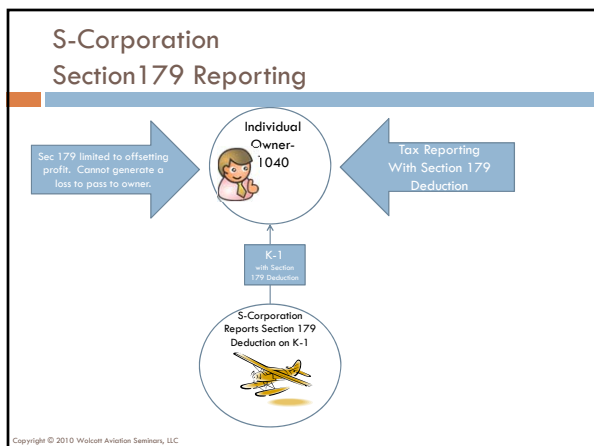
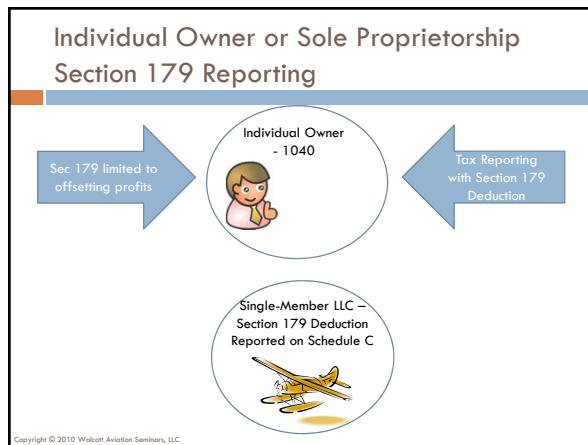
	<u>Section 179</u>	<u>Phase-Out Begins*</u>
■ 2008	\$ 250,000	\$ 800,000
■ 2010	\$ 500,000	\$2,000,000
■ 2011	\$ 500,000	\$2,000,000
■ 2012	\$ 125,000	\$ 500,000

\* For each dollar over the phase out limit the eligible expensing amount drops by one dollar

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- ### Applying The Section 179 Election
- Asset must qualify for MACRS; failure to maintain MACRS qualification in subsequent years results in recapture
  - Section 179 deduction only offsets taxable income. Cannot create Net Operating Loss (NOL)
    - Section 179 generally does not work if aircraft is placed in a newly-formed single-asset entity filing a tax return
    - Sole exception is a single-member LLC; Sec 179 flows up to member's tax return
  - To benefit from Section 179, acquire aircraft into operating company with taxable income
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- ### Applying The Section 179 Election (Continued)
- Steps in applying provisions:
    - First apply Section 179 Election
    - Then apply bonus depreciation (if eligible)
    - Finally, calculate normal depreciation on the remaining book value (if bonus depreciation was applied)
  - Section 179 deduction applies to both new and used assets
  - May be single or multiple acquisitions
  - There are no AMT limits on Bonus or Sec 179
  - Best suited for upgrades or lower cost business aircraft
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## Considerations For Taking Bonus and Sec 179 Tax Benefits

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### Does Reporting Bonus Depreciation or Sec. 179 Increase IRS Audit Exposure?

- The large depreciation expense “bubble” seems to create an audit flag for IRS’s DFS\* system
- Large depreciation exposure is magnified when the aircraft is in a single-asset or special-purpose entity filing a tax return
- Documentation is key to ensuring that a bonus depreciation deduction will be sustained under examination (Keep all records from the acquisition, and keep detailed flight records!!)
- Best practice: Place purchase in a profitable entity that will absorb the additional depreciation expense

\*Discriminate Function System

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### Bonus Depreciation, Section 179, or Normal Depreciation?

- Bonus Depreciation or Section 179 expensing is not always the best alternative
- Taxpayers should carefully evaluate their tax circumstances before opting to report accelerated depreciation benefits
- Future business situations could cause disallowance of accelerated depreciation benefits
- Taxpayers must take the “long view” in determining if accelerated depreciation benefits make sense

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### Thank You Very Much!

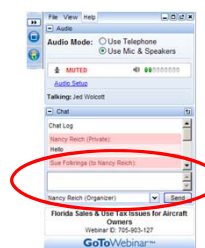
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